



Log # 2024-0002460

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

### I. EXECUTIVE SUMMARY

On February 20, 2024, the Civilian Office of Police Accountability (COPA) received a CPD initiated complaint on behalf of ██████████ (██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on February 18, 2024, Officers Patrick Kirwin, Anthony Accardo, Michael Strnad Jr., and Felix Vega arrested her boyfriend ██████████ without justification and as a form of retaliation for ██████████ showing the officers his middle finger. ██████████ also alleged that the officers were unprofessional and denied ██████████ his right to a phone call while in the district lockup.<sup>2</sup> Upon review of the evidence, COPA served an additional allegation that Officer Accardo failed to timely activate his body-worn camera.

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

On February 18, 2024, ██████████ alleged that ██████████ her boyfriend, was arrested on February 18, 2024, without justification. ██████████ alleged that the accused officers only arrested ██████████ in retaliation for making a profane gesture (middle finger) in the direction of the officers. ██████████ also alleged that the accused officers lied about observing ██████████ assault her and the reason for his arrest.

During its investigation, COPA obtained BWC footage from the officers involved in this arrest and official reports related to this arrest. COPA also conducted five officer interviews with those present at the time of ██████████ arrest.<sup>4</sup> In their statements, each officer gave similar accounts to observing ██████████ slap ██████████ in the face prior to initiating their investigation. While most of the officers remembered seeing the middle finger, they all independently reported the gesture occurred after they witnessed ██████████ hit ██████████<sup>5</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> 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 BWC; Complainant, witness, and Officer statements; and Official Reports.

<sup>4</sup> Atts. 23, 26, 29, 32

<sup>5</sup> Att. 24 at Pg. 12; Att. 27 at Pg. 12; and Att. 33 at Pg. 14.

Unfortunately, BWC footage does not capture the alleged assault by [REDACTED]. In addition, [REDACTED] and [REDACTED] denied that an assault ever occurred. However, Officer Vega, Accardo, and Strnad Jr. can be heard on BWC mentioning that they observed the assault while arresting [REDACTED].<sup>6</sup>

### III. ALLEGATIONS

#### Officers Vega, Strnad Jr., Accardo, and Kirwin

1. Arresting [REDACTED] without justification.
  - Not Sustained
2. Directing mocking or unprofessional language at [REDACTED]
  - Unfounded
3. Denying [REDACTED] the right to make a phone call at the district lockup.
  - Not Sustained
4. Arresting [REDACTED] as a form of retaliation for making a profane gesture (middle finger).
  - Not Sustained

#### Officer Anthony Accardo:

5. Failing to activate his body worn camera, without justification.
  - Exonerated

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

### V. ANALYSIS<sup>7</sup>

#### a. Arrest Allegations

COPA finds Allegation 1, arresting [REDACTED] without justification, is **Not Sustained**. According to G04-04, officers need probable cause to make an arrest for alleged domestic violence. Indeed, once the officers were aware they were investigating a domestic incident, they chose to arrest [REDACTED] to reduce potential harm or injury to [REDACTED] which is well within CPD policy.<sup>8</sup> Moreover, General Order G04-04 (V) Arrest Procedures states in part, if officers determine there is probable cause a person has committed a crime of domestic violence, “the preferred response of the officer is to arrest the offender.”<sup>9</sup> G04-04 further states that officers will make an arrest even if the “victim does not want the offender arrested,” and/or if the victim refuses to sign the

<sup>6</sup> Att. 6, PO Strnad BWC at 0:45

<sup>7</sup> For a definition of COPA’s findings and standards of proof, *see* Appendix B.

<sup>8</sup> G04-04: Domestic Incidents

<sup>9</sup> G04-04(V)(A)

complaint.<sup>10</sup> In this case, officers are heard contemporaneously recounting their eyewitness account of what appeared to be a domestic battery. As a result, officers were well within policy to investigate and make an arrest if necessary to secure the safety of a potential domestic incident victim. However, without direct video evidence COPA cannot meet the clear and convincing burden needed to exonerate.

Therefore, COPA finds that Allegation 1 is **Not Sustained**.

#### **b. Professionalism Allegations**

COPA finds Allegation 2, that officers directed mocking or unprofessional language at ██████████ is **Unfounded**. While BWC missed the alleged domestic incident, it does capture the entirety of the interaction between officers and ██████████<sup>11</sup> Following a review of that BWC, it is clear that officers remained professional throughout the investigation despite the increasing tension and hostility from ██████████ and ██████████. Because BWC directly refuted the alleged unprofessional conduct, COPA finds that Allegation 2 is **Unfounded**.

#### **c. Phone Call Allegations**

COPA finds Allegation 3 is **Not Sustained**. According to CPD reports, while in lockup, ██████████ was offered a phone call but refused. With no other evidence to substantiate ██████████ claim ██████████ was denied a phone call, COPA cannot sustain this allegation. Additionally, without corroborating evidence he was provided a phone call and refused, COPA cannot meet the clear and convincing burden to unfound or exonerate. Therefore, COPA finds Allegation 2 is **Not Sustained**.

#### **d. Retaliation Allegations**

COPA finds Allegation 4, that officers arrested ██████████ as a form of retaliation for his profane gesture in their direction is **Not Sustained**. In their statements to COPA, officers remembered ██████████ gesture but noted it as being observed following the assault and having no impact on their investigation.<sup>12</sup> Furthermore, Officer Vega, Accardo, and Strnad Jr. can be heard on BWC mentioning that they observed the assault while arresting ██████████<sup>13</sup>

As a result of this contemporaneous record, COPA finds it at least more likely than not the officers conducted their investigation because of the alleged domestic incident. However, without additional corroborating evidence, COPA cannot meet the clear and convincing burden to exonerate or unfound this allegation. Therefore, COPA finds Allegation 4 is **Not Sustained**.

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<sup>10</sup> G04-04(V)(A)(4)(a)

<sup>11</sup> Att. 6

<sup>12</sup> Att. 24 at Pg. 12; Att. 27 at Pg. 12; and Att. 33 at Pg. 14.

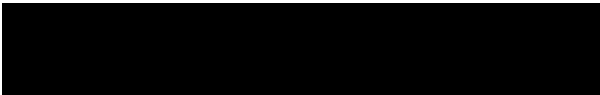
<sup>13</sup> Att. 6, PO Strnad BWC at 0:45

**e. BWC Allegation**

COPA finds Allegation 5, that Officer Accardo failed to activate his body worn camera without justification, is **Exonerated**. In his statement, PO Accardo informed COPA that the reason he did not have BWC footage from the incident was not due to negligence. PO Accardo stated that, prior to this incident, he had to swap out his body-worn camera due to technical issues which were documented with his immediate supervisors. At the time of this incident, he was using a “loaner camera” that is available as needed for any officer in need of a functional camera.<sup>14</sup> PO Accardo could not recall the serial number for this “loaner camera” at the time of his statement, but there is a time gap in footage history consistent with what PO Accardo noted in his statement.<sup>15</sup>

Therefore, COPA finds Allegation 5 is **Exonerated**.

Approved:



Sharday Jackson  
*Deputy Chief Administrator – Chief Investigator*

October 30, 2024  
\_\_\_\_\_  
Date

<sup>14</sup> PO Accardo can be seen on other BWC footage wearing a BWC.

<sup>15</sup> Att. 30 at Pgs. 12-14 line 2

Appendix ACase Details

Date/Time/Location of Incident:	February 18, 2024
Date/Time of COPA Notification:	February 20, 2024
Involved Officer #1:	Anthony Accardo, Star #10627, Employee # [REDACTED], Unit of Assignment: 018, Male, White
Involved Officer #2:	Patrick Kirwan, Star #6488, Employee # [REDACTED], Unit of Assignment: 018, Male, White
Involved Officer #3:	Michael Strnad Jr, Star #19910, Employee # [REDACTED], Unit of Assignment: 018, Male, White
Involved Officer #4:	Felix Vega, Star #10922, Employee # [REDACTED], Unit of Assignment: 018, Male, WWH
Involved Individual #1:	[REDACTED] Male
Involved Individual #2:	[REDACTED] Female

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

- *[Directive #]: [Directive Name] (effective [date] to [date (or 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>16</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>17</sup>

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<sup>16</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>17</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