



Log # 2024-0002744

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 6, 2024, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD).² ██████████ alleged that on March 3, 2024, at approximately 1:45 pm,³ Officers Arnulfo Luna Jr., Raymond Zhu, and Luis Nunez stopped and detained him without justification.⁴ Specifically, ██████████ alleged that the officers jumped out of their vehicle and aggressively grabbed and handcuffed him while he was standing outside of a car wash at 8945 S. Ashland Ave. Following its investigation, COPA reached sustained findings against each of the officers.

II. SUMMARY OF EVIDENCE⁵

On March 3, 2024, Officer Marcus Turner was located in the 22nd District's Strategic Decision Support Center (SDSC). Officers in the SDSC room have the ability to watch live video feed from a variety of cameras, which are capable of rotating 360 degrees and zooming in and out. Officer Turner was watching the live video from a Police Observation Device (POD) camera that captured the outside of a busy car wash, with individuals talking as they waited for their vehicles to be washed.⁶ Officer Turner noticed a Black male, now known to be ██████████ who was dressed in all black, accessorized in gold jewelry, and smoking a cigar. Once the camera zoomed in, Officer Turner noticed an "L" shaped bulge in ██████████ left waist area, similar to the outline of a firearm.⁷ Officer Turner then called a 22nd District tactical team, which included Officers Nunez, Luna, and Zhu, to relay his observations.⁸ Officers Nunez, Luna, and Zhu relocated to the car wash near 8945 S. Ashland Ave. shortly after receiving the call from Officer Turner.

Officers Zhu and Nunez were the first individuals to exit the CPD vehicle and approach ██████████ and Officer Luna joined them. On scene, the officers observed the "L" shaped bulge that

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 Att. 1, Web complaint by ██████████ and Att. 9, Written Statement of ██████████

³ Note: The actual time of the incident was approximately 2:51 pm.

⁴ 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.

⁵ 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, POD video, police reports, ██████████ written statement, and officer interviews.

⁶ Att. 16 at 2:41:28.

⁷ Att. 23, pg. 7, ln. 18 to pg. 8, ln. 7.

⁸ Att. 23, pg. 8, ln. 18 to pg. 9, ln. 9.

appeared to resemble the shape of a handgun, and they believed it was a firearm.⁹ As Officer Nunez walked toward ██████ he called out words to the effect of, “Let me talk to you bro. Hands up, hands up. Don’t run.”¹⁰ ██████ who was holding a car wash brochure in one hand and a cigar in the other hand, remained calm and did not make any movements.¹¹ Officer Nunez immediately grabbed ██████ left arm, while Officer Zhu grabbed ██████ right arm and conducted a pat down of ██████ waist area.¹² The officers placed ██████ in handcuffs and asked if he had a Firearm Owners Identification (FOID) Card or Concealed Carry License (CCL), to which ██████ replied “yes I do.”¹³ Officer Nunez then located the firearm in a holster in ██████ left waistband and disarmed him.¹⁴ The officers kept ██████ in handcuffs while Officer Nunez ran ██████ driver’s license and CCL, and the results came back as valid. ██████ stated that although he told officers to look in his wallet where he had his FOID Card and CCL, he did not believe the officers ever looked at his licenses.¹⁵

██████ wife was also on scene and made a phone call to their attorney, ██████ who remained on the phone for the duration of the incident. A supervisor was called to the scene at ██████ request. Once Sgt. Ignatius Goetz arrived, ██████ explained that he was a licensed CCL holder, and he did not understand why the officers detained and handcuffed him.¹⁶ Sgt. Goetz responded by asking how the officers would know ██████ was a CCL holder unless they stopped and questioned him.¹⁷ After ██████ said he had nothing more to say to the sergeant, the officers provided ██████ with an Investigative Stop Receipt, returned his firearm, and departed the scene.

III. ALLEGATIONS

Officers Arnulfo Luna Jr., Raymond Zhu and Luis Nunez:

1. Stopping and/or detaining ██████ without justification.
 - Sustained, Violation of Rules 1, 2, 3, and 6.

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

⁹ Att. 26, pg. 8, lns. 11 to 13; Att. 29, pg. 8, lns. 22 to 24; Att. 32, pg. 7, lns. 13 to 15.

¹⁰ Att. 12 at 14:51:41.

¹¹ Att. 12 at 14:51:41; Att. 9.

¹² Atts. 12 and 13 at 14:51:45; see also Att. 9.

¹³ Att. 12 at 14:51:51.

¹⁴ Atts. 11 and 12 at 14:52:03.

¹⁵ Att. 9.

¹⁶ Att. 14 beginning at 15:00:12.

¹⁷ Att. 14 at 15:00:41. ██████ complaint alleged that Sgt. Goetz was “rude, argumentative, abrasive, and was not the voice of reason...” Att. 9. Although CPD members are required to be respectful and professional, the subtleties of communication can be subject to various interpretations. In this case, while COPA determined that Sgt. Goetz’s interaction with ██████ did not warrant the service of allegations, COPA is nonetheless recommending that he receive retraining and/or counseling regarding the manner in which he interacts with members of the public.

of the individual making the statement, while the second factor speaks to their ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Overall, the accused officers provided accounts of this incident that were consistent with each other and with the available video footage. However, COPA notes that aspects of their statements raise questions about their credibility. For example, all three officers described ██████ as exhibiting “hypervigilant” behavior,¹⁸ and Officer Zhu added that ██████ “appeared to look for a path of escape.”¹⁹ The officers offered these descriptions to bolster their justification for detaining ██████ but there is no reference to these factors in their Investigatory Stop Report. Additionally, as discussed in the analysis below, the POD and BWC videos appear to undermine the officers’ description of ██████ behavior. The videos captured ██████ standing on the sidewalk, casually smoking a cigar as his wife sat in a chair next to him. As the officers approached, ██████ did not appear nervous or agitated in any way. He did not avoid eye contact, quickly look back and forth, or make any sudden movements. These discrepancies between the officers’ descriptions of ██████ and the videos raise questions about whether the officers were attempting to provide after-the-fact justifications for detaining ██████

With respect to ██████ although he did not provide COPA with a recorded interview, he did submit a formal written statement documenting his account of the incident. COPA notes that, unlike the officers, ██████ did not have an opportunity to review any video footage or reports prior to providing his statement. Despite this, ██████ provided an account that was detailed, candid, and consistent with the other evidence. As a result, COPA found his statement to be credible.

V. ANALYSIS²⁰

COPA finds the allegation that Officers Luna, Zhu, and Nunez stopped and/or detained ██████ without justification, is **sustained** by a preponderance of the evidence.

The Fourth Amendment, by its plain text, protects the right of the people to be secure in their persons against unreasonable searches and seizures.²¹ A consensual encounter is a voluntary contact between an officer and a person that occurs when the person feels free to leave the officer’s presence.²² There are no Fourth Amendment concerns for consensual encounters.

In contrast, an investigatory stop is not a voluntary contact. Rather, an investigatory stop is the temporary detention and questioning of a person.²³ The detention must be based on an officer’s reasonable articulable suspicion that the person is committing, is about to commit, or has

¹⁸ Att. 26, pg. 8, lns. 16 to 22; Att. 29, pg. 8, lns. 20 to 22, pg. 21, ln. 9; Att. 32, pg. 8, lns. 12 to 21, pg. 15, lns. 7-8.

¹⁹ Att. 26, pg. 8, lns. 17 to 18.

²⁰ For a definition of COPA’s findings and standards of proof, see Appendix B.

²¹ *People v. Horton*, 2019 IL App (1st) 142019-B ¶51.

²² S04-13-09(II)(A), Investigatory Stop System (effective July 10, 2017) (“An officer may approach any person at any time for any reason on any basis. However, absent reasonable suspicion or probable cause, that person must be free to walk away at any time.”).

²³ S04-13-09(II)(A).

committed a criminal offense.²⁴ As CPD policy explains, “Reasonable Articulate Suspicion is an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion.”²⁵ It depends on the totality of the circumstances which an officer observes and the reasonable inferences that can be drawn based on the officer’s training and experience. “Reasonable Articulate Suspicion can result from a combination of particular facts, which may appear innocuous in and of themselves, but taken together amount to reasonable suspicion.”²⁶ In this case, the officers detained [REDACTED] because they believed he was in possession of a firearm.

In Illinois, gun owners are required to have a FOID card in order to legally acquire or possess a firearm.²⁷ Additionally, gun owners cannot carry their firearm in public unless it is partially or completely concealed, and they have a CCL.²⁸ Thus, if an individual has both a FOID card and a CCL, possession of a firearm, even in public, is not necessarily unlawful, and it is not a crime for the individual to carry a concealed or partially concealed firearm on their person.²⁹

During this incident, the officers approached [REDACTED] after observing that he had a bulge in his waistband that was shaped like a firearm or an “L,” which, in their experience, indicated that [REDACTED] was carrying a firearm. Thus, the officers had reason to suspect that [REDACTED] was in possession of a firearm. However, the weapon was concealed under [REDACTED] shirt, and the officers had no real basis for suspecting that his possession of the firearm was unlawful.

To support their belief that [REDACTED] was illegally in possession of the firearm, the officers made statements that [REDACTED] was “hypervigilant” and “look[ing] for a path of escape.”³⁰ The officers explained that, in their experience, that is not how a person who possesses a CCL would act. Officer Nunez also stated that, in general, a person with a CCL would be more careful about making sure their firearm was concealed.³¹ However, these are merely vague and conclusory assumptions, not specific articulable facts. Moreover, COPA’s review of the video evidence does not support the officers’ characterization of [REDACTED]. When the officers approached [REDACTED] he was calm and cooperative, did not make any sudden movements or look away, and did not appear to alter his behavior or demeanor. In other words, the officers’ suspicion that [REDACTED] was armed was the only obvious reason to justify his detention. However, as the 7th Circuit has noted, the “‘mere possibility of unlawful use’ of a gun is not sufficient to establish reasonable suspicion. It must be ‘sufficiently probable that the observed conduct suggests unlawful activity.’”³²

²⁴ S04-13-09(II)(A), (C)(1). *See also People v. Thomas*, 2019 IL App (1st) 170474 ¶16 (citing *People v. Johnson*, 237 Ill. 2d 81, 89 (2010)).

²⁵ S04-13-09(II)(C).

²⁶ S04-13-09(II)(C).

²⁷ 430 ILCS 65/2.

²⁸ 430 ILCS 66/10.

²⁹ *People v. Spain*, 2019 IL App (1st) 163184 ¶¶ 28, 37 (holding that carrying a firearm in public is not necessarily unlawful and that officers must have cause to believe that the gun is possessed unlawfully).

³⁰ Att. 26, pg. 8, Ins. 16 to 22; Att. 29, pg. 8, Ins. 20 to 24; Att. 32, pg. 8, Ins. 12 to 18.

³¹ Att. 29, pg. 9, Ins. 1 to 6.

³² *United States v. Watson*, 900 F.3d 892, 896 (7th Cir. 2018) (applying the Fourth Amendment to Indiana law, which allows firearms in public with a proper license); *see also Horton*, 2019 IL App (1st) 142019-B ¶51. (finding no probable cause where the officer did not articulate any basis for believing the firearm was possessed unlawfully).

Officers may seek to determine if a person is in lawful possession of a firearm by engaging in a consensual encounter and asking whether the individual has a FOID card and CCL. However, when Officers Luna, Zhu, and Nunez approached ██████ they immediately grabbed him and attempted to handcuff him, thereby conducting an investigatory stop without reasonable articulable suspicion.

Furthermore, in order to conduct a protective pat-down, a “sworn member must possess specific articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area.”³³ There was no evidence to warrant a belief that ██████ was armed *and* dangerous, or presented a danger of attack.

Here, the officers grabbed ██████ put handcuffs on him, and patted him down, all before they knew if ██████ was licensed to carry a concealed firearm. Under CPD policy, training, and the law, the investigatory stop of ██████ must have been premised upon the officers’ reasonable suspicion that he possessed the firearm illegally.³⁴ No such evidence existed.

In this incident, the encounter with ██████ was clearly not consensual, as he was handcuffed and not free to leave. At the moment the officers detained ██████ they lacked reasonable articulable suspicion that ██████ had committed, was committing, or was about to commit a crime. COPA therefore finds this allegation to be **sustained** as a violation of Rules 1, 2, 3, and 6.

VI. DISCIPLINARY RECOMMENDATION

a. Complimentary and Disciplinary Histories³⁵

Officer Luna has received 55 awards, Officer Nunez has received 62 awards, and Officer Zhu has received 40 awards. Officers Luna and Nunez have each received a SPAR for a preventable accident, resulting in reprimands for both officers. Officer Zhu has no disciplinary history. All three officers had between five and six years of experience with CPD at the time of this incident.

³³ S04-13-09(II)(C)(2) (“An Investigatory Stop and a Protective Pat Down are two distinct actions-both require independent, Reasonable Articulable Suspicion (i.e., to stop a person there must be reasonable suspicion of criminal activity, and to stop a person and perform a Protective Pat Down of the person, there must be reasonable suspicion of criminal activity and reasonable suspicion that the person is armed and dangerous or presents a danger of attack).”).

³⁴ See *Watson*, 900 F.3d at 896. Additionally, COPA notes that CPD Education and Training Bulletin #14-01 directly addresses the type of situation at issue in this case. The bulletin gives the following example of when officers would not have reasonable articulable suspicion (RAS) for a stop or pat down: “Call of a person with a gun. The caller only indicates that the person is armed, no further activity. Officers arrive and observe that he appears to be armed, but have no other knowledge or observations to establish RAS. **NO RAS FOR A STOP, therefore NO RAS FOR A PAT-DOWN.**” Att. 21, pg. 3 (emphasis in original).

³⁵ Att. 33.

b. Recommended Discipline

COPA has found that Officers Luna, Nunez, and Zhu violated Rules 1, 2, 3, and 6 when they detained ██████ without reasonable articulable suspicion. The officers’ actions violated ██████ rights and tended to undermine confidence in CPD’s ability to treat members of the public fairly and to adhere to the requirements of the Fourth Amendment. In mitigation, COPA will consider the officers’ many awards and minimal, if any, disciplinary history. COPA also recognizes that the officers were respectful and professional throughout the investigatory stop of ██████. Accordingly, COPA recommends that Officers Luna, Nunez, and Zhu each receive a **1 to 30 day suspension**, as well as **retraining** on CPD’s Investigatory Stop System.³⁶

Approved:

████████████████████

Steffany Hreno
Director of Investigations

1/17/2025

Date

³⁶ As noted in footnote 17, COPA also recommends that Sgt. Goetz receive retraining and/or counseling (non-disciplinary in nature) regarding the manner in which he interacts with members of the public.

Appendix ACase Details

Date/Time/Location of Incident:	March 3, 2024/ 2:51 pm/ 8945 S. Ashland, Chicago, IL 60620
Date/Time of COPA Notification:	March 6, 2024/ 3:15 pm
Involved Member #1:	Luis Nunez, Star # 18229, Employee ID# [REDACTED] DOA: July 27, 2018, Unit; 022, Male, White Hispanic
Involved Member #2:	Arnulfo Luna Jr., Star # 18047, Employee ID# [REDACTED] DOA: February 19, 2019, Unit: 022, Male, White Hispanic
Involved Member #3:	Raymond Zhu, Star # 14064, Employee ID# [REDACTED] DOA: September 27, 2018, Unit: 022, Male, Asian
Involved Individual #2:	[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

- S04-13-09, Investigatory Stop System (effective July 10, 2017 to 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.³⁷ 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.”³⁸

³⁷ 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).

³⁸ *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
- Other Investigation