



Log #2023-1784

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 25, 2023, the Civilian Office of Police Accountability (COPA) received a third-party telephonic complaint from ██████████ ██████████ alleging misconduct by a member of the Chicago Police Department (CPD).² ██████████ alleged that on April 24, 2023, at approximately 7:55 pm, at or near 5401 S. Wentworth Ave, Officer Erick Cortez pointed a firearm at ██████████ ██████████³ Upon review of the evidence, COPA did not serve additional allegations. Following its investigation, COPA reached a sustained finding.

II. SUMMARY OF EVIDENCE⁴

On April 24, 2023, at approximately 7:55 pm, near 5401 S. Wentworth Ave. Officers Gerardo Silva and Jordon Coil were stopped by an unidentified female in the parking lot who reported that a man in black clothing, ██████████ had thrown a rock at her car causing damage.⁵ Officer Cortez and Probationary Police Officer (PPO) Abigail Aleman were assisting Officers Silva and Coil when Officer Silva passed the information to Officer Cortez and instructed him to go stop the man in the black clothing, ██████████⁶ The unidentified female driver was told that a report could be made for the damages but decided to leave the scene.

Officers Cortez and Aleman then went to the north side of the parking lot and approached ██████████⁷ Officer Cortez attempted to detain ██████████ however, ██████████ did not cooperate with the orders and began to back away.⁸ A female, who identified herself as ██████████ sister, got in

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 ██████████ witnessed the incident but did not know the identities of any parties involved. ██████████ initially believed that the non-CPD parties were under the age of 20; which prompted her to remain on scene until she learned they were old than the age of 20. Att. 32, pg. 4, lns. 6 to 24.

³ 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.

⁴ 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 (BWC) footage, event query's, CPD radio transmissions, investigative stop report, civilian interviews and officer interviews.

⁵ Att. 8 at 3:23 to 3:56

⁶ Att. 8 at 3:56 to 4:03

⁷ Officer Cortez relayed that ██████████ matched the description provided by the unidentified female driver. Att. 35, pg. 11, lns. 6 to 21.

⁸ Att. 5 at 2:00.

between Officer Cortez and ██████ and attempted interfere with the detention.⁹ Officer Cortez moved to the left to avoid the second unidentified female while ██████ continued retreating backwards while showing his hands and keeping his arms to his side.¹⁰ Officer Cortez unholstered his firearm and pointed it at ██████ to gain compliance, ensure the safety of parties on scene, and to de-escalate the encounter, while issuing commands for ██████ to get on the ground.¹¹ ██████ put his hands up and got on his knees.¹² Officer Cortez holstered his firearm, handcuffed ██████ escorted him to a CPD vehicle, and explained that to ██████ that he was being detained for possible criminal damage to property.¹³ Simultaneously, Officer Aleman stood behind Officer Cortez giving verbal commands to by standers. Officers completed a name check and released ██████

III. ALLEGATIONS

Police Officer Erick Cortez:

1. Pointing your firearm at or in the direction of ██████ without justification.
 - Sustained in violation of Rules 2, 3, 6, and 38.

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.

Statements that were provided to COPA by non-CPD members and CPD members were consistent with the evidence COPA collected. Therefore, COPA did not find any basis to question the credibility of any of the parties, to include CPD members, who provided a statement to COPA.

V. ANALYSIS¹⁴

COPA finds Allegation #1 against Officer Cortez, that he unreasonably pointed his firearm at ██████ is **sustained**. CPD members may only point a firearm at a person when it is objectively reasonable to do so under the totality of the circumstances faced by the member on the scene.¹⁵ “[CPD] members may consider factors that include, but are not limited to, the nature of the

⁹ Att. 5 at 2:10.

¹⁰ Att. 5 at 2:00 to 2:15; Atts. 36 and 37.

¹¹ Officer Cortez made the required notifications and completed the required paperwork detailing the interaction and firearm pointing. Att. 5 at 2:15 to 2:23, Att. 35, pg. 12, lns. 8 and 9, pg. 14, lns. 17 to 22, pg. 18, lns. 15 to 23.

¹² Att. 5 at 2:21.

¹³ Att. 5 at 2:22; Att. 35, pg. 19 lns. 1 to 7.

¹⁴ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹⁵ Att. 21, D19-01 (E), Firearm Pointing Incidents (effective November 1, 2019 to current).

incident, the risk of harm to the member or others, and the level of threat or resistance presented or maintained by the person (e.g., possession or access to weapons).”¹⁶

Officer Cortez explained his decisions to point his firearm at ██████████ was to gain compliance, de-escalate the interaction, and ensure safety of parties on scene.¹⁷ While COPA, understands Officer Cortez’ explanation, COPA finds it to be unreasonable, especially when viewing the totality of the circumstances. Specifically, ██████████ was alleged to have thrown a rock at a vehicle, which would make him no longer armed with the alleged rock. Additionally, while ██████████ was retreating from Officer Cortez, ██████████ hands were visible. Further, ██████████ hands were open with his palms facing out and his arms to his side.¹⁸ Finally, ██████████ did not conceal his hands or reach for any objects on his person. Based on evidence collected by COPA, it is determined that Officer Cortez’s firearm pointing towards ██████████ was unreasonable due to the circumstances of the situation at the time. Thus, Officer Cortez’ actions violated CPD policy and Rules 2, 3, 6, and 38.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Erick Cortez

i. Complimentary and Disciplinary History¹⁹

Officer Cortez has received 19 various awards, to include 1 Life Saving Award and has received no discipline.

ii. Recommended Discipline

Here, COPA has found that Officer Cortez unnecessarily pointed his firearm at ██████████ who was not reasonable considered armed, while displaying his open hands and walked backwards from Officer Cortez. It is for these reasons, combined with Officer Cortez’ history that COPA recommends a **Reprimand** and retraining.

Approved:

██████████

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

6-11-2024

Date

¹⁶ Att. 21, D19-01 (E).

¹⁷ Att. 35, pg. 18, lns. 15 to 23

¹⁸ Att. 36 and 37.

¹⁹ Att. 45.

Appendix ACase Details

Date/Time/Location of Incident:	April 24, 2023/ 7:55 PM/ 5401 S. Wentworth Ave, Chicago, IL, 60609
Date/Time of COPA Notification:	April 25, 2023/ 10:04 AM
Involved Member #1:	Erick Cortez, Star #18158, Employee ID # [REDACTED] Date of Appointment March 16, 2020, Unit of Assignment 002, Male, White Hispanic
Involved Individual #1:	[REDACTED] Male, Black or African American

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

- D19-01: Firearm Pointing Incidents (effective November 1, 2019 to current).²⁰

²⁰ Att. 21.

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.²¹ 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.”²²

²¹ 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).

²² *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