



Log # 2023-0002408

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On June 3, 2023, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Sergeant Erik Ruhnke reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on June 3, 2023, Officers Ricardo Rivera, Zachery Nasir, and Charles Villanova used excessive force during his arrest. Upon review of the evidence, COPA served an additional allegation that Officer Rivera failed to de-escalate prior to using force. Following its investigation, COPA determined that all allegations made against the officers in this case are **Exonerated**.

II. SUMMARY OF EVIDENCE²

CPD Officers Rivera, Nasir, and Villanova were on routine patrol in the 4th District on June 3, 2023.³ At approximately 9:49 pm, the officers observed ██████████ changing lanes without using an indicator light.⁴ Therefore, the officers decided to conduct a traffic stop, activated their lights and sirens, and body worn cameras (BWC).⁵ ██████████ proceeded to drive for approximately 1 minute and 20 seconds before coming to a complete stop near the intersection of East Marquette Drive and South Jeffrey Boulevard in Jackson Park.⁶ Officers Rivera, Nasir, and Villanova stopped their unmarked, CPD vehicle behind ██████████ exited and approached ██████████ vehicle.⁷ Officer Rivera and Villanova approached the driver's side whereas Officer Nasir approached the passenger side of the vehicle.⁸

Officer Rivera initiated conversation with ██████████⁹ ██████████ rolled down his window and explained that he wanted to stop his vehicle in a well-lighted area as he handed Officer Rivera his driver's license and registration.¹⁰ As Officer Rivera inspected ██████████ documents, ██████████ pulled

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 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, Accused and Witness member interviews, Caboodle Map, and CPD reports.

³ Att. 4, pg. 3.

⁴ Att. 4, pg. 3; Att. 78, pg. 10, ln. 18 to pg. 11, ln. 2; Att. 74, pg. 10, lns. 17 to 23; and Att. 76, pg. 10, lns. 14 to 22.

⁵ Att. 4, pg. 3; Att. 78, pg. 10, ln. 18 to pg. 11, ln. 2; Att. 74, pg. 10, lns. 17 to 23; and Att. 76, pg. 10, lns. 14 to 22.

⁶ Att. 25.

⁷ Att. 43 at 3:15; Att. 44 at 3:15; and Att. 47 at 3:10.

⁸ Att. 43 at 3:15 and Att. 47 at 3:10.

⁹ Att. 44 at 3:15.

¹⁰ Att. 47 at 3:25 to 3:40.

up his proof of insurance on his cell phone.¹¹ Officer Rivera explained to ██████ the reason for the traffic stop.¹² Officer Rivera then asked ██████ to roll-down his passenger side window so Officer Nasir, who was standing on the passenger side of the vehicle with a flashlight, could see inside ██████ vehicle.¹³ ██████ vehicle, a 2-door sedan, had dark tinted windows.¹⁴ While Officer Rivera interacted with ██████ Officer Nasir shined his flashlight into the passenger side of the vehicle through the now open window.¹⁵ Officer Nasir saw a bottle of alcohol on ██████ passenger seat and notified Officer Rivera.¹⁶ Officer Rivera confirmed the validity of ██████ insurance and then asked ██████ if he had any other bottles of alcohol in the vehicle.¹⁷ ██████ explained that he did not have any other alcohol in the car and that he would discard the bottle Officer Nasir observed.¹⁸ However, Officer Rivera stated that it was not necessary for ██████ to throw out the alcohol and then asked ██████ to step out of the vehicle.¹⁹ ██████ asked if he could roll up his windows before stepping out, stating that his windows were newly tinted.²⁰ Officer Rivera said ██████ could close his windows, but he should first open his door and step out.²¹

██████ briefly hesitated, looked around his vehicle, and then told Officer Rivera that he would step out of his vehicle.²² Before stepping out, ██████ stated that he was not authorizing a search of his vehicle.²³ ██████ opened his door a few inches before rolling up his window and then exited his vehicle.²⁴ As ██████ exited, he held his cell phone in his right hand and placed his left hand on the outer edge of the driver's side door.²⁵ At the same time, Officer Rivera pulled the vehicle door open with his right hand.²⁶ Immediately after stepping out, ██████ attempted to close the door.²⁷ Officer Rivera repeatedly told ██████ to stop; however, ██████ continued to push the door closed and said to Officer Rivera that he is just closing the door.²⁸ Officer Rivera placed his right hand on ██████ left arm and began to pull him away from the vehicle.²⁹ ██████ continued to say that he's closing the door and held on to the door as Officer Villanova placed both of his hands and arms around ██████ waist from behind.³⁰ At that point, both Officers Rivera and

¹¹ Att. 47 at 3:40.

¹² Att. 47 at 3:45 to 4:00.

¹³ Att. 47 at 4:05.

¹⁴ Att. 47 at 4:10.

¹⁵ Att. 44 at 4:10.

¹⁶ Att. 44 at 4:10 to 4:15.

¹⁷ Att. 47 at 4:50 to 5:05.

¹⁸ Att. 44 at 5:05 to 5:15.

¹⁹ Att. 47 at 5:15 to 5:20.

²⁰ Att. 47 at 5:20 to 5:28.

²¹ Att. 47 at 5:15 to 6:00.

²² Att. 47 at 5:30 to 5:38.

²³ Att. 47 at 5:40 to 5:48.

²⁴ Att. 47 at 5:56 to 6:05.

²⁵ Att. 47 at 6:03 to 6:08.

²⁶ Att. 43 at 6:05 to 6:08.

²⁷ Att. 47 at 6:08 and Att. 43 at 6:10 to 6:13.

²⁸ Att. 47 at 6:08 to 6:12 and Att. 43 at 6:10 to 6:15.

²⁹ Att. 43 at 6:05 to 6:18.

³⁰ Att. 47 at 6:10 to 6:15.

Villanova struggled to gain control of [REDACTED].³¹ As they struggled, Officer Nasir quickly relocated to the driver's side of the vehicle and assisted his partners.³² Officer Nasir first grabbed [REDACTED] left leg as Officer Villanova lifted [REDACTED] off the ground and then grabbed [REDACTED] left arm and the sleeve of [REDACTED] shirt while pulling [REDACTED] away from the vehicle.³³ [REDACTED] continued to resist as the three officers struggled to bring him around the back of the vehicle and onto the parkway where they took [REDACTED] to the ground.³⁴ While [REDACTED] was lying facing the ground, the officers continued to struggle with [REDACTED] as they gained control of his arms.³⁵

Officer Nasir placed handcuffs on [REDACTED] and then assisted him to his feet.³⁶ After [REDACTED] was secured and on his feet, Officer Nasir placed both of his hands on [REDACTED] left arm and led him towards the officers' unmarked vehicle.³⁷ As they walked towards the unmarked vehicle, Officer Nasir redirected [REDACTED] and placed him face-first against the unmarked vehicle.³⁸ Officers Rivera and Villanova continued to talk to [REDACTED] while maintaining his position against their unmarked vehicle as Officer Nasir searched [REDACTED] vehicle.³⁹ Officer Nasir found a loaded handgun in the center console of [REDACTED] vehicle.⁴⁰ He proceeded to unload [REDACTED] handgun atop the hood of the officers' unmarked vehicle and asked [REDACTED] if he had a Firearm Owners Identification (FOID) card.⁴¹ Officer Rivera asked [REDACTED] if he had an Illinois Concealed Carry License (CCL).⁴² [REDACTED] affirmed that he had both a FOID and CCL.⁴³ Shortly after Officer Nasir discovered [REDACTED] handgun, Officers Christopher Sarate and Jason Rodriguez arrived on scene.⁴⁴ Officers Rivera and Villanova walked [REDACTED] to Officers Sarate and Rodriguez's marked vehicle and secured him in the backseat.⁴⁵ Officers Sarate and Rodriguez transported [REDACTED] to CPD's 3rd District Station.⁴⁶ [REDACTED] displayed signs of exhaustion and was intermittently unresponsive when Officers Sarate and Rodriguez asked him about his condition.⁴⁷ At the station, during his processing, [REDACTED] continued to display signs of exhaustion and complained about his inability to breath.⁴⁸ When Sergeant Erik Ruhnke talked with [REDACTED] he alleged that Officers Rivera, Nasir,

³¹ Att. 43 at 6:15 to and Att. 47 at 6:10.

³² Att. 44 at 6:15 to 6:20.

³³ Att. 44 at 6:18 to 6:45 and Att. 47 at 6:20 to 6:40.

³⁴ Att. 44 at 6:25 to 6:45; while the officers struggled to gain control of [REDACTED] Officer Rivera states that [REDACTED] kneed him in the groin. (see Att. 47 at 6:25 to 6:29)

³⁵ Att. 47 at 6:45 to 6:53.

³⁶ Att. 43 at 7:05 to 7:15.

³⁷ Att. 43 at 7:15 to 7:19; Att. 44 at 7:15 to 7:19; and Att. 47 at 7:16 to 7:20.

³⁸ Att. 43 at 7:19 to 7:25 and Att. 44 at 7:19 to 7:25.

³⁹ Att. 47 at 7:19 to 7:50.

⁴⁰ Att. 44 at 7:50.

⁴¹ Att. 44 at 7:58 to 8:05 and Att. 47 at 7:50 to 8:00.

⁴² Att. 44 at 8:02 and Att. 47 at 7:55.

⁴³ Att. 44 at 8:02 to 8:10 and Att. 47 at 7:56 to 8:05.

⁴⁴ Att. 41 at 1:45; Att. 42 at 2:00; and Att. 44 at 9:10.

⁴⁵ Att. 41 at 2:20 to 2:52.

⁴⁶ Att. 42 at 5:30 to 11:20.

⁴⁷ Att. 42 at 6:48; 7:55; 9:26; 9:38 to 10:05; and 10:40 to 11:08. When Officers Sarate and Rodriguez assisted [REDACTED] out of their marked vehicle, [REDACTED] was breathing heavily and groaning. He continued this behavior when they placed him in holding. (see footnote below)

⁴⁸ Att. 42 at 13:00 to 15:51.

and Villanova choked and tried to kill him while they struggled.⁴⁹ Sergeant Ruhnke instructed Officers Rivera, Nasir, and Villanova to call emergency medical services (EMS).⁵⁰ However, according to Sergeant Ruhnke's Initiation Report, ██████ refused medical attention and stated that he was not experiencing a medical emergency.⁵¹

III. ALLEGATIONS

Officer Ricardo Rivera:

1. Failure to de-escalate prior to using force during the arrest of ██████
 - **Exonerated**
2. Used excessive force during the arrest of ██████ without justification.
 - **Exonerated**

Officer Zachery Nasir:

1. Used excessive force during the arrest of ██████ without justification.
 - **Exonerated**

Officer Charles Villanova:

1. Used excessive force during the arrest of ██████ without justification.
 - **Exonerated**

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 investigation did not reveal evidence that caused COPA to question the credibility of any of the involved individuals. Officers Rivera, Nasir and Villanova provided statements that were internally consistent and plausible. In addition, BWC footage of in large part corroborated the officers' accounts of the incident. Therefore, COPA believes the officers' accounts were reliable.

⁴⁹ Att. 36 at 2:00 to 2:40 and Att. 37 at 2:00 to 2:34.

⁵⁰ Att. 37 at 2:15 to 2:25.

⁵¹ Att. 1, pg. 2.

V. ANALYSIS⁵²

a. Failure to De-Escalate

COPA finds that **Allegation #1** against Officer Rivera, that he failed to de-escalate prior to using force during the arrest of ██████████ is **Exonerated**. According to CPD policy, members are “required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place...[a] member in immediate risk of harm.”⁵³ When employing de-escalation techniques during an encounter with an individual, members “will use the principles of Force Mitigation to ensure effective police-public encounters.”⁵⁴ This includes using continual communication, tactical positioning, and time as tactic to diminish the need to use force.⁵⁵

In this case, the interaction between Officer Rivera and ██████████ was dynamic and unfolded quickly. Throughout much of the initial encounter, Officer Rivera utilized clear and continual communication.⁵⁶ Yet, when ██████████ exited the vehicle and attempted to close the door, Officer Rivera’s use of verbal commands faltered. As ██████████ began closing the door, Officer Rivera simply and repeatedly told ██████████ to stop.⁵⁷ It is plausible to believe that ██████████ who was already visibly nervous and protested the search of his vehicle, may have misunderstood Officer Rivera’s commands as well as Officers Rivera’s decision to grab and pull his left arm thus escalating ██████████ heightened emotional state. While Officer Rivera attempted to prevent ██████████ from closing the door, ██████████ stated that he was just trying to close the door.⁵⁸

COPA believes it is plausible to interpret ██████████ statement as both an attempt to explain his actions and an expression of anxious confusion regarding the officers’ use of force at that moment. If Officer Rivera had completed his command and instructed ██████████ to not close the door or said, “stop closing the door,” it is reasonable to believe that ██████████ may have complied since he had remained in compliance with Officer Rivera’s instructions thus far. That said, despite his truncated command, Officer Rivera remained in continual communication using clear and understandable language prior to ██████████ exiting the vehicle. In addition, Officer Rivera believed ██████████ was attempting prevent access to his vehicle by closing and locking the door.⁵⁹ COPA finds Officer Rivera’s perception of events at that moment were also plausible given ██████████ assertion that he was not authorizing the search of his car.⁶⁰ Therefore, COPA has determined that Officer Rivera’s use of de-escalation techniques was in compliance with CPD policy and the allegation made against him is **Exonerated**.

⁵² For a definition of COPA’s findings and standards of proof, *see* Appendix B.

⁵³ Att. 81, G03-02(III)(C).

⁵⁴ Att. 82, G03-02-01(III).

⁵⁵ Att. 82, G03-02-01(III)(A-C).

⁵⁶ Att. 47 at 3:25 to 6:00.

⁵⁷ Att. 47 at 6:05 to 6:15.

⁵⁸ Att. 47 at 6:08 and at 6:10 to 6:15.

⁵⁹ Att. 78, pg. 18, ln. 13 to pg. 19, ln. 2.

⁶⁰ Att. 47 at 5:40 to 5:48 and 6:14 to 6:18.

b. Use of Force

COPA finds that **Allegation #2** against Officer Rivera and **Allegations #1** made against Officers Nasir and Villanova, that they used excessive force during the arrest of ██████████ without justification are **Exonerated**. According to CPD policy, members may only use force that is “objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance presented by a person.”⁶¹ In addition, members are obligated to continually assess interactions with civilians and determine: if force is necessary; if the severity of the interaction requires an immediate response; and/or “if the level of force employed should be modified based upon the person’s actions or other changes in circumstances.”⁶² Therefore, a member’s decision to use force in a dynamic, rapidly evolving encounter requires members to respond to civilian behavior in a contemporaneously proportionate manner.

In this case, the encounter between ██████████ and the officers was dynamic and unfolded quickly. Established in the previous section, ██████████ remained compliant up until the moment he stepped out of his vehicle.⁶³ At the point ██████████ failed to comply with Officer Rivera’s commands, the officer’s use of force was reasonable given the concern that ██████████ would close and lock his door thus complicating access to his vehicle.⁶⁴ ██████████ stated that he did not authorize the search of his vehicle, despite the fact a search of his vehicle was warranted given the presence of a bottle of alcohol, which was not properly concealed.⁶⁵ By refusing access to his vehicle, ██████████ introduced doubt that he would comply with Officer Rivera’s commands after exiting his vehicle. Therefore, it is reasonable to believe that Officer Rivera interpreted ██████████ insistence on closing the door to his vehicle as an attempt to complicate and/or prevent access to his vehicle. In other words, COPA believes it was reasonable for Officer Rivera to view ██████████ as, at minimum, a passive resister when he defied Officer Rivera’s command to stop closing the door to his vehicle. Thus, COPA believes it was both a reasonable decision and a proportionate level of force for Officer Rivera to use when he placed his right hand under ██████████ left arm to prevent him from closing the door.

Moreover, when ██████████ defied Officer Rivera’s commands, he grasped the door with his right hand thus resisting Officer Rivera’s hold and attempt to move him away from the door.⁶⁶ At that moment, ██████████ and Officer Rivera began to struggle, which prompted Officers Villanova and Nasir to assist their partner in regaining control of ██████████. As the officers struggled to regain control of ██████████ Officer Rivera exclaimed that ██████████ kneed him in the groin.⁶⁷ Therefore, COPA believes it seems reasonable that Officers Villanova and Nasir would interpret their partner’s statement as well as ██████████ physical resistance as an attempt to re-enter his vehicle and

⁶¹ Att. 82, G03-02-01(II)(C).

⁶² Att. 82, G03-02-01(II)(E).

⁶³ Att. 47 at 3:25 to 6:00.

⁶⁴ Att. 78, pg. 18, ln. 13 to pg. 19, ln. 2.

⁶⁵ Att. 6, pg. 4 and Att. 47 at 6:08 to 6:12.

⁶⁶ Att. 47 at 6:08 to 6:15.

⁶⁷ Att. 47 at 6:25.

defeat his arrest.⁶⁸ Moreover, it seems reasonable that all three officers would make the decision to use the level of force necessary to subdue and securely detain [REDACTED] who had actively resisted their tactical responses to his actions. In other words, COPA believes that Officers Rivera, Villanova, and Nasir reasonably interpreted [REDACTED] actions, as the encounter dynamically and rapidly unfolded. Additionally, COPA believes the officers chose an appropriate level of force that was proportionate to [REDACTED] resistance and consistent with CPD policy. Therefore, given the circumstances of this incident, COPA finds that the allegations of excessive force made against the officers are **Exonerated**.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

September 26, 2024

Date

⁶⁸ Att. 47 at 6:25; Att. 22, pg. 2; and Att. 24, pg. 2.

Appendix ACase Details

Date/Time/Location of Incident:	June 3, 2023 / 9:49 pm / 1953 E. Marquette Drive
Date/Time of COPA Notification:	June 4, 2023 / 9:20 am
Involved Member #1:	Ricardo Rivera, star #: 9219, employee ID#: [REDACTED], Unit of Assignment: 003, Male, White Hispanic
Involved Member #2:	Zackery Nasir, star #: 14481, employee ID#: [REDACTED], Unit of Assignment: 003, Male, White
Involved Member #3:	Charles Villanova, star #: 13412, employee ID#: [REDACTED], Unit of Assignment: 003, Male, White
Involved Individual #1:	[REDACTED] 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

- General Order 03-02: De-Escalation, Response to Resistance, and Use of Force (effective: April 15, 2021 to June 28, 2023)
- General Order 03-02-01: Response to Resistance and Force Options (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.⁶⁹ 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.”⁷⁰

⁶⁹ 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).

⁷⁰ *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