



Log # 2023-0005510

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

### I. EXECUTIVE SUMMARY

On November 18, 2023, the Civilian Office of Police Accountability (COPA) received an initiation report from Lt. Richard Unizycki reporting alleged misconduct by a member of the Chicago Police Department (CPD).<sup>2</sup> Lt. Unizycki alleged that on November 18, 2023, as officers took ██████████ into custody, Officer Jose Hernandez<sup>3</sup> placed his left forearm near ██████████ neck/throat area.<sup>4</sup> COPA served an allegation that Officer Hernandez forcefully put his arm on ██████████ neck/throat area without justification.

Following its investigation, COPA found there was insufficient evidence to prove or disprove the allegation against Officer Hernandez.

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

On November 18, 2023, Officer Hernandez and multiple other officers were working on a robbery prevention mission on the Chicago Transit Authority “L” train red line.<sup>6</sup> At approximately 11:49 pm, while at the underground CTA station at 188 N. State Street (the “Lake” station), Officer Hernandez observed a male now known to be ██████████ shouting, “loud, loud.”<sup>7</sup> Officer Hernandez recognized “loud” as a street term for cannabis.<sup>8</sup>

Officers attempted to initiate an investigatory stop of ██████████ due to their suspicion he was selling narcotics.<sup>9</sup> Officer Hernandez observed ██████████ hand in his jacket pocket and asked ██████████ to

---

<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. 3, Initiation Report.

<sup>3</sup> Star number 15925. Another officer with the same name (star number 13909) was also present during the arrest; COPA did not serve any allegations against this other officer or any other CPD members involved in this incident.

<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.

<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 BWC footage, third-party video, police reports and officer interviews.

<sup>6</sup> Att. 1, Arrest Report; Att. 2, Case Report; Att. 33, Transcript of Officer Hernandez #15925, pg. 9; Att. 36, Transcript of Officer Rangel, pg. 9.

<sup>7</sup> Att. 2; Att. 33, pgs. 11 and 12.

<sup>8</sup> Att. 2; Att. 33, pg. 12.

<sup>9</sup> Att. 33, pg. 16; Att. 10, BWC of Officer McGrath at 2:00; Att. 6, TRR of Officer Hernandez.

remove his hand from his pocket; ██████ did not comply and instead ran towards the train tracks.<sup>10</sup> As the officers grabbed ██████ to stop him from jumping onto the tracks, Officer Sean McGrath observed ██████ throw a pistol (later determined to be stolen) onto the platform.<sup>11</sup> Officer McGrath yelled, “gun, gun, gun,”<sup>12</sup> then secured the pistol.<sup>13</sup> Subsequently, Officer Hernandez conducted an emergency takedown of ██████ with the assistance of Officer McGrath.<sup>14</sup> Officer Hernandez grabbed ██████ upper body and pulled him away from the tracks and onto the floor of the platform.<sup>15</sup>

While ██████ back was on the platform, Officer Hernandez attempted to hold ██████ down by placing his forearm across ██████ upper chest area.<sup>16</sup> Officer Hernandez then moved his forearm away from the front of ██████ body in order to place ██████ in handcuffs.<sup>17</sup> Officer Hernandez subsequently asked ██████ if he was injured; ██████ responded by saying “no.”<sup>18</sup> Officers then transported ██████ to the 001 District police station for processing.<sup>19, 20</sup>

In Officer Hernandez’ statement to COPA, he denied that he placed his forearm on or near ██████ neck or throat.<sup>21</sup> Officer Hernandez explained that he placed his left forearm on ██████ collarbone; Officer Hernandez’ weight was on his left elbow, which was on ██████ right shoulder, so there was no pressure on ██████ neck or windpipe.<sup>22</sup>

Additionally, in Officer Rangel’s statement to COPA, he stated that he never observed Officer Hernandez place his forearm on ██████ neck/throat area.<sup>23</sup> Furthermore, Officer Rangel pointed out that Officer Hernandez’ forearm was on ██████ collarbone; ██████ had his chin down (protecting his windpipe) so that Officer Hernandez could not have placed his forearm on ██████ neck or throat in any event.<sup>24</sup>

According to the officers, ██████ never alleged that he suffered any injury during his arrest;<sup>25</sup> this is also reflected in the arrest report and ██████ words as captured on BWC footage.<sup>26</sup>

<sup>10</sup> Att. 2; Att. 33, pg. 12; Att. 7, BWC of Officer Hernandez at 2:04; Att. 10 at 2:08; Att. 6.

<sup>11</sup> Att. 2; Att. 33, pg. 12; Att. 36, pg. 12; Att. 7 at 2:09; Att. 10 at 2:10; Att. 6.

<sup>12</sup> Att. 33, pg. 12, ln. 20; Att. 10 at 2:12.

<sup>13</sup> Att. 10 at 2:14.

<sup>14</sup> Att. 2; Att. 33, pg. 13; Att. 7 at 2:12; Att. 6.

<sup>15</sup> Att. 2; Att. 33, pg. 13.; Att. 7 at 2:12; Att. 6.

<sup>16</sup> Att. 8, BWC of Officer Hernandez #13909, at 2:08; Att. 9, BWC of Officer Kevin Hernandez at 2:21.

<sup>17</sup> Att. 33, pg. 13; Att. 8 at 2:08; Att. 9 at 2:21; Att. 2:17; Att. 11, BWC of Officer Rangel at 2:11.

<sup>18</sup> Att. 7 at 2:57; Att. 8 at 2:47; Att. 9 at 2:45; Att. 11 at 2:46.

<sup>19</sup> Att. 33, pg. 23; Att. 36, pg. 19; Att. 7 at 3:28; Atts. 8 and 9 at 3:19; Att. 11 at 3:18; Att.15, BWC of Officer Mizera at 2:26; Att. 16, BWC of Officer Alvarez at 2:56; Att. 17, BWC of Officer Maravic at 13:00; Att. 18, BWC of Officer David at 12:41.

<sup>20</sup> Note: ██████ was later determined to be a convicted felon, currently on parole. Atts. 1, 11.

<sup>21</sup> Att. 33, pg. 26.

<sup>22</sup> Att. 33, pgs. 26-27.

<sup>23</sup> Att. 36, pg. 15.

<sup>24</sup> Att. 36, pg. 16.

<sup>25</sup> Att. 33, pg. 21; Att. 36, pg. 16.

<sup>26</sup> Att. 1; Att. 7 at 2:57.



Figure 1: Screenshot from Officer Rangel’s BWC depicting Officer Hernandez with his arm across the front of [REDACTED] body, in the vicinity of [REDACTED] neck.<sup>27</sup>

### III. ALLEGATIONS

#### **Officer Jose Hernandez:**

1. Forcefully put his arm near or on [REDACTED] neck/throat area without justification.
  - Not Sustained.

### 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, Officer Hernandez and Officer Rangel’s statements to COPA both corroborated what was depicted on BWC footage. Officer Hernandez acknowledged that his forearm was on [REDACTED] collarbone, but he stated that he did not touch [REDACTED] throat and did not restrict [REDACTED] breathing at any point. Both of the officers confirmed that [REDACTED] did not complain of injury at any point during his arrest.

---

<sup>27</sup> Att. 11.

COPA attempted to interview █████ on multiple occasions; █████ was finally contacted while he was in custody but he declined to provide a statement.<sup>28</sup>

**V. ANALYSIS<sup>29</sup>**

The relevant CPD general order prohibits the application of a chokehold, carotid artery restraint, or other restraint above the shoulders with a risk of positional asphyxiation, with the sole exception being as an act of last resort, when necessary to protect against an imminent threat to life.<sup>30</sup>

Here, Officer Hernandez acknowledged that he placed his forearm on █████ collarbone during this incident. The officer maintained that at no point was his forearm on █████ throat, and at no point did he restrict █████ airflow.<sup>31</sup> Officer Rangel corroborated that Officer Hernandez neither restricted █████ airflow nor placed his forearm on █████ throat.<sup>32</sup> In addition, the BWC footage did not capture any contemporaneous complaints by █████ he did not claim to be choked, make any gurgling or choking sounds, or otherwise indicate that he could not breathe. Without additional evidence to demonstrate that Officer Hernandez applied direct pressure to █████ airway or windpipe, COPA is unable to prove or disprove this allegation by a preponderance of the evidence.

For these reasons, COPA finds the allegation that Officer Hernandez forcefully put his left forearm on or near █████ neck/throat area without justification is **not sustained**.

Approved:

████████████████████  
\_\_\_\_\_  
Steffany Hreno  
*Director of Investigations*

3/19/2025  
\_\_\_\_\_  
Date

---

<sup>28</sup> CMS Notes: CO-1368959, CO-1373999, CO-1374246, CO-1378333, CO-1378615, CO-1379558, CO-1414990, and CO-1419117.

<sup>29</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>30</sup> Att. 22, General Order, G03-02(IV)(D)(2) and (3), De-escalation, Response to Resistance, and Use of Force (effective June 28, 2023).

Appendix ACase Details

Date/Time/Location of Incident:	November 18, 2023/ 11:49 P.M./ 188 N. State St, Chicago, IL 60601.
Date/Time of COPA Notification:	November 23, 2023/ 4:21 A.M.
Involved Member #1:	Jose Hernandez, Star #15925, Employee ID# [REDACTED], Date of Appointment: 9/29/2014, Unit of Assignment: 701, 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.

Applicable Policies and Laws

- G03-02, De-escalation, Response to Resistance, and Use of Force (effective June 28, 2023).

## 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>31</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>32</sup>

---

<sup>31</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>32</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