



Log # 2023-0002234

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On May 25, 2023, the Civilian Office of Police Accountability (COPA) received a complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD).² ██████████ alleged that on May 23, 2023, at approximately 4:30 pm at or near 7027 S. Elizabeth St, Officer Jose Lopez used excessive force on him.³ Upon review of the evidence, COPA served additional allegations that Officer Lopez failed to timely activate his body worn camera (BWC). Following its investigation, COPA reached exonerated findings regarding the use of force and sustained findings regarding the untimely BWC activation.

II. SUMMARY OF EVIDENCE⁴

On May 23, 2023, at approximately 4:30 pm at or near 7027 S. Elizabeth St, officers were investigating a report of a person with a gun. As officers arrived on scene, they were met with a large crowd gathered in front of the residence.⁵ Officer Elyse Rodriguez was one of the initial officers on scene and observed a firearm magazine in an unoccupied parked blue vehicle.⁶ As Officer Rodriguez proceeded to open the passenger door, a female from the crowd rushed to stop her and wrapped herself around Officer Rodriguez. Officer Rodriguez was able to free herself and rushed over to the driver side to retrieve the firearms magazine.⁷ As the situation escalated, officers on scene called in a distress call over the radio for additional units to assist.⁸ During this interaction, ██████████ is observed on Officer Rodriguez's BWC recording the search.⁹ From another angle,

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 ██████████ also made additional allegations that were either false/never happened or there was insufficient evidence of misconduct. COPA also received telephonic complaints from ██████████ and ██████████. Following its investigation COPA determined that there was insufficient evidence of misconduct alleged by both complainants. Attempts were made to reach all parties to get a statement, yet COPA was not successful; CO-38650; CO-1382949; CO-1341834; CO-1341542

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 BWC footage, third-party video, police reports, officer interviews, and event queries.

⁵ Att. 35, BWC of Officer Rodriguez at 2:06 to 4:18

⁶ Att. 35, at 5:01 to 5:16

⁷ Att. 35, at 5:01 to 5:16

⁸ Att. 34- BWC of Seargent David Moore at 5:24 to 5:33

⁹ Att. 35, at 5:04 to 6:04

witnessed on Officer Nicholas Prozanski's BWC, [REDACTED] is directed to stay away from the vehicle.¹⁰ Officer Lopez responded to that call and helped establish a perimeter around the vehicle to prevent any civilians from interfering with the search of the vehicle.¹¹ [REDACTED] then made contact with Officer Lopez, who is seen using his left hand to direct [REDACTED] away from the vehicle.¹² Officer Lopez told COPA in his statement that [REDACTED] ignored several verbal commands.¹³ Officer Lopez also told COPA he tried to physically redirect [REDACTED] by using his arms and hands to "gesture to step back," but [REDACTED] continued to "break that perimeter."¹⁴ Officer Lopez feared [REDACTED] would further escalate the situation so he performed an emergency take down to restrain [REDACTED].¹⁵ After Officer Lopez restrained [REDACTED] and walked him over to the near by wagon, Officer Lopez activated his BWC.¹⁶

III. ALLEGATIONS

Police Officer Jose Lopez:

1. Using force above [REDACTED] shoulders, without justification.
 - Exonerated
2. Taking [REDACTED] to the ground, without justification.
 - Exonerated
3. Failing to timely activate your Body Worn Camera.
 - 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. The statement provided by Officer Lopez was consistent with the evidence COPA collected. Therefore, COPA did not find any basis to question the credibility of the statement provided to COPA.

¹⁰ Att. 44, BWC of Officer Prozanski at 3:34 to 3:45

¹¹ Att. 9- Arrest Report of [REDACTED] Att. 32- Tactical Response Report completed by Officer Lopez

¹² Att. 44 at 3:45 to 3:50

¹³ Att. 67, Officer Lopez COPA Statement, Pg. 12, Lns. 18-19

¹⁴ Att. 67, at Pg. 12, Lns. 20-22

¹⁵ Att. 66, Third party footage at 0:09 to 0:20; and Att. 67, at Pg 12, Lns. 21-24

¹⁶ Att. 51- BWC of Officer Lopez at 0:00 to 2:00

V. ANALYSIS¹⁷

a. Use of Force

COPA finds Allegations #1 and #2 that Officer Lopez used force on ██████ without justification and took him the ground, without justification, are **Exonerated**. CPD members are permitted to use force when it is “objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person, under the totality of the circumstances.”¹⁸ Furthermore, 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.¹⁹ If the citizen’s actions are aggressively offensive with or without weapons, members are permitted to respond with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; taser deployment; direct mechanical strikes; and impact weapons and munitions.²⁰ 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.²¹ 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.²²

In this case, Officer Lopez told COPA he believed ██████ at the time was an active resister when ██████ attempted to break the perimeter after being warned verbally. Moreover, when Officer Lopez extended his arms and tried to redirect, ██████ struck Officer Lopez’s arms several times.²³ Following a review of all the available evidence, COPA finds that ██████ actions classified him as an active resister, if not an assailant, at the point he made contact with Officer Lopez. As a result, Officer Lopez acted within policy when he performed an emergency takedown of ██████. Therefore, COPA finds Allegations #1 and #2, are Exonerated.

b. BWC Activation

COPA finds Allegation #3 that Officer Lopez failed to timely 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.”²⁴

¹⁷ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

¹⁸ G03-02-01: Response to Resistance and Force Options (effective April 15, 2021, to June 28, 2023).

¹⁹ G03-02-01 IV(C).

²⁰ G03-02-01 IV(C)(1).

²¹ G03-02: De-Escalation, Response to Resistance and Use of Force (III)(B) (effective April 15, 2021, to June 28, 2023).

²² G03-02 (III)(B)(1-3).

²³ Att. 67- P. 18, Ln.20 to P. 20, Ln.19; Att. 61- Evidence Technician Photos, P. 90 to P. 106

²⁴ “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;

Here Officer Lopez admitted to not activating his BWC.²⁵ Officer Lopez’s reasoning for the late activation was due to the number of citizens surrounding nearby officers, causing him to immediately sprint towards officers to assist.²⁶ Once Officer Lopez realized he had not activated his BWC, he activated it and notified his supervisor.²⁷ Therefore, COPA finds Allegation #3, is **Sustained**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Jose Lopez

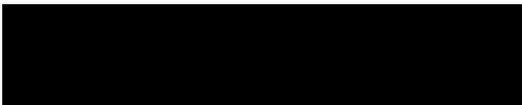
i. Complimentary and Disciplinary History²⁸

Officer Jose Lopez has received 318 total awards, including 273 honorable mentions, 12 Department commendations, and six complimentary letters. Officer Lopez has received one SPAR for a preventable accident, resulting in a reprimand. Officer Lopez received a 5-day suspension for a sustained excessive force case resulting from a 2020 incident.

ii. Recommended Discipline

COPA has considered Officer Lopez’s complimentary history and disciplinary history. Here, the only sustained allegation is for Officer Lopez not activating his BWC in a timely manner. In mitigation, he did activate it as soon as he realized it was not activated and took accountability. Thus, COPA recommends a written reprimand.

Approved:



Sharday Jackson
Deputy Chief Administrator – Chief Investigator

September 26, 2024

Date

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.” S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).

²⁵ Att. 67- Pg. 15, Ln. 13 to P. 16, Ln. 9

²⁶ Att. 67- Pg. 15, Ln. 13 to P. 16, Ln. 9

²⁷ Att.67- Pg. 14, Ln.20 to P. 16, Ln.9

²⁸ Att. 71

Appendix ACase Details

Date/Time/Location of Incident:	May 23, 2023/ 4:30 pm/ 7027 S. Elizabeth St. Chicago, IL, 60636
Date/Time of COPA Notification:	May 25, 2023/ 10:46 am
Involved Member #1:	Jose Lopez, Star #11943, Employee ID# [REDACTED], Date of Appointment: May 01, 2006, Unit of Assignment: 211, Male,
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

- S03-14: Body Worn Cameras (effective April 30, 2018, to December 29, 2023)
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021, to June 28, 2023)
- G03-02: De-Escalation, Response to Resistance and Use of Force (effective April 15, 2021, to June 28, 2023).

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.²⁹ 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.”³⁰

²⁹ 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).

³⁰ *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