



Log # 2022-5047

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On November 27, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Lieutenant John Shaughnessy of the Chicago Police Department (CPD) notifying COPA of a civilian complaint alleging misconduct by member(s) of CPD. The complainant, [REDACTED] [REDACTED] alleged that on November 27, 2022, Officer David Regalado subjected her to excessive force when he grabbed her neck.² Upon review of the evidence, COPA served additional allegations that Officer Regalado failed to properly activate his Body Worn Camera (BWC), directed the racial epithet of “Nigger” at an unidentified black male, and made additional derogatory words and profanities while speaking to the unidentified black male. Following its investigation, COPA reached sustained findings for each of the allegations against Officer Regalado.

II. SUMMARY OF EVIDENCE³

On November 27, 2022, at 6:23 pm, at [REDACTED], Officer Regalado responded to an incident to assist other officers in apprehending an assailant, [REDACTED]. Other officers were arresting [REDACTED] when an unidentified female approached and was directed away by Officer Regalado.⁴ [REDACTED] who was handcuffed, became upset and shout at Officer Regalado not to touch her.⁵ Subsequently, [REDACTED] tried to kick Officer Pelayo but instead struck Officer Regalado on the left side of his stomach.⁶ Officer Regalado responded by grabbing a handcuffed [REDACTED] around the neck and pushing her away.⁷ Officer Regalado explained his grabbing of [REDACTED] neck was intended “to create distance from her after she had kicked [him] on the side

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² One or more of these allegations fall within COPA’s jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body worn camera, CPD reports, Event Queries, and CPD member statements.

⁴ During his statement Officer Regalado acknowledged he did not activate his BWC in accordance with CPD policy. Att. 21 from 0:00 to 01:48; Att. 35, pg. 19, Ins. 12 to 23.

⁵ Att. 19 at 4:57 to 4:59.

⁶ Att. 19 at 5:00 to 5:01 Att. 35, pg. 19, Ins. 12 to 16.

⁷ Officer Regalado asserted to COPA that his contact with [REDACTED] neck was inadvertent. Att. 6, pg. 1 to 7; Att. 19 at 5:02; Att. 21 from 01:48 to 01:49; Att. 35, pg. 23, Ins. 16 to 22; Att. 67.

of [his] stomach” and that his upon realizing he was in contact with [REDACTED] neck released her.⁸

Officer Regalado then observed an unidentified black male attempting to interfere with the arrest of [REDACTED] and instructed him to back up while calling him a “nigger”.⁹ Officer Regalado’s use of the racial epithet precipitated a heated verbal exchange between the unidentified male and Officer Regalado, during which Officer Regalado directed the profanities;¹⁰ “fuck”, “bitch”, “lying ass”, and “I aint’ said shit”; at the unidentified male while taunting him with “I’m ready for you”¹¹ as Officer Regalado and his partner, Officer Antonio Pelayo, physically redirected the male away from the scene with pushes.¹²

III. ALLEGATIONS

Officer David Regalado:

1. Failing to activate his BWC in a timely manner in violation of Special Order S03-14.
 - Sustained, in violation of Rules 2, 3, 5, 6, and 10.
2. Using his hand to grab [REDACTED] near or around her neck.
 - Sustained, in violation of Rules 2, 5, 6, 8, 9, and 10.
3. Stating derogatory words to the effect of “Nigger”.
 - Sustained, in violation of Rules 2, 3, 6, 8, and 9.
4. Stating explicit language to the effect of “Fuck”, Bitch, Lying Ass, I’m ready for you and I ain’t said shit”.
 - Sustained in violation of Rules 2, 3, 6, 8, and 9.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements. Officer Regalado admitted to the allegations, although he believed his actions were justified.

V. ANALYSIS¹³

⁸ Officer Regalado asserted that he did not intend to obstruct [REDACTED] breathing. Att. 35, pg. 18, Ins. 8 to 12.

⁹ During his statement Officer Regalado explained that he used the racial epithet in response to the unidentified male using it during their conversation and intended the use to be slang while admitting his actions were not consistent with CPD policy. Att. 19 at 4:55 to 5:00; Att. 21 at 02:14; Att. 35, pg. 12, Ins. 3 to 10 and pg. 40, Ins. 16 to 20.

¹⁰ Att. 21 from 2:03 to 2:44.

¹¹ Att. 21 at 2:26 to 2:27.

¹² During his statement Officer Regalado explained that he allowed his emotions to impact the interaction and acknowledged his actions were unprofessional. Att. 19 at 4:55 to 5:00; Att. 35, pg. 30, Ins. 17 to pg. 31, Ins. 1 to 2.

¹³ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

a. Force Allegation

COPA finds Allegation #2 against Officer Regalado, that he grabbed ██████████ near or around her neck, is **sustained**. CPD members are permitted to use force to overcome resistance.¹⁴ When a member encounters a citizen who is using or threatening the use of force against another person or themselves which is likely to cause injury, that citizen is an assailant.¹⁵ If the citizen's actions are aggressively offensive with or without weapons,¹⁶ members are permitted to respond with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capicum; stunning; takedowns; canine use; taser deployment; direct mechanical strikes; and impact weapons and munitions.¹⁷ However, the force they use must be objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control subject, or prevent escape.¹⁸ Further, CPD members will continually assess the necessity of the use of force and whether alternatives may be employed, including the use of de-escalation techniques, other response options, and the availability of other resources.¹⁹

Here, Officer Regalado's use of force by grabbing ██████████ near or around her neck was unacceptable. While ██████████ kick of Officer Regalado are the actions of an assailant, she was restrained in handcuffs and being controlled by other members both of which reduced the likelihood she was a danger of additional attack. Further, after being kicked Officer Regalado closed the distance with ██████████ and grabbed her neck, rather than creating distance to prevent any future attempts by her to strike less effective. It is under the totality of the circumstances that Officer Regalado's force was unreasonable as it was not necessary or a proportional response to ██████████ actions, especially as she was handcuffed behind her back and restrained by other members on scene. Therefore, Officer Regalado's use of force violated CPD policy and Rules 2, 5, 6, 8, 9, and 10.

b. Verbal Abuse Allegations

COPA finds Allegations #3 and 4 against Officer Regalado, that he directed a racial epithet and other profanities at an unidentified black male, are **sustained**. CPD Rules 8 and 9 prohibit members from engaging in unjustified verbal altercation and/or maltreating or disrespecting any person.²⁰ Additionally, CPD policy mandates that all "members treat all persons with courtesy and dignity which is inherently due every person as a human being. Department members will act,

¹⁴ Att. 64, G03-02-01 generally, Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).

¹⁵ Att. 64, G03-02-01 IV(C).

¹⁶ The weapons can include a deadly weapon, but the citizen's actions did not constitute an imminent threat death or great bodily harm.

¹⁷ Att. 64, G03-02-01 IV(C)(1).

¹⁸ Att. 35, G03-02, Use of Force (III)(B) (effective April 15, 2021 to June 28, 2023).

¹⁹ Att. 35, G03-02 (III)(B)(1-3).

²⁰ Section V., Rules 8 and 9 of the Rules and Regulations of the Chicago Police Department.

speak, and conduct themselves in a professional manner ... and maintain a courteous attitude in all contacts with the public.”²¹ The policy also states that members “will not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner.”²²

Here, it is undisputed that Officer Regalado repeatedly used a racial epithet when speaking to the unidentified male which directly precipitated the heated verbal exchange during which Officer Regalado’s used of profanities and other denigrating remarks towards the same male. Officer Regalado admitted, and COPA agrees, that his actions were unprofessional violations of CPD policy. Thus, Officer Regalado’s repeated use of the racial epithet and profanities violated CPD policy and Rules 2, 3, 6, 8 and 9.

c. BWC Allegation

COPA finds Allegation #1 against Officer Regalado, that he failed to properly activate his BWC, is **sustained**. CPD Members are required to activate BWC “at the beginning of” or “as soon as practical” for “all law-enforcement-related activities.”²³

In this instance, Officer Regalado was engaged in law-enforcement-related activities when he responded to a request for assistance. Further, Officer Regalado admitted he failed to properly activate his BWC. Officer Regalado’s failure violated CPD policy and Rules 2, 3, 5, 6, and 10.

VI. DISCIPLINARY RECOMMENDATION

a. David Regalado

i. Complimentary and Disciplinary History²⁴

Officer Regalado has received 106 various awards; two of which were Life Saving Awards, one of which was the Superintendent’s Award of Tactical Excellence, and one of which was for Traffic Stop of the Month. Additionally, Officer Regalado has not received any discipline in the last five years.

²¹ G02-01 III (B), Protection of Human Rights (effective June 30, 2022 to present); G02-04 II (C), Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective February 1, 2023 to current).

²² G02-01 III(D).

²³ “Law-enforcement-related activities include but are not limited to:” “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” Att.37, S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).

²⁴ Att. 36, pg. 1 to 3.

ii. Recommended Discipline

Here, COPA has found that while engaged in enforcement activity Officer Regalado directed a racial epithet, profanities, and other derogatory words towards an unidentified black male, used improper force on [REDACTED] by grabbing her around or near her throat, and failed to properly operate his BWC. Officer Regalado admitted to COPA all his misconduct for his actions. However, COPA finds Officer Regalado’s use of a racial epithet and other profane and derogatory language while engaging in enforcement actions, to include a use of improper force, is highly problematic. Additionally, Officer Regalado’s failure to properly operate his BWC prohibited COPA from fully assessing the entire interaction. It is for these reasons, combined with Officer Regalado’s history, that COPA recommends a 25-day Suspension.

Approved:

[REDACTED]

4-29-2024

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	November 27, 2022 / 6:23 pm / [REDACTED]. [REDACTED]
Date/Time of COPA Notification:	November 27, 2022 / 9:26 pm
Involved Member #1:	Officer David Regalado, Star #11590, Employee ID#[REDACTED] Date of Appointment: August 31, 2015, Unit: 017, Male, White Hispanic.
Involved Individual #1:	[REDACTED] Female, Black or African American
Involved Individual #2:	Unidentified, Male, Black

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- G01-01: Vision, Mission Statement and Core Values (effective May 21, 2019, to present).²⁵
- G02-01: Protection of Human Rights (effective June 30, 2022 to present).²⁶
- G02-04: Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective June 30, 2022 to February 1, 2023).²⁷
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).²⁸
- S03-14: Body Worn Cameras (effective April 30, 2018 to December 29, 2023).²⁹

²⁵ Att. 65.

²⁶ Att. 66.

²⁷ Att. 68.

²⁸ Att. 64.

²⁹ Att. 37.

Appendix B

Definition of COPA’s Findings and Standards of Proof

For each Allegation, COPA must make one of the following findings:

1. Sustained – where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained – where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.³⁰ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. Clear and convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”³¹

³⁰ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it is found to be more probably true than not).

³¹ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation