



Log # 2023-0005710

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 5, 2023, the Civilian Office of Police Accountability (COPA) received a complaint relative to alleged misconduct by members of the Chicago Police Department (CPD). ██████ alleged that he had been stopped for no valid reason while walking at or near 123 East 51st Street by two uniformed officers. ██████ complained that he had been grabbed, handcuffed, and searched without lawful justification.²

No contraband was found. ██████ was subsequently released by the officers after having been given an investigative stop receipt.

COPA served allegations, investigated the matter, and subsequently arrived at findings regarding both involved officers: Officer Gerardo Silva, Star #19281, and Officer Jordan M. Coil, Star #17440. COPA sustained allegations regarding the detention of ██████ without justification, the handcuffing of ██████ without justification, and the searching of ██████ person without justification. COPA also sustained allegations regarding the officers' failure to deescalate the encounter with ██████

II. SUMMARY OF EVIDENCE³

On the day of the incident, Officers Silva and Coil were working in full uniform but operating from an unmarked vehicle. They were on routine patrol from their vehicle when they first came across ██████

██████ was walking down a street near his residence to purchase a beverage at a nearby gas station convenience store. On his way to the store, the officers attempted to engage ██████ in conversation while they were seated in their vehicle; ██████ simply kept walking without making any response. ██████ entered the gas station convenience store. After purchasing a beverage and exiting the store, the officers again attempted to engage ██████ in conversation, indicating that it looked like he was carrying a weapon. ██████ again decided to keep walking without responding to the officers. At that point the officers got out of their vehicle and Officer Silva grabbed ██████ arm. The officers handcuffed ██████ and Officer Silva conducted a patdown search of ██████

¹ 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.

² The original complaint was communicated to COPA by Mr. ██████ mother.

³ 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, police reports, civilian interviews, and officer interviews.

person. No weapon or contraband was found. The officers identified the canned beverage that ██████ had purchased as a suspicious bulge in his pocket. ██████ was indignant throughout.

When ██████ asked why the officers had detained him, he was advised that it was because he decided not to speak with them (although the officers agreed with ██████ assertion that he was not obliged to speak with them). The officers subsequently released ██████ and gave ██████ a stop receipt for the encounter.

ALLEGATIONS

Officer Silva and Officer Coil:

1. Detained ██████ without justification.
Sustained; violation of Rules 1, 2, 5, and 6
2. Handcuffed ██████ without justification.
Sustained; violation of Rules 1, 2, 5, and 6
3. Conducted a patdown search of ██████ without justification.
Sustained; violation of Rules 1, 2, 5, and 6
4. Failed to deescalate the encounter with ██████ without justification.
Sustained; violation of Rules 1, 2, 5, and 6

III. 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.

IV. ANALYSIS⁴

COPA finds Allegation 1 (unjustified detention) is **sustained**. In order to legally detain a person, and conduct a brief investigative detention (a “*Terry*⁵ stop”) the officer is required to have, at minimum, a reasonable and articulable suspicion of criminal activity.⁶ ██████ was stopped, handcuffed, and searched simply because he was observed to have a lump in his coat pocket,⁷ which turned out to be the can of Arizona Iced Tea he had just purchased. This does not amount to reasonable suspicion and, hence, the investigative detention of ██████ was unlawful and misconduct.

⁴ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

⁵ *Terry v. Ohio*, 392 U.S. 1 (1968).

⁶ *People v. Ludeman*, 222 Ill. 2d 530, 542, 857 N.E.2d 187, 195 (2006).

⁷ See Att. 31, p. 9, lns. 7-22 “I observed the individual coming out of the gas station manipulating, like, an object in his right pocket.” and Att. 32, p. 9, ln. 23 to p.10, ln. 6. “My partner, we were working together, alerted me of an individual, now known as Mr. ██████ with a suspicious bulge object in his right coat pocket, which he was continuously manipulating, that was walking out -- he was walking out of the gas station. Due to the high-crime area, multiple arrests made, multiple weapons that are recovered in the area, we believed that he was concealing a firearm.”

Moreover, ██████ alleges that he was told that the officers effected the stop because ██████ chose not to speak with the officers when they asked him questions in the course of an earlier voluntary encounter not amounting to an investigative detention. Of course, ██████ was perfectly entitled to not speak with the officers and the officers acknowledged this at the time of the stop.

COPA finds Allegation 2 (unjustified handcuffing) to be **sustained**. In the circumstances, the use of handcuffs would only have been justified on officer safety grounds if police had an indication that ██████ was armed and dangerous.⁸ ██████ was handcuffed by the officers based upon a lump observed in his coat.⁹ This, standing alone, is insufficient to draw the inference that ██████ was armed with a weapon or was in any way dangerous. Although ██████ was displeased with the situation into which he had been placed by the officers, he did not behave in a threatening manner. Handcuffing ██████ was therefore unlawful and misconduct.

COPA finds Allegation 3 (unjustified patdown search) to be **sustained**. Officers may constitutionally stop and frisk an individual if two conditions are met: (1) the investigatory stop must itself be lawful and (2) the officers must reasonably suspect that that the person stopped is armed and dangerous.¹⁰ These two conditions allow a patdown search for weapons to ensure officer safety.¹¹ In satisfying the second requirement of the test, the officer must be able to point to particular facts from which he or she reasonably inferred that the individual was armed and dangerous. Even if the stop of ██████ were to have been legal (and COPA has found that it was not), there are no such facts to justify a reasonable belief that ██████ was armed and dangerous; ██████ simply had a lump in his coat. There are an infinite number of innocent reasons why a person may have a lump in his or her coat, especially a person exiting a retail establishment. ██████ was doing nothing out of the ordinary at the time he was searched. Thus, the patdown search of ██████ was not based upon reasonable suspicion; at best it was a mere hunch that ██████ might possess a weapon.

COPA finds Allegation 4 (failure to de-escalate) **sustained**. Per CPD General Order G03-02, “Department members are required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time.”¹² Although the officers attempted to engage ██████ in a consensual encounter (voluntary conversation), no de-escalation techniques were used. The officers simply treated ██████ entirely lawful decision not to speak with them as suspicious, approached ██████ almost immediately grabbed him,¹³ handcuffed him, and then conducted a patdown search. This is inconsistent with the requirement of CPD policy that CPD “members will use the minimum amount of force needed to provide for the safety of any person or Department member, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape.” “Department members will use only the force that is proportional to the threat, actions, and level of resistance offered by a person.” The policy further provides that the use of excessive force is prohibited and “will not be

⁸ *Arizona v. Johnson*, 555 U.S. 323, 332 (2009).

⁹ See Att. 8 (ISR).

¹⁰ *United States v. McKoy*, 428 F.3d 38, 39 (1st Cir. 2005).

¹¹ *United States v. Davis*, 457 F.3d 817, 822 (8th Cir. 2006).

¹² G03-02: De-Escalation, Response to Resistance, and Use of Force – Section II, D; Effective Date: June 28, 2023.

¹³ Att. 1 at 12:20:58; See also Att. 12, Pg. 9, Lns. 4-7.

tolerated” and prohibits “force used as punishment or retaliation”. █████ presented no threat to the officers at any time.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Gerardo Silva

i. Complimentary and Disciplinary History

This officer’s SPAR history report lists two incidents of summary discipline relating to incidents in 2023 and 2024 (non-compliance with motor vehicle pursuit requirements and a preventable accident), resulting in two reprimands. This officer has received 76 awards and commendations, to include an honorable mention ribbon award.¹⁴

ii. Recommended Discipline

COPA has considered Officer Silva’s complimentary and disciplinary history. COPA has also considered the fact that the victim is a member of the public, the officer’s disregard of training expectations and failure to accept responsibility in aggravation. Officer Silva was the “business officer” who initiated the stop. COPA recommends the officer receive a suspension of up to 30 days as well as retraining on Fourth Amendment principles as applied to investigatory stops and searches.

b. Officer Jordan M. Coil

iii. Complimentary and Disciplinary History

The “Five Year Sustained Complaints History Report” received from CPD in regard to Officer Coil lists no records. This officer’s SPAR history report lists two incidents of summary discipline arising from incidents in 2023 (non-compliance with motor vehicle pursuit requirements and a preventable accident), resulting in two reprimands. This officer has received 87 awards and commendations, to include an honorable mention ribbon award and a life saving award.¹⁵

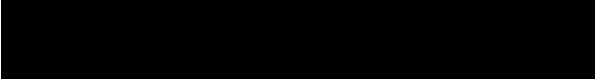
iv. Recommended Discipline

COPA has considered Officer Coil’s complimentary and disciplinary history. COPA has also considered the fact that the victim is a member of the public, the officer’s disregard of training expectations and failure to accept responsibility in aggravation. Officer Coil was the support officer in this incident. COPA recommends the officer receive a suspension of up to 30 days as retraining on Fourth Amendment principles as applied to investigatory stops and searches.

¹⁴ Att. 27.

¹⁵ Att. 27.

Approved:



Sharday Jackson
Deputy Chief Administrator – Chief Investigator

July 19, 2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	December 5, 2023 / 12:23 p.m. / 123 East 51 st Street, Chicago, IL 60615
Date/Time of COPA Notification:	December 5, 2023 / 1:43 p.m.
Involved Officer #1:	Gerardo Silva, Star #19281, Employee ID# [REDACTED] Date of Appointment: April 16, 2021, Unit of Assignment: 002, Male, Hispanic
Involved Officer #2:	Jordan M. Coil, Star #17440, Employee ID# [REDACTED] Date of Appointment: August 16, 2021; Unit of Assignment: 002, Male, White
Involved Individual #1:	[REDACTED] Male, Black

Applicable Rules

- Rule 1:** Violation of any law or ordinance.
- 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

- U.S. Const. amend. IV.
- G03-02: De-Escalation, Response to Resistance, and Use of Force; Effective Date: June 28, 2023.
- G08-05: Prohibition on Retaliation; Effective Date: August 22, 2023.
- S04-13-09: Investigatory Stop System; Effective Date: July 10, 2017.

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.¹⁶ 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.”¹⁷

¹⁶ 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).

¹⁷ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th 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
- Reports: Failure to Submit ISR