



Log # 2024-2656

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On February 29, 2024, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). Specifically, ██████████ alleged that on February 29, 2024, Officers Joshua Ortiz and Andrew Deng searched him and an unidentified male without justification.<sup>2</sup> Upon review of the evidence, COPA served additional allegations that Officers Ortiz and Deng failed to complete an Investigatory Stop Report (ISR). Following its investigation, COPA reached sustained findings regarding the allegations of failing to complete an ISR.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On February 29, 2024, Officers Ortiz and Deng were responding to a call of five individuals (three males and two females) attempting to break into a vehicle with a screwdriver, the owner of the vehicle pursued them, and the individuals ran northbound.<sup>4</sup> The description of males were black males last seen wearing a yellow jacket and the other a green hoodie. While following up on the initial call, Officers Ortiz and Deng observed two individuals, ██████████ and an unidentified male, at 5001 W Fullerton Avenue who matched the description of the fleeing parties. Officers Ortiz and Deng exited their CPD vehicle and approached the two males while informing them they wanted to talk. The two males began walking backwards with their hands up as the officers walked toward them. As Officer Ortiz approached the males, ██████████ with his hands in his pockets, asked why he was being detained. Officer Ortiz removed ██████████ hands from his vest pockets, completed a pat down,<sup>5</sup> while handcuffing ██████████ and explaining he was being detained because they matched the description of individuals trying to break into cars.<sup>6</sup> Officer Ortiz obtained ██████████ identifiers, but no identification card, and completed a name check. Officer Ortiz then returned to ██████████ and released him.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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 footage, CPD reports, and civilian and officer interviews.

<sup>4</sup> This report was initially received as an assault in progress with an armed group of males yelling and appearing ready to engage in a fight. Atts. 13 and 18.

<sup>5</sup> Att. 8 from 1:58 to 2:40

<sup>6</sup> Att. 8 from 2:43 to 2:57

Simultaneously, Officer Deng approached the unidentified male. As Officer Deng approached the male, the male held his hands up while asking why he was being stopped.<sup>7</sup> Officer Deng asked, the male, if he had any weapons on his person while explaining, he matched the description of a person that was wanted in the area. Officer Deng handcuffed the unidentified male. While Officer Deng patted the outer clothing of the unidentified male, he felt a knife shaped object in the hooded sweatshirt pocket. The unidentified male confirmed it was probably a knife as Officer Deng continued to feel his outer clothing.<sup>8</sup> Officers Deng escorted the unidentified male to the wall of the nearby business to retrieve his information. The unidentified male gave Officer Deng multiple names such as [REDACTED].<sup>9</sup> Officer Deng informed the male that not providing his information could potentially lead to being arrested for obstruction. While Officer Deng repeatedly attempted to get the male's information, there was a call to Officer Ventura from a sergeant that was escorting the reporting parties of the attempted burglary incident, to the officers' location to determine if [REDACTED] and the unidentified male were the wanted parties.<sup>10</sup> The reporting parties relayed to the sergeant, who provided the information to officers on scene that [REDACTED] and the unidentified male were not the wanted parties. [REDACTED] and unidentified male were cleared to be released.<sup>11</sup> The officers did not complete ISRs, and explained the failure to complete the reports was a result of becoming busy as their shift progressed causing them to forget.<sup>12</sup>

### III. ALLEGATIONS

#### Officers Joshua Ortiz and Andrew Deng

1. Searching [REDACTED] without justification.<sup>13</sup>
  - Exonerated
2. Failing to complete an Investigatory Stop Report.
  - Sustained in violation of Rules 2, 3, 5, and 6

### 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.

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<sup>7</sup> Att. 6 from 2:07 to 2:31

<sup>8</sup> Att. 6 from 2:55 to 2:59

<sup>9</sup> Att. 6 from 3:58 to 6:00

<sup>10</sup> Att. 9 from 3:06 to 3:25

<sup>11</sup> Att. 9 from 4:30 to 5:40

<sup>12</sup> Att. 30, pg. 17, ln. 19 to pg. 18, ln. 4; Att. 31, pg. 15, lns. 12 to 18.

<sup>13</sup> During and after Officer Deng's statement COPA learned that he in fact completed a search of the unidentified male and not [REDACTED] however, since the allegation was exonerated, COPA determined that there was no need to bring Officer Deng to correct the error.

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 who provided a statement to COPA.

## V. ANALYSIS<sup>14</sup>

COPA finds that Allegation #1 against Officers Ortiz and Deng, that they improperly searched ██████ and/or the unidentified male without justification, are **exonerated**. CPD members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.<sup>15</sup> This detention is an Investigatory Stop. Reasonable articulable suspicion is defined as “an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion.”<sup>16</sup> A person who is lawfully detained can be subjected to a limited search – a protective pat down – for weapons if a CPD member “reasonably suspects that [the member] or another is in danger of attack, [the member] may search the person for weapons.”<sup>17</sup>

According to the available evidence, Officers Ortiz and Deng detained ██████ and the unidentified male based on their proximity to a possible crime, attempted burglary while armed with a screwdriver, and their matching physical description of the sought parties. Officers Ortiz and Deng completed a protective pat down of ██████ and the unidentified male. Given the reports of the ██████ and/or the unidentified male being armed, while engaged in a potential criminal offense, and reportedly arguing with other parties, COPA finds the officers’ decision to complete a protective pat down was reasonable and proper.

COPA finds that Allegation #2 against Officers Ortiz and Deng, that they failed to complete an ISR, are **sustained**. CPD members are required to complete an ISR according to Special Order S04-13-09.<sup>18</sup> CPD policy provides that, upon the completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.<sup>19</sup> CPD policy also provides that, “[s]worn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report.”<sup>20</sup> The ISR must detail all the factors that support the member’s reasonable articulable suspicion or probable cause to detain and/or search the subject.

Here, it is undisputed that the officers failed to complete an ISR. In Officer Ortiz’s statement to COPA, he acknowledged his failure to complete an ISR while explaining the failure occurred because “[i]t got busy in the day, we usually do it. I mean, we’re supposed to, but that

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<sup>14</sup> For a definition of COPA’s findings and standards of proof, *see* Appendix B.

<sup>15</sup> Att. 27, S04-13-09 II(A), Investigatory Stop System (effective July 10, 2017 to present).

<sup>16</sup> Att. 27, S04-13-09 II(C).

<sup>17</sup> Att. 27, S04-13-09 IV(B).

<sup>18</sup> Att. 27, S04-13-09, generally.

<sup>19</sup> Att. 27, S04-13-09 III(C).

<sup>20</sup> S04-13-09 VIII(A)(3).

day it got kind of busy, and we just, I guess, forgot to do it.”<sup>21</sup> In Officer Deng’s statement to COPA, he acknowledged his failure to complete an ISR while explaining the failure occurred because, “[i]n all honesty, I took the information down with the intent of completing it prior to the end the tour. My partner and I began to respond to other jobs immediately after the investigatory stop, and by the end of the tour, I had personally forgotten that is my mistake”.<sup>22</sup> Therefore, the officers failure to complete an ISR violated CPD policy and Rules 2, 3, 5, and 6.

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. Officer Ortiz**

#### **i. Complimentary and Disciplinary History<sup>23</sup>**

Officer Ortiz has received 31 various awards, to include two Department Commendations. On February 19, 2024 received a reprimand for a court appearance violation a month prior. .

#### **ii. Recommended Discipline**

Here COPA has found, and Officer Ortiz admitted that he failed to complete an ISR documenting his detention and search of ██████ as required by CPD policy. Thus, based on this information and Officer Ortiz’ history, COPA recommends that Officer Ortiz receive a Reprimand.

### **b. Officer Deng**

#### **i. Complimentary and Disciplinary History<sup>24</sup>**

Officer Deng has received 29 various awards, one of which was a Department Commendation. Additionally, Officer Deng has received the following discipline: November 20, 2023, reprimand for a preventable accident; December 24, 2023, reprimand for a vehicle license plate issue; and February 21, 2023, reprimand for a body worn camera violation.

#### **ii. Recommended Discipline**

Here COPA has found, and Officer Deng admitted that he failed to complete an ISR documenting his detention and search of ██████ as required by CPD policy. Thus, based on this information and Officer Ortiz’ history, COPA recommends that Officer Deng receive a Reprimand.

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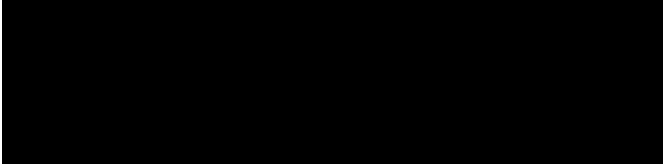
<sup>21</sup> Att. 31, pg. 15, lns. 16 to 18.

<sup>22</sup> Att. 30, pg. 17, ln. 23 to pg. 18, ln. 4.

<sup>23</sup> Att. 35.

<sup>24</sup> Att. 36.

Approved:



6-28-20214

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

**Case Details**

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Date/Time/Location of Incident:	February 29, 2024/ 4:55 pm / 5001 W Fullerton Avenue Chicago, IL 60639
Date/Time of COPA Notification:	February 29, 2024/ 5:12 pm
Involved Member #1:	Police Officer Joshua Ortiz, star #4041, employee ID# [REDACTED] Date of Appointment, Unit of Assignment:018, Male, White Hispanic
Involved Member #2:	Police Officer Andrew Deng, star #18756, employee ID# [REDACTED], Date of Appointment: Unit of Assignment:025, Male, Asian Pacific Islander
Involved Individual #1:	[REDACTED] Male, American Indian or Alaska Native
Involved Individual #2:	Unidentified, Male, Black

**Applicable Rules**

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- 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**

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- S04-13-09 Investigatory Stop System, effective July 10, 2017 to present.<sup>25</sup>

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<sup>25</sup> Att. 27.

## 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.<sup>26</sup> 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.”<sup>27</sup>

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<sup>26</sup> 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).

<sup>27</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> 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