



Log # 2022-0005481

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

### I. EXECUTIVE SUMMARY

On December 30, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Sgt. Paul Meagher wherein ██████████ alleged misconduct by members of the Chicago Police Department (CPD).<sup>2</sup> COPA also received a phone call from ██████████ alleging the same misconduct reported in Sgt. Meagher's initiation report.<sup>3</sup> ██████████ alleged that on December 30, 2022, Officers Mauricio Rodriguez and Danilo Loza, without justification, stopped him, searched him, pushed him, and yelled at him.<sup>4</sup> Following its investigation, COPA reached **sustained** findings on one of the 4<sup>th</sup> amendment allegations against Officer Loza, and on the allegations of excessive force and of being unprofessional and/or disrespectful against Officer Rodriguez.

### II. SUMMARY OF EVIDENCE<sup>5</sup>

On December 30, 2022, Officers Rodriguez, Loza, and Christian Szczur, responded to a ShotSpotter notification alerting to the area of 847 N. Latrobe Avenue.<sup>6</sup> As they approached the area about one minute later, the officers observed ██████████ emerge from the bushes at the house located at 900 N. Latrobe.<sup>7</sup> He was the only person in the area at the time. Officer Loza asked if he had heard anything, to which ██████████ responded "no."<sup>8</sup> Officer asked if ██████████ had a gun on him. The officers asked ██████████ if he heard any shots and if he had a weapon.<sup>9</sup> ██████████ did not

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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> Att. 1, the Initiation Report.

<sup>3</sup> Att. 1; Att. 5, the Interview transcripts of ██████████ pg. 12, lns. 1 to 5, pg. 14, lns. 4 to 11; Att. 8 at 13:41:45 to 13:43:57.

<sup>4</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. See Atts. 1, 5.

<sup>5</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from BWC footage, third-party video, police reports, civilian interviews, and officer interviews.

<sup>6</sup> Att. 23, the OEMC police transmissions at 0:50, 5 rounds ejected at 847 N. Latrobe Avenue; Att. 6, the ISR of ██████████ Atts. 29 and 30, the ShotSpotter Alerts; Att. 31, the Event Query; Att. 43, the Interview Transcripts of Officer Loza, pg. 24, lns. 7 to 12; pg. 11, lns. 3 to 5; and Att. 47, the Interview Transcripts of Officer Rodriguez, pg. 11, lns. 6 to 7.

<sup>7</sup> The time of the ShotSpotter alert was 12:42 hrs. per Atts. 29 and 30; The officers arrived at 12:43 hrs. per BWC Atts. 11, 12 and 13. See also, Att. 43, pg. 11, lns. 3 to 10; Att. 47, pg. 11, lns. 7 to 8, pg. 16, ln. 1; Att. 13 at 12:45:38 for address of house of bushes.

<sup>8</sup> Att. 11 at 12:45:16.

<sup>9</sup> Att. 5, pg. 5, lns. 9 to 12; Att. 12, BWC of Officer Rodriguez at 12:45:14; Atts. 11 and 13 at 12:45:10, BWC of Officers Loza and Szczur.

respond and walked away from the officers' vehicle.<sup>10</sup> Officers Rodriguez and Loza got out their vehicle to conduct an investigatory stop of ██████ while Officer Szczur searched the area of the bushes.<sup>11</sup>

As Officers Rodriguez and Loza approached ██████ told them to get back in their car and to put their guns away (Officer Rodriguez was holding his firearm at low ready).<sup>12</sup> Officer Loza again asked ██████ if he had a weapon, and ██████ responded that he did not.<sup>13</sup> The officers conducted a pat down with negative results.<sup>14</sup> ██████ told Officer Rodriguez to "let go of [his] hand."<sup>15</sup> Officer Rodriguez shoved ██████ on the back of ██████ right arm and walked away.<sup>16</sup>

██████ yelled for the officers' names, stars, and badge numbers.<sup>17</sup> The officers gave it to him multiple times, and ██████ repeated back multiple times.<sup>18</sup> ██████ asked for the officers names again while walking away, and Officer Loza asked ██████ for his name, which ██████ provided. Officer Loza asked ██████ for his identification to do some paperwork on him.<sup>19</sup> ██████ argued about giving them his identification, and Officer Loza grabbed ██████ by his arms to stop him from walking away.<sup>20</sup>

Officer Loza released ██████ who turned to Officer Rodriguez. Officer Rodriguez called ██████ a "crybaby."<sup>21</sup> ██████ approached Officer Rodriguez yelling at him and sticking his finger at him.<sup>22</sup> Officer Rodriguez yelled at ██████ to get out of his fucking face and to get the fuck away from him.<sup>23</sup> As he got in his vehicle to leave the area, Officer Rodriguez called ██████ a "crybaby" again.<sup>24</sup> The officers continued to tour the area to investigate the ShotSpotter alert.<sup>25</sup>

<sup>10</sup> Atts. 11 and 12 at 12:45:15; Att. 6; and Att. 47, pg. 11, lns. 8 to 14.

<sup>11</sup> Att. 8, the POD video at 12:45:18; Att. 12 at 12:45:24; Att. 43, pg. 11 lns. 3 to 16; pg. 12 lns. 18 to 22; pg. 23, lns. 2 to 11; and Att. 47, pg. 11, ln. 16.

<sup>12</sup> Att. 11, 12 at 12:45:18; Att. 47, pg. 35..

<sup>13</sup> Att. 5, pg. 5, lns. 15 to 17; Atts. 11 and 12 at 12:45:24.

<sup>14</sup> Att. 5, pg. 7, lns. 1 to 4; Att. 8 at 12:45:28; Atts. 11 and 12 at 12:45:28; 6; Att. 47, pg. 11, lns. 17 to 22; pg. 19, ln. 24; and pg. 20 lns. 1 to 4.

<sup>15</sup> Atts. 11 and 12 at 12:45 hrs.

<sup>16</sup> Att. 5, pg. 7, lns. 10 to 13; Att. 8 at 12:45:38; Att. 12 at 12:45:46; and Att. 6.

<sup>17</sup> Att. 5, pg. 7, lns. 17 to 24, pg. 8, lns. 1 to 24, pg. 9, lns. 1-4 and 21; Atts. 11 and 12 from 12:45:39 to 12:46:08; Att. 12 at 12:46:12 to 12:46:39; Att. 6; Att. 43, pg. 17, lns. 15 to 17; Att. 47, pg. 12, lns. 6 to 7, and 21 to 22.

<sup>18</sup> Atts. 11 and 12 from 12:45:41 to 12:46:40; Att. 6; Att. 43, pg. 17 lns. 15 to 17; Att. 47, pg. 12, lns. 6 to 7, and pg. 12, lns. 21 to 22.

<sup>19</sup> Att. 5, pg. 9, lns. 22 to 24, pg. 19, lns. 9 to 11; Atts. 11 and 12 at 12:46:23 to 12:46:41; Att. 43, pg. 22 lns. 13 to 19, pg. 17, lns. 15 to 20.

<sup>20</sup> Att. 11 starting at 12:46:29.

<sup>21</sup> Atts 11 and 12 at 12:46:46.

<sup>22</sup> Att. 5, pg. 9, lns. 16 to 17; Atts. 11 and 12 at 12:46:25; Att. 6; and Att. 47, pg. 27, lns. 6 to 8.

<sup>23</sup> Att. 5, pg. 9, lns. 16 to 17, pg. 19, lns. 12 to 14, pg. 36, lns. 4 to 8; Att. 12 at 12:46:45; Atts. 11 and 12 at 2:46:50; Att. 47, pg. 14, lns. 3 to 6, and pg. 28, lns. 7 to 14.

<sup>24</sup> Att. 11 at 12:47:33.

<sup>25</sup> Att. 19, the second BWC of Officer Szczur at 12:48:19.

Sgt. Hubbard arrived on scene.<sup>26</sup> ██████ complained to her that Officer Rodriguez had pushed him, that the officers did not give him their names and star numbers, that they asked for his identification, that they threatened him, and that they asked him if he was a gang member. She obtained Officer Loza's badge number for ██████ and asked ██████ for his identification. He provided his last name only, said something unintelligible, and walked away.<sup>27</sup> Sgt. Hubbard departed the area.<sup>28</sup>

██████ stayed in the area and called 911 multiple times, as well as COPA, to make a complaint.<sup>29</sup> Sgt. Paul Meagher arrived at the scene to take his complaint.<sup>30</sup> ██████ alleged to Sgt. Meagher that he was stopped, patted down, and that the officers did not give their name, star, and badge number when he asked.<sup>31</sup> ██████ further complained that Officer Rodriguez pushed him with both hands (while demonstrating the motion), and called him names.<sup>32</sup> When ██████ mentioned that he had spoken to Sgt. Hubbard, Sgt. Meagher asked him why he had not made the complaint to her. ██████ said he did not know he could.<sup>33</sup>

In his interview with COPA, ██████ said that he stumbled back from the push but did not fall, and that the officers ripped his coat and took it off during the pat down.<sup>34</sup> ██████ went to West Suburban Hospital four days after the incident for "chest pain," due to a prior condition, but ended up leaving before being seen by a doctor.<sup>35</sup> He said he followed-up with his regular doctor at Mt. Sinai Hospital, but he "didn't really have anything."<sup>36</sup> He told COPA he lost his job as a result of the incident.<sup>37</sup>

The medical records from West Suburban showed he did not sustain injury. Mt. Sinai Hospital did not show records for ██████ during the time period after the incident.<sup>38</sup>

In their interviews with COPA, Officers Loza and Rodriguez explained that the reasons they stopped ██████ were because of the ShotSpotter alert, ██████ was the only individual in the area, and because ██████ emerged from the bushes which, from their training and prior experiences,

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<sup>26</sup> Att. 18, BWC of Sgt. Hubbard at 12:49:00; and Att. 31.

<sup>27</sup> Att. 18 at 12:52:20.

<sup>28</sup> Att. 18 at 12:5:42.

<sup>29</sup> Att. 5, pg. 13, lns. 21 to 22, and pg. 14 lns. 4 to 10; Att. 20, the first 911 call of ██████ Att. 21, the second 911 call of ██████ Att. 22, the third 911 of ██████ Att. 23, the 911 dispatch call of ██████ requesting a Sgt; Att. 24, the 911 call of ██████ requesting another Sgt; Att. 8 at 12:58:40 to 1:02:45 to 1:04:30; and Att. 31.

<sup>30</sup> Att. 5, pg. 11, lns. 2 to 15; Att. 23 at 25:48; Att. 24 at 0:45; Att. 1; Att. 8 at 12:58:40 to 1:04:30; Att. 15, the BWC of Sgt. Meagher at 13:41:45 to 13: 53:25; Att. 14, the BWC of Sgt. Leslie from 13:44:04 to 13:54:10; and Att. 31.

<sup>31</sup> Atts. 5, pg. 12, lns. 1 to 5; Att. 8 at 13:41:45 to 13:43:57; and Att. 1.

<sup>32</sup> Att. 5, pg. 12, lns. 1 to 5; Att. 8 at 13:41:45 to 13:43:57; and Att. 1.

<sup>33</sup> Att. 15 at 13:47:00.

<sup>34</sup> Att. 5, pg. 6, lns. 22 to 24, and pg. 24, ln. 17.

<sup>35</sup> Att. 5, pg. 32, lns. 3 to 6.

<sup>36</sup> Att. 5, pg. 32, lns. 3 to 10.

<sup>37</sup> Att. 5, pg. 32, lns. 12 to 13.

<sup>38</sup> Att. 5, pg. 32 lns. 3 to 10; Atts. 25, 26, and 27, medical records from West Suburban Medical Central and medical records response from Mount Sinai Hospital.

they had known to be a place where individuals hide firearms.<sup>39</sup> Further, the officers cited the fact that ██████ ignored their questions and was hostile which made them believe he could have been armed and dangerous.<sup>40</sup> The reason they patted down ██████ was for weapons was due to the nature the call, ██████ hostility, and ██████ ignoring their questions, which combined gave them suspicion he could have had a weapon.<sup>41</sup>

Officer Rodriguez denied that he pushed ██████<sup>42</sup> Instead, Officer Rodriguez characterized the action as “re-direct[ing]” ██████ to gain distance from ██████<sup>43</sup> According to Officer Rodriguez, ██████ was pulling his arm away from Officer Rodriguez, and Officer Rodriguez felt that meant ██████ could still “hit” him or his partner, so re-directing ██████ was necessary for Officer Rodriguez’s safety.<sup>44</sup>

Officer Rodriguez admitted to COPA that he called ██████ a “crybaby,” and told ██████ to get out of his fucking face. Officer Rodriguez agreed he could have used a better choice of words, but denied it was unprofessional to have said that as a CPD officer.<sup>45</sup> He explained that ██████ was in his face, pointing his finger, and he felt “threatened.”<sup>46</sup>

██████ brought a lawsuit against the City of Chicago over the incident, alleging that Officer Rodriguez ripped his jacket and “pushed and/or stiff armed [him] in the chest.”<sup>47</sup> It was settled for \$20,000.<sup>48</sup>

### III. ALLEGATIONS

#### **Officer Mauricio Rodriguez:**

1. Conducting a street stop of ██████ without justification.
  - Exonerated.
2. Conducting a pat down of ██████ without justification.
  - Exonerated.
3. Pushing ██████ without justification.
  - Sustained, Rules 2, 3, 8, and 10.
4. Being unprofessional/ and or disrespectful towards ██████
  - Sustained, Rules, 2, 3, 8, and 10.

#### **Officer Danilo Loza:**

<sup>39</sup> Atts. 47, pg. 11, lns. 5 to 14; and Att. 43, pg. 12, lns. 18 to 22.

<sup>40</sup> Att. 43, pg. 11, lns. 3 to 10; and Att. 47, pg. 11, lns. 5 to 14.

<sup>41</sup> Att. 47, pg. 19, ln. 24, pg. 20, lns. 1 to 4; and Att. 43, pg. 11, lns. 11 to 15.

<sup>42</sup> Att. 47, pg. 39, ln. 21, and pg. 25, lns. 4 to 8.

<sup>43</sup> Att. 47, pgs. 12, 23 to 25.

<sup>44</sup> Att. 46, pgs. 12, 20, 23 to 25.

<sup>45</sup> Att. 47, pg. 40.

<sup>46</sup> Att. 47, pg. 13, lns. 21 to 24; and pg. 14, lns. 11 to 13.

<sup>47</sup> Att. 28, ██████ civil complaint against the City of Chicago 23C2181.

<sup>48</sup> Atts. 32, the stipulation to dismiss; Att. 49, ██████ settlement.

1. Conducting a street stop of ██████████ without justification.
  - Sustained, Rules 2, 3, 6.
2. Conducting a pat down 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.

In this case, COPA finds ██████████ to lack credibility where his account of the incident was significantly contradicted by the objective evidence on numerous points. First, ██████████ claimed to COPA and to Sgt. Meagher that the officers never gave him their name or star number.<sup>49</sup> The BWC shows that the officers gave their information to ██████████ multiple times, and ██████████ repeated it on camera multiple times.<sup>50</sup> Second, ██████████ told COPA that the officers ripped his coat and took off his coat while they conducted the pat down; this was also not borne out by the BWC.<sup>51</sup> Third, ██████████ told Sgt. Meagher that he waited 15 minutes after he heard the shots being fired before he exited his residence, but the ShotSpotter alert was at 12:42 hrs., and the officers had contact with ██████████ at 12:43 hrs.<sup>52</sup>

Finally, and most significantly, ██████████ told Sgt. Hubbard, Sgt. Meagher, and COPA that Officer Rodriguez pushed him with two hands in ██████████ chest, while demonstrating the two-hand open palm motion as he did.<sup>53</sup> However, the BWC unequivocally shows that Officer Rodriguez used one hand, and the contact was made with the back of ██████████ upper arm. As such, ██████████ claim that he suffered chest pain from the incident that caused him to lose his job is not believable. The medical records also do not bear this out.

Accordingly, COPA finds ██████████ account of the events to lack credibility.

The officers' account of what occurred was largely corroborated by the BWC. Thus, COPA has no evidence upon which to question the credibility of the officers.

#### V. ANALYSIS<sup>54</sup>

<sup>49</sup> Att. 5, pg. 11, lns. 2 to 15, pg. 12, lns. 1 to 2; Att. 1; Att. 8 at 13:43:41; Atts. 11 and 12 from 12:45:39 to 12:46:08; Att. 12 from 12:46:12 to 12:46:39; and Att. 6.

<sup>50</sup> Att. 5, pg. 8, lns. 1 to 18; Atts. 11 and 12 from 12:45:41 to 12:46:40; and Att. 6.

<sup>51</sup> Att. 5, pg. 6, lns. 22 to 24.

<sup>52</sup> Att. 1; Att. 15 at 13:42:15; and Att. 8 at 13:42:14.

<sup>53</sup> Att. 15 at 13:43:26; Att. 18 at 12:49:33; and Att. 4 at 5:30, the video recorded interview of ██████████

<sup>54</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

**a. Officers Loza and Rodriguez conducted a street stop of ██████████ without justification.**

COPA finds Allegation #1, that the officers conducted a street stop of ██████████ without justification to be **Sustained** against Officer Loza and **Exonerated** as to Officer Rodriguez

CPD defines an Investigatory stop as: “[t]he temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a criminal offense.”<sup>55</sup> “Reasonable Articulate Suspicion is an objective legal standard that is less than probable cause, but more than a hunch or general suspicion. Reasonable Articulate Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member’s training and experience.”

Additionally, during an Investigatory Stop, subjects may be asked to identify themselves and to provide an explanation for their actions; however, a failure to do so is not, in and of itself, an arrestable offense or grounds for further detention, and a subject may choose not to answer any of the officer’s questions.<sup>56</sup>

In this incident, the officers arrived at the location of a ShotSpotter alert between one and two minutes after it occurred.<sup>57</sup> Upon their arrival, the officers observed ██████████ emerging from the bushes.<sup>58</sup> He was the only person in the area of the location where the officers believed a gun had been fired.<sup>59</sup> ██████████ initially ignored the officers question about whether he had a weapon on him.<sup>60</sup> From the officers prior experiences, they had known individuals to hide firearms in bushes, which made them believe he could have been connected to the ShotSpotter alert.<sup>61</sup>

Based on the above, COPA finds by clear and convincing evidence that the officers had reasonable articular suspicion to conduct an investigatory stop upon ██████████<sup>62</sup> Therefore, COPA finds it was within Department policy to have conducted this initial street stop. As such, this allegation as to Officer Rodriguez is **Exonerated**.

However, Officer Loza went on to “stop” ██████████ a second time. After ██████████ was patted down and no weapons were found, ██████████ was released, and the initial investigatory stop was concluded. But, after ██████████ repeatedly asked the officers for their names and badge numbers, Officer Loza asked ██████████ for his name, and then grabbed ██████████ arms which prevented ██████████

<sup>55</sup> Att. 41, S04-13-09(II)(A) Investigatory Stop System (Effective July 10, 2017, to present).

<sup>56</sup> Att. 41, S04-13-09, (V)(B).

<sup>57</sup> Atts. 6, 23, 29, 30, 31; Att. 43, pg. 24, lns. 7 to 12, and pg. 11, lns. 3 to 5.

<sup>58</sup> Atts. 6; Att. 43, pg.11, lns. 3 to 10; Att. 47, pg. 11, lns. 7 to 8, pg. 16, ln. 1.

<sup>59</sup> Atts. 43, pg. 11, lns. 4 to 10; Att. 47, pg. 11, lns. 5 to 14.

<sup>60</sup> Att. 5, pg. 5, lns. 9 to 12; Att. 12 at 12:45:14; Att. 11 at 12:45:10; Att. 13 at 12:45:10; Att. 6; Att. 43, pg. 11, lns. 6 to 10.

<sup>61</sup> Atts. 47, pg. 11, lns. 5 to 14; Att. 43, pg. 12, lns. 18 to 22.

<sup>62</sup> Att. 43, pg. 11, lns. 3 to 16, pg. 12, lns. 18 to 22, pg. 23, lns. 2 to 11; and Att. 47, pg. 11, lns. 8 to 14.

from walking away.<sup>63</sup> [REDACTED] once again was not free to leave at that point. According to Officer Loza, he was seeking to identify [REDACTED] for the ISR.<sup>64</sup> But, as stated above, citizens are not required to provide their name and information to officers and requesting such identifying information cannot be grounds for further detention. Consequently, COPA finds by a preponderance of the evidence that the second detention was not justified, and Allegation #1 against Officer Loza for conducting a street stop of [REDACTED] without justification is **Sustained**.

**b. Officers Loza and Rodriguez conducted a pat down of [REDACTED] without justification.**

COPA finds that Allegation #2 against Officers Loza and Rodriguez – that they conducted a pat down of [REDACTED] without justification – is **Exonerated**.

A police officer may perform a protective pat-down search where, after making a lawful stop, the officer has a reasonable articulable suspicion that he or another is in danger of attack because the defendant is armed and dangerous.<sup>65</sup> CPD defines a protective pat down as: “A limited search during an investigatory stop in which a sworn member conducts a pat down of the outer clothing of a person for weapons for the protection of the sworn member or others in the area.”<sup>66</sup> CPD defines reasonable articulable suspicion as “an objective legal standard that is less than probable cause, but more than a hunch or general suspicion.

The officers explained that the reasonable articulable suspicion for patting down [REDACTED] was: due to the Shot Spotter alert that indicated a firearm was in the vicinity; [REDACTED] being the only person in the vicinity; [REDACTED] emergence from the bushes; the officers experience of individuals hiding firearms in bushes; [REDACTED] non-compliance with the officers’ commands; [REDACTED] failure to answer the officers’ questions, [REDACTED] angry and aggressive demeanor; [REDACTED] act of walking away from the officers; and the officers’ experience with people acting as [REDACTED] did who were trying to hide something.<sup>67</sup>

Based on the foregoing, COPA finds clear and convincing evidence that the officers had reasonable articulable suspicion that [REDACTED] may have been armed and dangerous. Therefore, the officers were within CPD rules and regulations to have conducted the pat down, and this allegation is **Exonerated** as to both officers.

**c. Officer Rodriguez pushed [REDACTED] without justification.**

COPA finds that Allegation #3, against Officer Rodriguez that he pushed [REDACTED] without justification is **Sustained**.

<sup>63</sup> Att. 11 from 12:46:25 to 12:46:41.

<sup>64</sup> Att. 43, pg. 17, lns. 15 to 20.

<sup>65</sup> People v. Sorenson, 196 Ill. 2d 425, 432 (2001).

<sup>66</sup> Att. 41, S04-13-09(II)(C) Investigatory Stop System (Effective July 10, 2017, to present).

<sup>67</sup> Att. 43, pg. 17, lns. 15 to 17; and Att. 47, pg. 11, lns. 8 to 14.

The Chicago Police Department seeks to gain the voluntary compliance of persons, when consistent with personal safety. The Department expects its members to develop and display the skills and abilities to act in a manner to eliminate the need to use force and resolve situations without resorting to force. Department members will only resort to the use of force when required under the circumstances to serve a lawful purpose.<sup>68</sup>

Force is defined as any physical contact by a CPD member, either directly or through use of equipment, to compel a person's compliance.<sup>69</sup> Department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or third person, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape.<sup>70</sup>

Considerations in evaluating the objective reasonableness of the force include whether the person is posing an imminent threat to the members or others; the risk of harm or level of threat or resistance presented by the person; the person's proximity or access to weapons; whether de-escalation techniques can be employed or would be effective; and the availability of other resources. "Necessary" means "the minimum amount of force needed to provide for the safety of any person or member, stop an attack, make an arrest, bring a person or situation under control, or prevent escape."<sup>71</sup> Responses must be "proportional to the threat, actions, and level of resistance offered by a person."<sup>72</sup>

The BWC shows that after the pat down was conducted, and Officer Loza began to walk away, ██████ told Officer Rodriguez to let go of his hand.<sup>73</sup> Officer Rodriguez then pushed ██████ shoulder.<sup>74</sup>

Officer Rodriguez claimed that he did not push ██████<sup>75</sup> He stated that he "re-directed" ██████ to gain distance from ██████ because ██████ was pulling his arm away from Officer Rodriguez, and Officer Rodriguez felt that meant ██████ could still "hit" him or his partner, so it was necessary for his safety.<sup>76</sup>

COPA finds that while the push conducted was a minor use of force, it was not objectively reasonable, proportional, or necessary. At the point of the push, the officers had completed their pat down of ██████ and determined he had no weapons on him. Although he displayed an angry

<sup>68</sup> Att. 40, G03-02, § (II)(C), De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023, to present).

<sup>69</sup> Att. 40, G03-02, § (III)(A).

<sup>70</sup> Att. 40, G03-02, § (III)(B).

<sup>71</sup> Att. 40, G03-02, (III)(B)(2).

<sup>72</sup> Att. 40, G03-02, (III)(B)(3).

<sup>73</sup> Atts. 11 and 12 at 12:45 hrs.

<sup>74</sup> Atts. 5, pg. 7, lns. 10 to 13; Att. 8 a 12:45:38; Att. 6; Att. 43, pg. 22 lns. 13 to 19.

<sup>75</sup> Att. 47, pg. 39, ln. 2, and pg. 25, lns. 4 to 8.

<sup>76</sup> Att. 46, pgs. 12, 20, 23 to 25.



demeanor, ██████ was being a cooperative subject at that time. ██████ was asking Officer Rodriguez to release him, which was consistent with why he was pulling away from Officer Rodriguez.<sup>77</sup> ██████ never wanted to engage in an encounter with the officers in the first place and wanted the one that occurred to conclude as fast as possible. All of ██████ actions thus suggested he was trying to disengage with the officers, while there was no suggestion that he was a threat to them. Officer Rodriguez's claim to the contrary is not well-taken, and his act of pushing ██████ appeared to be one of impatience with ██████ angry demeanor rather than an actual threat. COPA finds he could have resolved resolve the situation without resorting to any force, regardless how minor.

Thus, COPA finds by a preponderance of the evidence that the push was not an objectively reasonable, necessary, or proportional response to the situation. Therefore, Officer Rodriguez violated G03-02 by pushing ██████ shoulder without justification and this allegation is **Sustained**.

**d. Officer Rodriguez was unprofessional and/or disrespectful towards ██████**

COPA finds that Allegation #4, against Officer Rodriguez that he was unprofessional and/or disrespectful towards ██████ is **Sustained**.

In G01-01, CPD outlines Core Values officers must abide by: Professionalism, Courage, Dedication, and Respect. The Department and all members will act in a unified manner to uphold these Core Values.<sup>78</sup>

After the officers conducted a pat down and released ██████ got close to Officer Rodriguez's face and pointed his finger at Officer Rodriguez.<sup>79</sup> Officer Rodriguez responded by getting in ██████ face, yelling he did not give a fuck, and to get out of his fucking face.<sup>80</sup> Additionally, he called ██████ a "crybaby" several times.<sup>81</sup>

Officer Rodriguez admitted he should not have said ██████ was a "crybaby" and to get out of his fucking face. Officer Rodriguez explained that he did so because he was in the moment and ██████ was close to his face, yelling at him, and pointing his finger close to his face.<sup>82</sup> However, police officers are held to a higher standard and are trained and expected to maintain their professionalism even in challenging situations. COPA finds by a preponderance of the evidence that Officer Rodriguez violated G01-01, and this allegation against him is **Sustained**.

<sup>77</sup> Atts. 11 and 12 at 12:45 hrs.; Att. 47, pg. 12, lns. 1 to 2; and Att. 5, pg. 7, lns. 3 to 9.

<sup>78</sup> Att. 39, G01-01, Vision, Mission Statement, and Core Values (IV) (1 to 6).

<sup>79</sup> Att. 47, pg. 27, lns. 6 to 8; Att. 5, pg. 9, lns. 16 to 17, pg. 26, lns. 7 to 10; Atts. 11, 12 at 12:46:25; and Att. 6.

<sup>80</sup> Att. 5, pg. 9, lns. 16 to 17, pg. 19, lns. 12 to 14, pg. 36, lns. 4 to 8; Att. 12 at 12:46:45; Atts. 11, 12 at 2:46:50; Att. 47, pg. 14, lns. 3 to 6; and pg. 28, lns. 7 to 14.

<sup>81</sup> Att. 5, pg. 9, lns. 16 to 17, pg. 19, lns. 12 to 14, pg. 36, lns. 4 to 8; Att. 12 at 12:46:45; Atts. 11, 12 at 2:46:50 and 12:47:29; Att. 47, pg. 14, lns. 3 to 6, and pg. 28, lns. 7 to 14.

<sup>82</sup> Att. 47, pg. 13, lns. 21 to 24, and pg. 14, lns. 11 to 13.

## VI. DISCIPLINARY RECOMMENDATION

### a. Officer Mauricio Rodriguez

#### i. Complimentary and Disciplinary History<sup>83</sup>

Officer Rodriguez had been an officer for almost four years at the time of the incident. Officer Rodriguez has received 87 awards including: 77 Honorable Mentions, 6 Department Commendations, and 1 Life Saving Award. Officer Rodriguez has had two SPARs: one in August 2023 for failing to submit a report where no disciplinary action was taken. The other was in July 2023 for not complying with motor vehicle pursuit requirements which resulted in 1 day off. Officer Rodriguez has had no sustained complaints.

#### ii. Recommended Discipline

COPA found that Officer Rodriguez violated G03-02 and G01-01 by pushing [REDACTED] without justification and by being unprofessional/ and or disrespectful towards [REDACTED]

In mitigation, COPA will consider Officer Rodriguez's numerous awards and honors. COPA will also consider that [REDACTED] was a challenging and verbally aggressive subject to deal with during a serious investigation of shots fired in the area. Finally, in mitigation, COPA will consider the amount of force used was minor and resulted in no injury.

In aggravation, COPA will consider Officer Rodriguez's SPAR history. COPA also will consider that while Officer Rodriguez admitted that he could have used different words in dealing with [REDACTED] he denied that calling [REDACTED] a crybaby, and telling [REDACTED] to the fuck out of his face was unprofessional. Officer Rodriguez also minimized his use of force by simply characterizing his push as a "re-direction," and exaggerating his need to use even the minor amount of force that he did. Finally, Officer Rodriguez's four years on the job should have led him to better handle the interaction with [REDACTED]

Therefore, COPA recommends a **2-day Suspension**.

### b. Officer Danilo Loza

#### i. Complimentary and Disciplinary History<sup>84</sup>

Officer Loza had been an officer for almost eight years at the time of this incident. Officer Loza has received 154 awards including: 133 Honorable Mentions and 8 Department

<sup>83</sup> Att. 46, the Complimentary and Disciplinary History of Officer Rodriguez.

<sup>84</sup> Att. 48, the Complimentary and Disciplinary History of Officer Loza.

Commendations. Officer Loza has had one sustained finding for neglect of duty in January 2021 which resulted in a violation noted. He had no SPAR history.

**ii. Recommended Discipline**

COPA found that Officer Loza violated S04-13-09 by detaining [REDACTED] for a second another time in this incident to get his name and information. Per S04-13-09, a citizen is not required to provide name and information to an officer and cannot be grounds for further detention. In mitigation, COPA will consider Officer Loza’s numerous awards and honors. It will also consider that [REDACTED] was a challenging and verbally aggressive subject to deal with during a serious investigation of shots fired in the area. In aggravation, COPA will consider Officer Loza’s previous sustained finding. COPA will further consider Officer Loza’s eight years of experience which should have led him to better handle the interaction with [REDACTED]

Therefore, COPA recommends a Reprimand.

Approved:

[REDACTED]

\_\_\_\_\_  
Angela Hearts-Glass  
Deputy Chief Administrator – Chief Investigator

6-11-2024

\_\_\_\_\_  
Date

Appendix ACase Details

Date/Time/Location of Incident:	December 30, 2022/ 12:45 P.M./ 900 N. Latrobe Avenue.
Date/Time of COPA Notification:	December 30, 2022/1:08 P.M.
Involved Member #1:	Mauricio Rodriguez, Star #14884, Employee ID# [REDACTED], Date of Appointment: 9/27/2018, Unit of Assignment: 015, Male, White.
Involved Member #2:	Danilo Loza, Star #16201, Employee ID # [REDACTED], Date of Appointment: 8/25/2014, Unit of Assignment: 015, Male, White.
Involved Member #3:	Christian Szczur, Star #18774, Employee ID# [REDACTED], Date of Appointment: 2/02/2015, Unit of Assignment: 015, 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

- G03-02: De-Escalation, Response to Resistance, and Use of Force (effective 15 April 2021 to 2 June 2023).
- S04-13-09: Investigatory Stop System (effective 10 July 2017- Present).
- G01-01: Vision, Mission Statement, and Core Values (effective 21 May 2019 to Present).

## 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>85</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>86</sup>

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<sup>85</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>86</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