



Log # 2023-0005242

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

### I. EXECUTIVE SUMMARY

On November 7, 2023, the Civilian Office of Police Accountability (COPA) received a telephone Complaint from Reporting Party Subject [REDACTED] alleging misconduct by Sergeant Erick Seng, #2677 and Officer Richard Rodriguez Jr. #12157. [REDACTED] alleged on November 3, 2023, Sergeant Seng Failed to identify himself and that Officer Rodriguez Searched [REDACTED] without justification.<sup>2</sup> Upon review of the evidence, COPA served allegations that Sergeant Seng failed to activate his Body Worn Camera (BWC) and failed to intervene when Officer Rodriguez searched [REDACTED] without justification. COPA served an additional allegation that Officer Rodriguez prematurely deactivated his BWC. Following its investigation, COPA reached Sustained, Not Sustained, and Unfounded findings.

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

[REDACTED] and his girlfriend, [REDACTED] were sitting inside her vehicle waiting for a friend. [REDACTED] was in the driver's seat and [REDACTED] in the front passenger seat. Officers approached the vehicle and informed them their license plate sticker was expired. [REDACTED] responded to the Officers "I already know."<sup>4</sup> Officers observed suspected burnt cannabis in the ashtray of the vehicle, to which [REDACTED] admitted having.<sup>5</sup> Officers asked [REDACTED] and [REDACTED] to exit the vehicle. Officers asked [REDACTED] multiple times to exit the vehicle<sup>6</sup>, thereafter, [REDACTED] related that the Officers "snatched" him from the vehicle and handcuffed him. Officers observed a badge near [REDACTED] waistband and conducted a protective pat down of [REDACTED] informed the Officers that he was handcuffed too tightly. Officers instructed [REDACTED] to stop moving. During a search of the vehicle, Officers discovered an open bottle of liquor<sup>7</sup>. When Sergeant Seng arrived at the scene, Officers informed Sergeant Seng about the traffic stop of [REDACTED]. At Sergeant Seng's discretion, [REDACTED] was released without charging.

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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 *[identify the most material and outcome-determinative evidence relied upon, such as BWC footage, police reports, civilian interviews, officer interviews, etc.]*.

<sup>4</sup> Att. 4, 2:40 mark

<sup>5</sup> Att. 6, 2:56 mark

<sup>6</sup> Att. 5 3:06 mark

<sup>7</sup> Att. 6, 5:19 mark

Officers did not provide [REDACTED] with an Investigatory Stop Receipt (ISR) due to [REDACTED] walking away from the scene and being hostile toward the Officers.

In a statement to COPA, Sergeant Seng related that he was equipped with a functioning BWC during this incident. Sergeant Seng stated that in his “estimation,” all law enforcement activities were over when he arrived at the scene and therefore, he did not activate his BWC. Sergeant Seng had no recollection of having any verbal interaction with [REDACTED] or [REDACTED] asking him to identify himself. Sergeant Seng related he was in uniform and that his white shirt and chevrons identified him. Sergeant Seng stated he did not observe Officer Rodriguez conduct an illegal search of [REDACTED].

In a statement to COPA, Officer Rodriguez related he was equipped with a functioning BWC during this incident. Officer Rodriguez related that Officers approached [REDACTED] vehicle when the officers observed the vehicle parked in a tow zone. Officer Rodriguez asked [REDACTED] approximately 6 times to exit the vehicle, but [REDACTED] refused. Officer Rodriguez grabbed [REDACTED] by his wrist and pulled [REDACTED] from the vehicle. [REDACTED] was placed in handcuffs and a protective pat down was performed of [REDACTED] for weapons. Officer Rodriguez had observed a bulge near [REDACTED] waistband. The bulge was a pair of work gloves. Officer Rodriguez believed [REDACTED] was intoxicated because [REDACTED] was not following verbal direction, and an open bottle of alcohol was found in the vehicle along with marijuana. Officer Rodriguez believed they were going to be arrest [REDACTED] for Driving Under the Influence (DUI) and therefore he conducted a search of [REDACTED] jacket and pants<sup>9</sup>. Upon Sergeant Seng arriving at the scene, Officers informed Sergeant Seng about the traffic stop of [REDACTED]. At the discretion of Sergeant Seng, [REDACTED] was released without charging. Officer Rodriguez related that he terminated his BWC during the Officers’ conversation with Sergeant Seng. Officer Rodriguez admitted that he was not familiar with the “specifics” of the Special Order for BWC.

### III. ALLEGATIONS

#### Sergeant Erick Seng:

1. Failing to activate Body Worn Camera without justification.  
-Sustained, Violation of Rule 10
2. Failing to intervene when Officer Richard Rodriguez Jr. #12157, searched Subject [REDACTED] without justification.  
-Unfounded
3. Failure to identify self to Subject [REDACTED]  
-Not Sustained

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<sup>8</sup> Att. 27

<sup>9</sup> Att. 30, 13:35 mark

**Officer Richard Rodriguez Jr.:**

1. Searching ██████████ without justification.  
-Unfounded
2. Prematurely deactivating Body Worn Camera, without justification.  
-Sustained, Violation of Rule 10

**IV. CREDIBILITY ASSESSMENT**

COPA assessed the credibility of ██████████ utilizing truthfulness and reliability criteria. This investigation caused COPA to question both the truthfulness and reliability of ██████████ account of the incident. ██████████ related that Officers “snatched” him from the vehicle; Body Worn Camera does not corroborate ██████████ statement<sup>10</sup>. ██████████ behavior of not complying with Officers verbal commands to exit the vehicle and Officers giving ██████████ constant verbal commands to stay still during this incident questions if ██████████ was under the influence from the Marijuana and or alcohol found in the vehicle. COPA assessed the credibility of Officer Rodriguez and Sergeant Seng utilizing truthfulness and reliability criteria. This investigation did not reveal any evidence that caused COPA to doubt the truthfulness of Officer Rodriguez or Sergeant Seng.

**V. ANALYSIS****Sergeant Erick Seng:**

COPA finds Allegation #1 that Sergeant Seng failed to activate his Body Worn Camera without justification, **Sustained**. Sergeant Seng related that in his “estimation” all law enforcement activity was over when he arrived at the scene. However, all law enforcement activity was not over. ██████████ was still in custody and Sergeant Seng had a conversation with Officers regarding if ██████████ was going to be arrested or released. Per Special Order S03-14, Body Worn Cameras, Section V, A, 1, Department members equipped with a BWC will electronically record all law-enforcement related activities using the BWC while on-duty, except for the limited exceptions specifically indicated in the law (50 ILCS 706/10) and item V of this policy. The use of BWC to electronically record law-enforcement activities is mandatory and is not discretionary. Under the Rules of the Chicago Police Department, IV B. Supervisory Members, they are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and continuing training and example to ensure the efficiency of unit operations. They have the responsibility to influence subordinate members and to motivate them to perform at a high level of efficiency.<sup>11</sup> Sergeant Seng’s action of not activating his BWC is in violation of this policy.

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<sup>10</sup> Att. 5, 3:45 mark

<sup>11</sup> Att. - Rules and Regulations of the Chicago Police Department

COPA finds Allegation #2 that Sergeant Seng failed to intervene when Officer Rodriguez Jr. searched Subject [REDACTED] without justification, **Unfounded**. Sergeant Seng related that he did not observe Officer Rodriguez conduct an unjustified search of [REDACTED] Officer Rodriguez articulated that he believed that [REDACTED] was going to be arrested for DUI and therefore he conducted a search of [REDACTED] which is lawful. However, at the discretion of Sergeant Seng, [REDACTED] was released without charging.

COPA finds Allegation #3 that Sergeant Seng failed to identify himself to Subject [REDACTED] **Not Sustained**. Sergeant Seng denied having any recollection of having any verbal interaction with [REDACTED] as [REDACTED] alleged. Officers BWC does not capture Sergeant Seng and [REDACTED] having verbal interaction. There is insufficient evidence to either prove or disprove this allegation.

### **Officer Richard Rodriguez Jr.**

COPA finds Allegation #1 that Officer Richard Rodriguez Jr. searched Subject [REDACTED] without justification, **Unfounded**. [REDACTED] refused multiple verbal orders to exit the vehicle. When Officer Rodriguez placed his hand on [REDACTED] and began to escort/remove [REDACTED] from the vehicle, [REDACTED] actively resisted. These actions on the part of [REDACTED] gave Officer Rodriguez the needed justification to search [REDACTED] Additionally, Officer Rodriguez stated he initially believed that Officers were going to arrest [REDACTED] for DUI. Under such a reasonable belief at the time, a search of [REDACTED] would have also been authorized and justified. At the discretion of Sergeant Seng, who later arrived at the scene, [REDACTED] was released without charging.

COPA finds Allegation #2 that Officer Richard Rodriguez Jr. prematurely deactivated his Body Worn Camera without justification, **Sustained**. Officer Rodriguez related that he terminated his BWC as he conferred with Sergeant Seng regarding [REDACTED] Per Special Order S03-14, Body Worn Cameras, Section V, C, 1 a. The Department member will not deactivate event mode unless: the entire incident has been recorded and the member is no longer engaged in law-enforcement related activity. Officer Rodriguez terminated his BWC at 20:38:22. Officer Joseph Vecchio's BWC captures Officer Rodriguez from 20:38:23 thru 20:39:11, removing [REDACTED] from a Department vehicle and unhandcuffing [REDACTED] Officer Rodriguez action of prematurely deactivating his BWC were not within Department policy.

It is noted that although allegations were not brought, COPA examined the actions of officers searching [REDACTED] vehicle. COPA found no objective verifiable evidence of misconduct regarding this search. Officer's Vecchio BWC captures Officer Vecchio observing and then notifying other officers that [REDACTED] had been "reaching" for something along the inside of the vehicle.<sup>12</sup> This action of "reaching" ostensibly provided additional necessary probable cause to search the vehicle under the automobile exception to a warrant requirement.<sup>13</sup>

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<sup>12</sup> Att. 4 @2:15 – 2:33

<sup>13</sup> Carroll v. United States 1925

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. Sergeant Erick Seng**

#### **i. Complimentary and Disciplinary History**

As of August 30, 2024, Sergeant Seng has received a total of 300 awards, including 2 Life Saving Awards, 1 Superintendent's Award of Valor, 1 Superintendent's Award of Tactical Excellence, 14 Department Commendations, and 251 Honorable Mentions, Sergeant Seng has 1 SPAR History Report (BWC Violation) and 1 Sustained Complaint's History Report (LOG# 2024-0002293, Operations/Personnel Violations Inventory Procedures-Non-Arrestee, 1 day suspension).

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

COPA has found Sergeant Seng to be in violation of Rule 10, by failing to activate his Body Worn Camera without justification. Based on Sergeant Seng's previous SPAR this year for BWC violation and his role as a supervisory member of CPD, COPA recommends Sergeant Seng receive a 3-Day suspension and re-training on BWC.

### **b. Officer Richard Rodriguez Jr.**

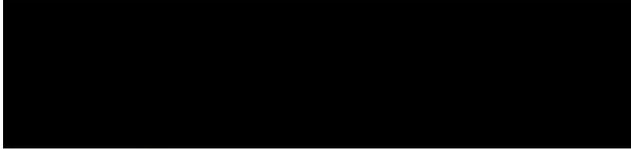
#### **i. Complimentary and Disciplinary History**

As of August 30, 2024, Officer Richard Rodriguez Jr. has received a total of 100 awards, including 1 2019 Crime Reduction Award, 1 Unit Meritorious Performance Award, 2 Attendance Recognition Awards, 1 Honorable Mention Ribbon Award and 91 Honorable Mentions, Officer Rodriguez Jr. has 4 SPAR History Report (Court Appearance Violation, Reports-Fail to Submit, Absent/leaving duty assignment, and Current Illinois License Plates and/or city vehicle sticker) and 3 Sustained Complaint's History Report (LOG# 2021-0001733, Operation/Personnel Violations Conduct Unbecoming, Reprimand, LOG# 2022-0004181, Civil Rights Violation Improper Stop/Seizure Person Protective Pat Down, 10 day suspension, LOG# 2023-0003706, verbal abuse, 3 day suspension).

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

COPA has found Officer Rodriguez Jr. to be in violation of Rule 10, by prematurely deactivating Body Worn Camera, without justification. COPA recommends Officer Rodriguez Jr. receive a 1-Day suspension.

Approved:



10-29-2024

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

Date

**Appendix A**

**Case Details**

Date/Time/Location of Incident:	November 3, 2023, 8:29 PM, 33 W. Illinois Street, Chicago, IL. 60654
Date/Time of COPA Notification:	November 7, 2023, 9:34 AM
Involved Member #1:	Erick Seng, Star #2677, employee ID # [REDACTED], Date of Appointment, February 28, 2000, Unit of Assignment, 018, Male, White.
Involved Member #2:	Richard Rodriguez Jr., Star #12157, employee ID # [REDACTED], Date of Appointment, June 16, 2017, Unit of Assignment, 018, Male, White Hispanic.
Involved Individual #1:	[REDACTED] Male, Black

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**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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- *S03-14, Body Worn Cameras, (effective December 29, 2023, 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>14</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>15</sup>

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<sup>14</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>15</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