

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 26, 2019
Time of Incident:	6:31 am
Location of Incident:	1310 W. 13 th Street, Chicago, Illinois
Date of COPA Notification:	May 26, 2019
Time of COPA Notification:	10:53 am

While securing a crime scene, Chicago Police Department (CPD) Officer Jesse R. Rodriguez encountered two minor civilians: [REDACTED] and [REDACTED]. That encounter escalated into a verbal and physical altercation, which led to the minors' arrest. A CPD lieutenant reviewing Officer Rodriguez's use of force during the incident concluded that the matter required a notification to COPA.

COPA investigated the matter by reviewing relevant CPD reports, by reviewing video footage depicting the incident, and by interviewing Officer Rodriguez. COPA also interviewed CPD Officers Roman Hodowany and Jesus A. Tapia, who had come to Officer Rodriguez's assistance during the incident. COPA's investigation revealed that, at the beginning of the incident, [REDACTED] and [REDACTED] were standing outside the crime scene, on the civilian side of crime-scene tape, and that [REDACTED] was holding a cell phone, apparently making a video recording of CPD activity. Officer Rodriguez then reached across that tape, from within the crime scene and toward [REDACTED] in an apparent attempt to dislodge the cell phone from [REDACTED] hand. [REDACTED] then slapped at Officer Rodriguez's hand. Officer Rodriguez responded by crossing under the tape and by engaging in a chest-to-chest confrontation with [REDACTED]. Officers Hodowany and Tapia then attempted to intervene, and a physical altercation ensued after [REDACTED] threw punches at Officer Hodowany.

COPA has found that Officer Rodriguez violated a CPD directive by interfering with [REDACTED] attempt to video-record law enforcement activity. COPA has also found that Officer Rodriguez violated a CPD rule prohibiting disrespect and maltreatment, as well as a CPD rule prohibiting unjustified altercations. COPA has further found that Officer Rodriguez disobeyed a CPD directive by failing to operate his body-worn camera (BWC) as required.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer Jesse R. Rodriguez, Star #8364, Employee ID# [REDACTED], DOA: December 14, 1998; Unit: 011, Male, Hispanic
Involved Individual #1:	[REDACTED] Male, White Hispanic
Involved Individual #2:	[REDACTED] Male, White Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Jesse R. Rodriguez	On May 26, 2019, at approximately 6:31 a.m., at or near 1310 W. 13 th Street, Chicago, Illinois, you committed misconduct through the following acts or omissions:	
	1. Interfered with [REDACTED] recording of law enforcement officers in the performance of their duties;	Sustained
	2. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED]	Sustained
	3. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED]	Sustained
	4. Engaged in an unjustified verbal altercation with [REDACTED] and/or [REDACTED] and/or	Not Sustained
	5. Failed to record a law enforcement activity as required by CPD Special Order S03-14.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules
<ol style="list-style-type: none"> 1. Rule 2, CPD Rules of Conduct (prohibiting any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department) 2. Rule 3, CPD Rules of Conduct (prohibiting any failure to promote the Department’s efforts to implement its policy or accomplish its goals) 3. Rule 5, CPD Rules of Conduct (prohibiting the failure to perform any duty) 4. Rule 6, CPD Rules of Conduct (prohibiting disobedience of an order or directive, whether written or oral) 5. Rule 8, CPD Rules of Conduct (prohibiting disrespect to or maltreatment of any person, while on or off duty) 6. Rule 9, CPD Rules of Conduct (prohibiting unjustified verbal and physical altercations) 7. Rule 10, CPD Rules of Conduct (prohibiting inattention to duty) 8. Rule 11, CPD Rules of Conduct (prohibiting incompetency or inefficiency in the performance of duty).
Special Orders

1. Special Order S03-14, Body Worn Cameras (effective April 30, 2018, to present)

V. INVESTIGATION²**a. Interviews³**

COPA interviewed **Officer Roman Hodowany** on July 30, 2019.⁴ Prior to commencing that interview, COPA permitted Officer Hodowany to view the BWC footage that he had recorded at the incident scene.⁵ During that interview, Officer Hodowany stated that he crossed the street (as shown in that footage) because he heard shouting coming at Officer Rodriguez.⁶ Officer Hodowany denied hearing Officer Rodriguez saying anything at the time.⁷ Officer Hodowany denied having first-hand knowledge of what had prompted the shouting that he heard or the incident.⁸ COPA directed Officer Hodowany's attention to the portion of the footage that is depicted in Figure 1 below.⁹ Officer Hodowany said that he had seen Officer Rodriguez's hand reach forward and then return to his side.¹⁰ Officer Hodowany said that he did not then understand, or later come to learn, that Officer Rodriguez was attempting to stop ██████ from making a video recording or that Officer Rodriguez was trying to knock a cell phone from ██████ hand.¹¹ COPA also directed Officer Hodowany's attention to the portion of the footage that is depicted in Figure 3 below.¹² Officer Hodowany stated that his focus was to separate the depicted civilians from Officer Rodriguez.¹³ Officer Hodowany further stated that, at the moment, he did not understand that Officer Rodriguez intended to arrest ██████¹⁴ Officer Hodowany also stated that if he had understood that Officer Rodriguez intended to arrest ██████ then he would have allowed Officer Rodriguez to make that arrest, and that he would not have created distance between them.¹⁵

COPA interviewed **Officer Jesus A. Tapia** on July 29, 2019.¹⁶ During that interview, Officer Tapia confirmed that he had been standing across a street from Officer Rodriguez when he heard shouting, and that he ran across the street to assist Officer Rodriguez.¹⁷ Officer Tapia said

¹ Att. 28.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ COPA was unsuccessful in repeated attempts to secure cooperation from or to interview adult civilians involved. See Case Management System Notes CO-0023349, CO-0023355, CO-0023884, and CO-0024212.

⁴ Att. 10.

⁵ Att. 10 at 3:55 and immediately following.

⁶ Att. 10 at 17:24 to 19:05.

⁷ Att. 10 at 19:06 to 19:09.

⁸ Att. 10 at 19:10 to 19:47.

⁹ Att. 10 at 26:16 to 26:57.

¹⁰ Att. 10 at 26:58 to 27:10.

¹¹ Att. 10 at 27:11 to 27:58.

¹² Att. 10 at 21:27 to 21:47.

¹³ Att. 10 at 23:12 to 23:21.

¹⁴ Att. 10 at 24:17 to 24:28.

¹⁵ Att. 10 at 24:34 to 24:45.

¹⁶ Att. 11.

¹⁷ Att. 11 at 19:54 to 20:28.

that the shouting was coming from civilians, that it was loud and hostile, and that he did not hear what, if anything, Officer Rodriguez was saying at the time.¹⁸

COPA interviewed **Officer Jesse R. Rodriguez** on September 4, 2019.¹⁹ Prior to commencing the interview, COPA permitted Officer Rodriguez to view the BWC footage that he had recorded at the incident scene.²⁰ During the course of the interview, COPA also permitted Officer Rodriguez to view the BWC footage that Officer Hodowany had recorded at the incident scene.²¹ Officer Rodriguez claimed that ██████ had assaulted him at the scene by making verbal threats of violence against him and by moving towards him as he did so.²² Officer Rodriguez stated that, in response, he attempted to place ██████ in custody by reaching across the crime-scene tape and that ██████ then slapped his hand.²³ Officer Rodriguez said that as he moved to arrest ██████ ██████ approached him, and that he (Officer Rodriguez) then directed his attention toward ██████²⁴ COPA investigators directed Officer Rodriguez's attention to a segment of Officer Hodowany's BWC footage, beginning at 6:30:51 am (which includes the image depicted below as Figure 1) and asked Officer Rodriguez to describe the events that were depicted.²⁵ In response, Officer Rodriguez stated that the footage depicted his attempt to arrest ██████²⁶ Officer Rodriguez acknowledged that, as depicted, his attempt to arrest ██████ was "weak."²⁷ Officer Rodriguez denied that the footage depicted him attempting to dislodge a cell phone from ██████ hand, and he also denied that he tried to interfere with ██████ attempt to make a video recording.²⁸ However, Officer Rodriguez acknowledged that, at the time, the civilians "had their videos" out, and that they were claiming to have been recording "everything."²⁹

Officer Rodriguez acknowledged that he intentionally deactivated his BWC while at the scene at 6:18 am.³⁰ Officer Rodriguez stated that he did so because he felt that he had secured the crime scene and because no civilians were present.³¹ Officer Rodriguez claimed that he used his BWC properly during the incident, deactivating it only when appropriate.³²

b. Digital Evidence

Video footage recorded by Officer Hodowany with his BWC began at approximately 6:30 am on the morning of the incident.³³ Officer Hodowany crossed W 13th St. toward Officer

¹⁸ Att. 11 at 20:29 to 21:38.

¹⁹ Att. 15 is an audio recording of that interview. Att. 16 is a transcription of that audio recording.

²⁰ Att. 16, p. 22, lns. 3 to 18.

²¹ Att. 16, p. 53, lns. 13 to 19.

²² Att. 16, p. 60, ln. 22, through p. 62, ln. 2; p. 62, lns. 4 to 7.

²³ Att. 16, p. 65, ln. 24, through p. 66, ln. 20.

²⁴ Att. 16, p. 58, lns. 18 to 24.

²⁵ Att. 16, p. 66, lns. 5 to 13.

²⁶ Att. 16, p. 66, lns. 14, through p. 71, ln. 2.

²⁷ Att. 16, p. 70, lns. 17 to 22.

²⁸ Att. 16, p. 71, lns. 3 to 19.

²⁹ Att. 16, p. 24, ln. 22, through p. 25, ln. 17.

³⁰ Att. 16, p. 38, ln. 9, through p. 40, ln. 1.

³¹ Att. 16, p. 40, ln. 2, through p. 41, ln. 13.

³² Att. 16, p. 47, lns. 10 to 16.

³³ Att. 6.

Rodriguez, who was facing ██████████ and other civilians.³⁴ Red crime-scene separated Officer Rodriguez from the civilians.³⁵ Officer Rodriguez then reached out with his right hand towards ██████████³⁶



Figure 1: A screenshot from Att. 6, BWC footage from Officer Hodowany at 00:26, showing ██████████ in a maroon-colored shirt, appearing to hold a cell phone in his right hand.

██████████ then slapped at Officer Rodriguez's reaching hand,³⁷ and Officer Rodriguez crossed under the tape.



Figure 2: A screenshot from Att. 6, BWC footage from Officer Hodowany at 00:28, showing Officer Rodriguez crossing the crime-scene tape and approaching ██████████ who is depicted in a blue shirt.

³⁴ Att. 6 at 00:20 to 00:25.

³⁵ Att. 6 at 00:26.

³⁶ Att. 6 at 00:26.

³⁷ Att. 6 at 00:26.

Officer Rodriguez and ██████ faced each other on the civilian side of the crime-scene tape, as Officer Tapia crossed under that tape.



Figure 3: A screenshot from Att. 6, BWC footage from Officer Hodowany at 00:29, showing Officer Rodriguez and ██████ facing each other on the civilian side of the crime-scene tape, as Officer Tapia crossed under the tape.³⁸

A female civilian attempted to step between Officer Rodriguez and ██████ pushing ██████ backwards as Officer Rodriguez continued to move towards ██████³⁹ Officer Hodowany then stepped in and pushed ██████ back,⁴⁰ and ██████ began to throw punches in Officer Hodowany's direction.⁴¹

BWC footage recorded by Officer Rodriguez on the morning of the incident does not depict the events described above.⁴² Data obtained from the BWC system shows that Officer Rodriguez's BWC was not activated at the time of those events, 6:30:54 am through 6:30:57 am.⁴³ Officer Rodriguez did not activate his BWC until approximately 6:31:41 am, after he had already been separated from ██████⁴⁴

c. Documentary Evidence

A **Tactical Response Report** (TRR) prepared by Officer Rodriguez documented (1) that he had been guarding a crime scene when ██████ made several verbal threats against him, (2) that he then approached ██████ (3) that ██████ then pushed him several times, (4) that assist units then

³⁸ During his COPA interview, Officer Tapia identified himself as the person depicted in Figure 3 crossing under the tape. Att. 11 at 19:54 to 20:28.

³⁹ Att. 6 at 00:29 to 00:33.

⁴⁰ Att. 6 at 00:33 to 00:41.

⁴¹ Att. 6 at 00:44 to 00:47.

⁴² Atts. 7 and 8.

⁴³ Att. 9.

⁴⁴ Att. 8 at 00:29; Att.9, pg. 4.

intervened, and (5) that [REDACTED] was arrested after [REDACTED] engaged with another officer.⁴⁵ Upon reviewing Officer Rodriguez's TRR, a CPD supervisor documented that they conducted a use-of-force investigation involving interviews of civilians [REDACTED], [REDACTED], and [REDACTED].⁴⁶ A reviewing CPD lieutenant further wrote that the matter required a notification to COPA, though he concluded, based on preliminary information that was then available to him, that Officer Rodriguez's use of force response respecting [REDACTED] appeared to be in compliance with CPD policy and directives.⁴⁷

Another TRR prepared by Officer Rodriguez documented his encounter with [REDACTED].⁴⁸ Officer Rodriguez documented (1) that [REDACTED] was aggressive, (2) that [REDACTED] made verbal threats, (3) that he (Officer Rodriguez) reached out to [REDACTED] to place [REDACTED] into custody when [REDACTED] slapped his hand, and (4) that [REDACTED] was subsequently arrested by other officers.⁴⁹ COPA also reviewed an **Original Case Incident Report** and an **Arrest Report**, both prepared by Officer Rodriguez in connection with the incident.⁵⁰ The accounts set out by Officer Rodriguez in those reports is substantially similar to the accounts set out by him in the above-described TRRs.⁵¹

VI. LEGAL STANDARD

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.⁵² For example, if the evidence gathered in an

⁴⁵ Att. 1, pg. 2.

⁴⁶ Att. 1, pg. 2 (identifying a [REDACTED] and a [REDACTED] as civilian witnesses to the incident). *See also* Att. 2, which is an Initiation Report prepared by a reviewing CPD sergeant and which identifies an [REDACTED] as a civilian complainant.

⁴⁷ Att. 1, pg. 3.

⁴⁸ Att. 3.

⁴⁹ Att. 3, pg. 2.

⁵⁰ Atts. 4 and 5. No arrest report respecting [REDACTED] arrest was or is available to COPA for reproduction due to [REDACTED] juvenile status at the time of the incident.

⁵¹ Att. 4, pg. 3; Att. 5, pg. 3.

⁵² *See Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

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.”⁵³

VII. ANALYSIS

a. Credibility Assessment

COPA credits Officer Hodowany’s statement to the effect that, at the time of the incident, he did not understand Officer Rodriguez’s altercation with ██████ to be a precursor to an arrest. Conversely, COPA does not credit Officer Rodriguez’s claim that he was attempting to arrest ██████ when he reached across crime scene tape towards ██████. Video footage depicts that reach, and it does not appear to be an arrest attempt.

b. Further Analysis

Allegations 1, 2, and 3 are supported by a preponderance of the evidence, and each of them is **Sustained**. Video evidence shows, and Officer Rodriguez has confirmed, that Officer Rodriguez reached his hand across crime scene tape towards ██████ who was holding a cell phone, believing at the time that ██████ was making a video recording. Though Officer Rodriguez claims that his across-the-tape reach was an arrest attempt, and not an effort at interfering with ██████ video recording, Officer Hodowany’s BWC footage belies his claim, as that footage depicts a reach that looks nothing like an attempt to make an arrest. COPA therefore finds that Officer Rodriguez reach toward ██████ hand was an attempt to interfere with ██████ attempt to record law enforcement activity, conduct which is prohibited by CPD Special Order S03-14.⁵⁴

Video evidence also shows that Officer Rodriguez stood chest-to-chest with ██████ only to be separated from ██████ by another civilian and by Officer Hodowany. As with Officer Rodriguez’s depicted conduct toward ██████ Officer Rodriguez’s depicted conduct towards ██████ does not appear to be an arrest attempt. Moreover, Officer Hodowany did not understand Officer Rodriguez’s altercation with ██████ to be a precursor to an arrest, and he (Officer Hodowany) was standing right there. Given the video evidence and Officer Hodowany’s stated perception of the events, COPA simply cannot discern any legitimate law enforcement purpose that could have justified Officer Rodriguez’s conduct in confronting ██████ as he did. COPA finds the preponderance of evidence shows that Officer Rodriguez’s interference with ██████ recording of law enforcement activity violated CPD policy and Rules 2, 3, 6, 8, and 9. Also, by engaging in unjustified physical alterations with ██████ and ██████ Officer Rodriguez violated CPD Policy and Rules 2, 3, 8, and 9.

⁵³ People v. Coan, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

⁵⁴ Att. 28, S03-14(IV)(C), Body Worn Cameras (effective April 30, 2018, to present).

As to Allegation 4, a lack of audio renders the evidence insufficient to prove that allegation by a preponderance of the evidence. However, there is not clear and convincing evidence showing that Officer Rodriguez did not engage in a verbal altercation with [REDACTED] or [REDACTED] or showing that any such verbal altercation was justified. **Allegation 4** is therefore **Not Sustained**.

Finally, **Allegation 5** is supported by the preponderance of the evidence and is **Sustained**. Officer Rodriguez failed to record the events which led to the altercation at issue, as well as significant parts of the altercation itself. Special Order S03-14 required Officer Rodriguez to activate his BWC at the commencement of law enforcement activity and to keep his BWC activated until he had discontinued conducting law enforcement activity.⁵⁵ Officer Rodriguez therefore disobeyed that directive when he failed to keep his BWC activated while securing the crime scene. COPA finds the preponderance of evidence shows that Officer Rodriguez violated CPD policy and Rules 2, 3, 5, 6, 10, and 11 by failing to record law enforcement activity as required by S03-14.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Jesse Rodriguez

i. Complimentary and Disciplinary History

Officer Rodriguez has received 3 Department Commendations, 83 Honorable Mentions, 15 complimentary letters, and 28 other awards and recognitions.⁵⁶ Officer Rodriguez's disciplinary history includes three one-day suspensions for three separate preventable accidents occurring in 2021 and a reprimand for a 2021 transgression involving an improper search of a person or property.⁵⁷

ii. Recommended Penalty

The fact that the victims of Officer Rodriguez's misconduct were minors is an aggravating factor that COPA has considered, as is Officer Rodriguez's failure to accept responsibility for his misconduct. Also, BWCs are a critical tool because they allow the true circumstances of police-citizen encounters to be known and for CPD members to be held accountable if they commit misconduct. By failing to record the encounter, and by attempting to prevent [REDACTED] from recording the encounter, Officer Rodriguez undermined community trust and went contrary to CPD's goals. Considering the above, COPA recommends that Officer Rodriguez's penalty should be a **10-day suspension**.

⁵⁵ Att. 28, S03-14(III)(A)-(B).

⁵⁶ Att. 20, pg. 5.

⁵⁷ Att. 20, pg. 7.

IX. CONCLUSION

Officer	Allegation	Finding / Recommendation
Officer Jesse R. Rodriguez	<p>On May 26, 2019, at approximately 6:31 a.m., at or near 1310 W. 13th Street, Chicago, Illinois, you committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Interfered with [REDACTED] recording of law enforcement officers in the performance of their duties; 2. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED] 3. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED] 4. Engaged in an unjustified verbal altercation with [REDACTED] and/or [REDACTED] and/or 5. Failed to record a law enforcement activity as required by CPD Special Order S03-14. 	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

Approved:

[REDACTED]

7-31-2023

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date