



Log # 2023-0177

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

COPA received a complaint from ██████████ an Assistant Cook County Public Defender (APD), over the phone. APD ██████ alleged that he was denied access to speak to his client by CPD Officer Kenneth Miles at Homan Square, a Chicago Police Department (CPD) facility. Following its investigation, COPA reached a **not sustained** finding as to the allegation.

II. SUMMARY OF EVIDENCE²

On January 12, 2023, at about 5:06 pm, ██████████ was arrested for selling narcotics to undercover Chicago Police Department (CPD) officers.³ After his arrest on South Artesian Avenue by narcotics team officers, ██████ was transported to Homan Square for processing. ██████ arrived at Homan Square at 5:25 pm.⁴

At about 7:26 pm, APD ██████ arrived at Homan Square to speak to ██████⁵ ██████ spoke to a woman at the security booth on Fillmore Street, who called the 24-hour desk inside Homan Square. The person at the 24-desk contacted Sgt. Josephs to inform him that an attorney was there to speak to ██████⁶ Sgt. Josephs had been the supervisor on scene conducting surveillance in the undercover operation leading to the arrest of ██████

At that point, it was Sgt. Josephs' understanding that the arresting officers had already left to transport ██████ to the 11th District Police Station.⁷ Sgt. Josephs told Officer Miles to go down and relay that information to the attorney.⁸

¹Appendix 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 The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, CPD reports, and officer interviews.

³ Att. 1, pgs. 1-2 (█████████ Arrest Report).

⁴ Att. 20, pg. 2 (Homan Square prisoner log).

⁵ Att. 13, pg. 5 (█████████ transcribed statement)

⁶ Att. 13, pgs. 6-7; Att. 21 pg. 36 (PO Miles transcribed statement); Att. 23, pgs. 10-13 (Sgt. Josephs transcribed statement).

⁷ Att. 23, pgs. 13-14. Homan Square did not have facilities to house prisoners and after processing, prisoners are typically transferred to the 11th District, or the 15th District if the 11th District is full.. Att. 23, pgs. 10-11.

⁸ Att. 23, pgs. 14-15.

At about 7:35 pm, Officer Miles went outside and spoke with APD [REDACTED]⁹ Officer Meeks joined Officer Miles outside a few moments later. Officer Miles told APD [REDACTED] that [REDACTED] was not at Homan Square; he was being transported to the 11th District. So, Officer Miles explained, APD [REDACTED] would have to speak to him there, or wherever he was going to be housed if not at the 11th District.¹⁰

After speaking to the officers, APD [REDACTED] left Homan Square without speaking to [REDACTED] and ultimately proceeded to the 15th District police station where he was able to meet with his client at about 8:30 pm.¹¹

The prisoner log showed [REDACTED] was signed out of Homan Square at 8:00 pm.¹²

In his interview with COPA, APD [REDACTED] said that when he spoke to Officer Miles about seeing his client, Officer Miles told him that attorney visits were not allowed at Homan Square. However, APD [REDACTED] said he has seen clients there in the past.

In his interview with COPA, Sgt. Josephs said he was told by the arresting officers that they “we[re] leaving” with [REDACTED] to transport him to the 11th District at some point prior to receiving a call from the 24-desk about APD [REDACTED] request to speak to [REDACTED]¹³ Sgt. Josephs then told Officer Miles to go down and speak with the attorney to tell him that.¹⁴ Sgt. Josephs denied that he would have told Officer Miles that an attorney-client interview could not be done at Homan Square. Instead, he said that if [REDACTED] would have still been there, he would have found a room for the attorney to meet with his client.¹⁵

Officer Miles also told COPA that Sgt. Josephs told him to go down and tell the attorney that [REDACTED] was no longer there and headed to the 11th District.¹⁶ Officer Miles also denied that he told the attorney that they do not conduct attorney-client interviews at Homan Square.¹⁷ Officer Miles related that he if he thought [REDACTED] was still there, he would have signed the attorney in and taken him to a room to speak to his client.¹⁸

III. ALLEGATIONS

Officer Kenneth Miles:

⁹ Att. 13, pgs. 7-9; Att. 14 at 17:51.

¹⁰ Att. 21, pg. 15.

¹¹ Att. 13, pgs. 10-11 and . 14-15.

¹² Att. 20, pg. 2 (Homan Square prisoner log)

¹³ Att. 23, pgs. 12-14, 23.

¹⁴ Att. 23, pg. 14.

¹⁵ Att. 23, pg. 15, 26-28.

¹⁶ Att. 21, pg. 11-14, 36.

¹⁷ Att. 21, pg. 31.

¹⁸ Att. 21, pg. 16-18.

1. Not allowing Attorney ██████████ to see his client, ██████████
-- Not Sustained

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

COPA was unable to identify anything that undermined the credibility of any of the involved parties.

APD ██████ was detailed in his account of what happened and referenced notes which included the times of events. APD ██████ explained how the woman at the guard desk said she was going to call for the arresting officers, and a few minutes later Officer Miles and another officer came down to talk to him. APD said that Officer Miles told him that no attorney-client interviews could be conducted at Homan Square and that he would have to speak to his client at the 11th District.¹⁹

Officer Miles was candid in his statement with COPA, including recalling that he and another officer briefly spoke with APD ██████ on the night in question, which coincides with the security video from Homan Square. Officer Miles stated that Sgt. Josephs told him to go and speak with the attorney to let the attorney know that ██████ had already left Homan Square.²⁰ Officer Miles also stated he had not had an attorney request to visit an arrestee at Homan Square before, but seemed genuine in his assertion that he would readily facilitate such a visit.²¹

Sergeant Josephs was also forthcoming in his statement with COPA and corroborated Officer Miles' account that he told Officer Miles to tell APD ██████ that ██████ had already left Homan Square. Sgt. Josephs conceded that he had not encountered an attorney requesting to speak to an arrestee at Homan Square before, and was not aware of a designated interview area where an attorney could consult with a client without being overheard.²² But he also seemed sincere in his assertion that he would have made an attempt to find a location within Homan Square for the attorney to speak to his client if the client was still present at Homan Square.²³

¹⁹ Att. 13, pgs. 14-15.

²⁰ Att. 21, pg. 36.

²¹ Att. 21, pg. 35.

²² Att. 23, pgs. 5, 7-8.

²³ Att. 23, pgs. 15, 26-28.

While Officer Miles and Sgt. Josephs corroborate one another's statements, and both contradict what APD ██████ said Officer Miles told him, COPA has discovered no objective evidence that casts doubt the truthfulness or reliability of any of the parties.

V. ANALYSIS²⁴

Allegation 1 against Officer Kenneth Miles – Not allowing Attorney ██████ to see his client, ██████ – is Not Sustained.

General Order G06-01-04, Arrestee and In-Custody Communications, governs attorney visits at police districts and other holding facilities. The General Order states that any person in custody has the right to an attorney visitation.²⁵ An arrestee will be notified when their attorney arrives at a police facility and has the option to agree to meet with the attorney or not. The Department will document the visitation by the attorney using the Visitation Notification form.²⁶ If an attorney arrives at a police facility other than a district police station or detective area, Department personnel will notify the supervisor of the arrival of the attorney.²⁷ Department personnel are required to verify identification and attorney credentials.

Here, the extent of Officer Miles' involvement with ██████ arrest was placing him into custody after the undercover buy.²⁸ Once at Homan Square, other officers completed the necessary paperwork before ██████ was transported to one of the District Police Stations for housing.²⁹

At 7:26 pm, APD arrived at the security booth and asked to speak to ██████. The woman in the security booth called the 24-hour desk to contact the arresting officers. The 24-hour desk contacted Sgt. Josephs, who was the supervisor that night. It was Sgt. Josephs' understanding that the arresting officers had already left to transport ██████ to the 11th District, based on one of the officers having told him they were leaving at some point prior to being contacted by the 24-hour desk about the attorney.³⁰ Thus, Sgt. Josephs asked Officer Miles to speak to APD ██████ and relay that message.³¹

At about 7:35 pm Officers Miles and Meeks spoke with ██████ outside and relayed that ██████ could not speak to his client because he was being transported elsewhere and was not at Homan Square. They told APD ██████ he would have to speak to him at the 11th District.³²

²⁴ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁵ G06-01-04, V.A., *effective 1-28-22 to 1-31-23*

²⁶ G06-01-04, II.F., *effective 1-28-22 to 1-31-23*

²⁷ G06-01-04, IV.A., *effective 1-28-22 to 1-31-23*

²⁸ Att. 21, pg. 7-10.

²⁹ Att. 21, pgs. 10-11.

³⁰ Att. 23, pgs. 12-14, 23.

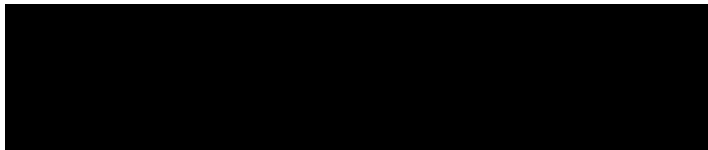
³¹ Att. 21, pg. 14; Att. 23, pgs. 4-5.

³² Att. 21, pg. 15.

The prisoner log from Homan Square shows that ██████ was signed out of the facility at 8:00 pm.³³ This suggests that ██████ would still have been at Homan Square at the time Officer Miles represented to APD ██████ that ██████ had already left. However, COPA cannot find by a preponderance of the evidence that Sgt. Josephs or Officer Mills intentionally misrepresented that ██████ was not there. Sgt. Josephs explained that his office was at the other end of the building from where the prisoners are kept in their holding cells before being transported to another facility.³⁴ COPA finds it more likely than not, that unbeknownst to Sgt. Josephs, the arresting officers stopped to do some last-minute task, or took the arrestee to the bathroom, or got delayed in some other minor way on their way out of the station after they told Sgt. Josephs they were leaving to transport ██████. Thus, COPA cannot find that Officer Miles “disallowed” APD ██████ from seeing his client in reliance on Sgt. Josephs’ representation that his client was not there.

Additionally, while it is true that APD ██████ claimed that Officer Miles told him that they did not do attorney-client meetings at Homan Square, rather than telling him that ██████ was not there, both Officer Miles and Sgt. Josephs were consistent in their accounts that Sgt. Josephs told Officer Miles that ██████ was not there. Further, Officer Miles and Sgt. Josephs both denied that they would have told an attorney that he could not see his client at Homan Square, and instead maintained that if they knew ██████ was still there, they would have looked for accommodations for APD ██████ to speak to him.

Because COPA cannot reconcile these divergent accounts with any other evidence, it cannot find by a preponderance of the evidence that Officer Miles “disallowed” APD ██████ from seeing his client based on his belief that attorney-client meetings could not be conducted at Homan Square, as such, COPA finds **Allegation 1** against Officer Kenneth Miles is **Not Sustained**.



6-21-2024

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

³³ Att. 20.

³⁴ Att. 23, pgs. 21-25.

Appendix A

Case Details

Date/Time/Location of Incident:	Jan 12, 2023 / 7:35 pm / 3340 W. Fillmore St. (Homan Square)
Date/Time of COPA Notification:	Jan 13, 2023 / 3:23 pm
Involved Member #1:	Kenneth Miles Jr. / Star #16402 / Employee ID [REDACTED] / Date of Appointment: September 29, 2003 / Unit 189 / Black male
Involved Member #2:	Sergeant Patrick Josephs / Star #1448 / Employee ID [REDACTED] / Date of Appointment: October 25, 2004 / 11th District / Black male
Involved Individual #1:	[REDACTED] / Cook County Public Defender / Black male

Applicable Rules

- Rule 1:** Violation of any law or ordinance.
- 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.

Applicable Policies and Laws

Sixth Amendment to the United States Constitution
 Illinois Compiled Statutes 725 ILCS 5/113-3
 G06-01-04, Arrestee and In-Custody Communications, *effective 1-28-22 to 1-31-23*

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.³⁵ 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.”³⁶

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

³⁵ 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).

³⁶ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

- 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