



Log # 2023-0005464

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

### I. EXECUTIVE SUMMARY

On November 20, 2023, the Civilian Office of Police Accountability (COPA) received an Initiation Report<sup>2</sup>, authored by Lieutenant Thomas Hogan, reporting alleged misconduct by a member of the Chicago Police Department (CPD). It is alleged that Officer Elizabeth Herrera, Star #14396, stopped, detained, and handcuffed ██████ (██████) without justification. While conducting an investigative stop, Officer Herrera placed her forearm against ██████ neck without justification.<sup>3</sup> Following its investigation, COPA reached exonerated findings regarding the allegation of Officer Herrera placing her forearm against ██████ neck to restrain him.<sup>4</sup>

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

On November 18, 2023, at approximately 12:33 p.m., Officers Robert Brown and Elizabeth Herrera were on routine patrol in their marked CPD vehicle near the 3400 block of W. 23<sup>rd</sup> Street when they observed a Hispanic male, now known to have been ██████ was wearing a black hooded sweatshirt and holding what appeared to be a black firearm on the left side of his waistband.<sup>6</sup> Officer Herrera alerted her partner and prepared herself to exit the squad car to conduct an investigatory stop.<sup>7</sup> As the officers turned their vehicle towards ██████ he ran west on 23<sup>rd</sup> street and then northbound through a gangway towards the alley.<sup>8</sup> Officer Herrera exited the squad car, initiated a foot pursuit, and gave chase through a gangway after ██████<sup>9</sup> Officer Brown announced the foot pursuit via his radio,<sup>10</sup> and proceeded to drive towards the alley.<sup>11</sup> Officer Herrera ran through the gangway after ██████ where she lost sight of him and unholstered her weapon.<sup>12</sup>

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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.

<sup>3</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>4</sup> Att.27, G03-02, De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023, to present)

<sup>5</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 (BWC) footage, Initiation Report, Arrest Report, Tactical Response Report (TRR), Case Reports, Event Query, Officer Interviews, etc.

<sup>6</sup> Att. 2, pg. 2.

<sup>7</sup> Att. 26, pg. 7, lns. 17-24.

<sup>8</sup> Att.5, at 1:09. Att.3, at 2:04.

<sup>9</sup> Att.5, at 1:10 to 1:20.

<sup>10</sup> Att.9. Att.3, at 2:05 to 2:23.

<sup>11</sup> Att.3, at 2:06 to 2:30.

<sup>12</sup> Att.5, at 1:20 to 1:23.

As Officer Herrera approached the end of the gangway, she pointed her firearm at [REDACTED] and gave verbal commands to him as he placed his hands in the air to make them visible.<sup>13</sup> Officer Herrera holstered her weapon, approached [REDACTED] and attempted to place handcuffs on him.<sup>14</sup> Officer Brown arrived in the alley shortly after,<sup>15</sup> exited the squad car and tried to assist Officer Herrera in handcuffing [REDACTED] who was resisting, when he noticed an unknown juvenile enter the gangway behind them.<sup>16</sup> Officer Brown then stopped and went after him through the gangway but was not able to catch or detain him.<sup>17</sup> He then turned around and returned to the alley to assist Officer Herrera.

As Officer Brown approached the alley, he noticed Officer Herrera struggling to place handcuffs on [REDACTED] who continued to resist. Officer Herrera placed her forearm on [REDACTED] neck and pushed him against the fence in an attempt to gain his compliance.<sup>18</sup> In her statement to COPA, she admitted to placing her forearm near his neck to gain compliance.<sup>19</sup> Officer Brown then grabbed [REDACTED] and turned him around, facing the fence, while Herrera handcuffed him. [REDACTED] continued to move around as the officers placed him in handcuffs. Officer Herrera then guided him to the squad car and placed him inside. Officer Brown then performed a protective pat-down on [REDACTED]. As Officer Brown performed the pat-down, [REDACTED] can be heard on the Body-Worn Camera (BWC) stating, “Your partner just choked the fuck out of me.”<sup>20</sup>

Once the pat-down was completed, Officer Brown closed the squad car door, picked up [REDACTED] cellphone and Herrera’s BWC off the ground, and placed them in the front seat of the squad car.<sup>21</sup> Officers Herrera and Brown then searched for the firearm in the alley. Additional officers arrived to assist Herrera and Brown, but no gun was found. [REDACTED] was released without charges. Officers Herrera and Brown completed a Case Report,<sup>22</sup> Investigatory Stop Report (ISR)<sup>23</sup> and Tactical Response Report (TRR)<sup>24</sup>.

Officer Brown provided a statement to COPA as a witness officer.<sup>25</sup> Officer Brown stated that Officer Herrera observed [REDACTED] with a black firearm on the left side of his waist. [REDACTED] noticed the officers and ran through a gangway. Officer Herrera initiated a foot pursuit and gave chase.<sup>26</sup> Officer Herrera struggled to detain and put handcuffs on [REDACTED] because he was actively resisting and outweighed her in body mass.<sup>27</sup> Therefore, Officer Brown assisted in handcuffing [REDACTED] and

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<sup>13</sup> Att. 5, at 1:23 to 1:26.

<sup>14</sup> Att. 5, at 1:28 to 2:00.

<sup>15</sup> Att. 3, at 2:30.

<sup>16</sup> Att. 3, at 2:40.

<sup>17</sup> Att. 3, at 2:50.

<sup>18</sup> Att. 3, at 2:58 to 3:01; Att. 25, pg. 8, lns. 3 to 9.

<sup>19</sup> Att. 22, at 7:39 to 7:50. Att. 26, pg. 8, lns. 20 to 23.

<sup>20</sup> Att. 5, at 2:49. Att. 4, at 0:27. Att. 1, pg. 7., Officer Brown “To and From Statement.”

<sup>21</sup> Att. 4, at 0:37 to 1:12.

<sup>22</sup> Att. 2., Att. 10., Att. 13.

<sup>23</sup> Att. 10., Att. 12.

<sup>24</sup> Att. 13.

<sup>25</sup> Att. 24.

<sup>26</sup> Att. 24. Att. 25, pgs. 6 to 8.

<sup>27</sup> Att. 24. Att. 25, pgs. 6 to 8.

placing him into the squad car to locate the firearm.<sup>28</sup> No weapon was recovered. [REDACTED] was released without charges.

Officer Brown notified Lieutenant Hogan of the remarks made by [REDACTED] and reviewed his BWC to confirm that Officer Herrera placed her forearm near [REDACTED] neck to gain compliance.<sup>29</sup>

### III. ALLEGATIONS

#### Officer Elizabeth Herrera:

It is alleged by COPA, that on or about November 18, 2023, at approximately 12:33 p.m., at or near 3444 West 23<sup>rd</sup> Street, in Chicago, Illinois, Officer Elizabeth Herrera committed misconduct through the following acts or omissions by:

1. Stopping, detaining, and handcuffing [REDACTED] without justification.  
-Exonerated.
2. Placing her forearm against [REDACTED] neck without justification.  
-Exonerated.

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

### V. ANALYSIS<sup>30</sup>

COPA finds the allegation that Officer Herrera stopped, detained, and handcuffed [REDACTED] without justification is **Exonerated**. CPD members are permitted to detain a person when there is Reasonable Articulate Suspicion (RAS) that a person is about to commit, is committing, or has committed a criminal offense.<sup>31</sup> This detention was an investigatory stop. Reasonable articulable suspicion is defined as “an objective legal standard that is less than probable cause but more than a hunch or general suspicion.”<sup>32</sup>

Here, Officer Herrera had reasonable articulable suspicion that [REDACTED] a juvenile, was concealing a firearm. Therefore, she was justified in conducting an investigatory stop. [REDACTED] responded to the police presence by running away, which initiated a foot pursuit, resulting in justifiable detainment. Although no firearm was discovered at the scene, COPA finds that Officer Herrera acted within CPD policy, therefore this allegation is Exonerated.

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<sup>28</sup> Att. 24, Att. 25, pg.11, Ins. 7 to 14.

<sup>29</sup> Att.3, at 2:58 to 3:01, Att. 1, pg. 7., Att. 19

<sup>30</sup> For a definition of COPA’s findings and standards of proof, see Appendix B.

<sup>31</sup> Att. 28, S04-13-09 II (A), Investigatory Stop System (effective July 10, 2017, to present).

<sup>32</sup> Att. 28, S04-13-09 II (C).

COPA finds Allegation #2 against Officer Herrera, that she placed her forearm against [REDACTED] neck without justification, is **Exonerated**. CPD members are permitted to use force to overcome resistance.<sup>33</sup> CPD policy requires members “to use de-escalation techniques to prevent or reduce the need for force...”<sup>34</sup> Additionally, a CPD member’s use of force must be “objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person, under the totality of the circumstances.”<sup>35</sup> 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.<sup>36</sup> If the citizen’s actions are aggressively offensive with or without weapons, members are permitted to respond with presence, verbal direction, holding and compliance techniques, control instruments, deployment of oleoresin capsicum, stunning, takedowns, canine use, taser deployment, direct mechanical strikes; and impact weapons and munitions. However, CPD policy prohibits members from “using chokeholds or other maneuvers for applying direct pressure on a windpipe or airway, with the sole exception of being an act of last resort, when necessary to protect against an imminent threat to life.”<sup>37</sup>

Officer Herrera said in her statement to COPA<sup>38</sup> that she placed her on [REDACTED] and it went near [REDACTED] neck to push him back against the fence to gain compliance. She stated that [REDACTED] was actively physically resisting her as she was trying to handcuff him. The BWC supported Officer Herrera's account of the incident, showing [REDACTED] quickly turning around. The BWC further depicted Officer Herrera’s forearm on the left side of [REDACTED] neck. Officer Herrera stated that she was in fear of receiving a battery from [REDACTED] and had reason to believe that he was armed and dangerous. Officer Herrera’s contact with [REDACTED] neck was brief and did not appear to restrict his airway. Furthermore, Officer Herrera’s actions were reasonable, necessary and proportional to the threat and resistance posed by [REDACTED]. Based on the totality of the circumstances, COPA finds this allegation to be Exonerated.

Approved:

[REDACTED]

Sharday Jackson  
*Deputy Chief Administrator – Chief Investigator*

October 30, 2024

Date

<sup>33</sup> Att. 27, G03-02, De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023, to Present).

<sup>34</sup> Att. 27, G03-02 II (D).

<sup>35</sup> Att. 27, G03-02 III (B).

<sup>36</sup> Att. 29, G03-02-02, III (D) Incidents Requiring the Completion of Tactical Response Reports. Att. 13 (add TRR Directive ).

<sup>37</sup> Att. 27, G03-02 IV (D).

<sup>38</sup> Att. 22, at 7:39 to 7:50. Att. 26, pg. 8, lns. 20 to 23.

Appendix ACase Details

Date/Time/Location of Incident:	November 18, 2023 / 12:33pm /3444 West 23 <sup>rd</sup> Street/ Chicago, Illinois
Date/Time of COPA Notification:	November 20, 2023 / 11:30am
Involved Officer #1:	Officer Elizabeth Herrera / Star# 14396 / Employee # # [REDACTED] / Date of Appointment: April 16, 2018 / Unit of Assignment: 010 / Gender: Female / Race: White Hispanic
Witness Officer #2:	Officer Robert Brown / Star # 3788 / Employee # [REDACTED] Date of Appointment: October 17, 2011 /Unit of Assignment: 011 / Gender: Male / Race: White
Involved Individual #1:	[REDACTED] (Minor), DOB: [REDACTED], 2009

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
- G03-02-02, Incident Requiring the Completion of a Tactical Response Report
- S04-13-09, Investigatory Stop System

## 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>39</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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>40</sup>

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<sup>39</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>40</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