



Log # 2021-3841

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On September 27, 2021, the Civilian Office of Police Accountability (COPA) initiated a complaint based on a civil lawsuit (case number 1:21-cv-04097) brought by ██████████ (██████████) which alleged misconduct by a member of the Chicago Police Department (CPD). Based on this lawsuit, COPA served allegations that on August 2, 2019, Officer Alejandro Moreno arrested ██████████ searched his vehicle, and seized his vehicle, all without justification.² Upon review of the evidence, COPA served additional allegations that Officer Moreno failed to timely activate and/or prematurely deactivated his body-worn camera (BWC), and that he aided in the improper re-enactment of the recovery of a firearm. Following its investigation, COPA reached sustained findings for all the allegations against Officer Moreno, with the exception of the allegation that he arrested ██████████ without justification, which COPA found to be not sustained.

This complaint also involves Officer Michael Silius, a former CPD member who was Officer Moreno's partner at the time of the events under investigation. Due to Officer Silius' resignation from CPD, no allegations related to this complaint were served against him.³

II. SUMMARY OF EVIDENCE⁴

The relevant BWC evidence from this incident shows that on the afternoon of August 2, 2019, Officer Moreno and Officer Silius (collectively, "the Officers") arrived at the offices of Illinois Department of Children and Family Services (DCFS) in their CPD SUV.⁵ The Officers entered the building with two other officers following closely behind them, and they found ██████████ inside wearing a cast on his right hand and holding a notebook in his left.⁶ Officer Silius pointed ██████████ toward a bench, and ██████████ responded by sitting down on the bench.⁷ With ██████████ seated, Officer Silius produced a pair of leg shackles and placed them on ██████████

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 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.

³ See Att. 56.

⁴ 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, court records, civilian interviews, and officer interviews.

⁵ Att. 20 at 0:00 to 0:59. (Of the two officers most directly involved in this investigation, only Officer Silius recorded BWC footage from the arrest at DCFS, as Officer Moreno did not activate his BWC throughout the entire encounter.)

⁶ Att. 20 at 0:59 to 1:39; also Att. 26 at 0:00 to 0:28, and Att. 28 at 0:00 to 1:41.

⁷ Att. 20 at 1:39 to 1:48; also Att. 26 at 0:28 to 1:08, and Att. 28 at 1:41 to 1:45.

ankles, after which he stood up and activated his BWC.⁸ Officer Silius ordered [REDACTED] to stand up and patted down his pockets, then reached his hand inside [REDACTED] right trouser pocket and withdrew a keychain with a car key and several other items on it.⁹ Officer Moreno then placed handcuffs on [REDACTED]¹⁰ and all four officers walked him out of the building toward their CPD vehicles.¹¹ As they left, Officer Silius said, “I wanna try and find his car,” and he deactivated his BWC.¹² [REDACTED] was then transported to the 14th District station by the two supporting officers while Officers Moreno and Silius departed together.¹³

Officer Silius’ next BWC video began in the video-only buffer mode as the officer exited the front passenger seat of an unmarked gray CPD SUV, then walked across a street to a black Toyota Corolla (the Corolla), now known to have been [REDACTED] vehicle. Officer Silius entered the vehicle through the driver-side door, sat in the driver’s seat, looked inside the center console, opened the glove compartment, and quickly closed the compartment again after apparently taking a very brief look inside it.¹⁴ He then exited the vehicle and, leaving the driver-side door still ajar, turned left and walked to the rear of the Corolla. At this time, his BWC captured the CPD SUV, showing that it had made a U-turn and was positioned about fifty feet behind [REDACTED] vehicle.¹⁵ Officer Silius stood near the side of the CPD SUV where Officer Moreno was waiting in the driver’s seat, and the Officers appeared to have a brief verbal exchange through the window.¹⁶ Officer Silius then turned and walked back to the Corolla, made a movement that appeared to indicate he closed the driver-side door out of the camera’s view, and began walking back to the CPD SUV.¹⁷ As he returned, Officer Moreno got out of the CPD SUV, and both officers stood together and appeared to speak with each other for a short time.¹⁸ Officer Silius then walked around to the passenger side of the CPD SUV and got into the front passenger seat.¹⁹

At this point, Officer Moreno’s BWC began its footage in buffer-mode. The view through the top of the windshield showed that he began slowly reversing the CPD vehicle, while at the same time Officer Silius’s BWC showed that he held his right hand hovering over his camera’s lens for about 13 seconds, with his fingers extended toward the BWC unit as if preparing to push the activation button.²⁰ Officer Silius lifted his hand away and then placed it back over his BWC, holding it there for approximately another 10 seconds until he pressed the button to activate it. At the same time, Officer Moreno briefly moved his right hand over his BWC as if tapping it twice, then put the CPD SUV into drive and slowly drove forward, finally activating his BWC with his

⁸ Att. 20 at 1:48 to 2:00; also Att. 26 at 1:08 to 1:20, and Att. 28 at 1:45 to 1:57.

⁹ Att. 20 at 2:00 to 2:12; also Att. 26 at 1:20 to 1:32, and Att. 28 at 1:57 to 2:09.

¹⁰ Att. 20 at 2:12 to 2:48; also Att. 26 at 1:32 to 2:08, and Att. 28 at 2:09 to 2:45.

¹¹ Att. 20 at 2:48 to 3:15; also Att. 26 at 2:08 to 2:35, and Att. 28 at 2:45 to 3:12.

¹² Att. 20 at 3:15 to 3:24; also Att. 26 at 2:35 to 2:44, and Att. 28 at 3:12 to 3:21.

¹³ Att. 26 at 2:44 to 29:29; also Att. 28 at 3:21 to 30:44.

¹⁴ Att. 21 at 0:00 to 0:40; License plate [REDACTED]

¹⁵ Att. 21 at 0:40 to 0:42.

¹⁶ Att. 21 at 0:40 to 0:55.

¹⁷ Att. 21 at 0:55 to 1:02.

¹⁸ Att. 21 at 1:02 to 1:20.

¹⁹ Att. 21 at 1:20 to 1:32.

²⁰ Att. 21 at 1:32 to 1:45; also Att. 24 at 0:00 to 0:13.

left hand at virtually the same moment that Officer Silius activated his own.²¹ Officer Moreno stopped the CPD SUV behind the Corolla, and as Officer Silius began exiting the police vehicle, one of the Officers' voices was captured saying, "30 seconds."²²

Officer Silius walked to the Corolla, unlocked it, and entered through the driver's door for the second time.²³ As he sat in the driver's seat, he sent a radio message stating that he was driving an offender's car to the 14th District Station.²⁴ Officer Silius quickly opened and closed the center console, then opened the glove compartment, at which point it appeared that he leaned over and moved his BWC closer to give it a better view of a handgun lying inside as he said, "Oh, shit," with an attitude of feigned surprise.²⁵ Officer Silius leaned forward again to provide a second view of the handgun for the camera, and said, "Looks like a weapon."²⁶ He then began driving the Corolla down the street and said, "Weapon in the glovebox. From the victim, there might be one in the trunk. He always keeps one in the trunk."²⁷ As he drove, Officer Silius held his BWC in his hand and again pointed it at the handgun in the open glove compartment, then reopened the center console and quickly felt around in it with his right hand, finding a yellow pill bottle inside.²⁸

After driving further, Officer Silius said, "Going back to 14th District," then emptied a plastic grocery bag he found on the front passenger seat. Officer Silius used the plastic bag to lift the gun out of the open glove compartment as he announced, "Recovering the weapon from the glovebox."²⁹ While still driving to the station, Officer Silius requested the Event Number over the radio, and after the dispatcher read out "08637," he said to the BWC, "One in custody, weapon recovered," then deactivated his camera.³⁰

COPA also reviewed a variety of other BWC videos in the course of conducting this investigation, notably including footage of Officer Silius' meeting with [REDACTED] ([REDACTED] on

²¹ Att. 21 at 1:45 to 2:00; also Att. 24 at 0:13 to 0:28. (COPA notes that both officers held their hand over their BWCs before activating them, as if waiting for the right moment to begin recording. COPA also finds it significant that Officer Moreno drove the CPD SUV in reverse and then forward, and that both officers activated their cameras just as the vehicle was travelling forward and coming to a stop.)

²² Att. 21 at 2:00 to 2:06; also Att. 24 at 0:28 to 0:33. (The timing of the words being spoken coincided with Officer Silius' act of opening the CPD SUV door and moving to exit, which strongly suggests that it was his voice speaking. The potential significance of the words "30 seconds" is that CPD officers had previously used BWC systems which had 30-second video buffers built into them. However, at the time of this incident, CPD was in the process of transitioning to BWCs with two-minute buffers, and in fact Officer Silius himself was equipped with such a unit during this incident. In COPA's estimation, it is evident that the Officers thought they both still had the older 30-second models, and the words "30 seconds" may have been spoken to indicate that they thought they had successfully waited out the 30-second buffer period, and their earlier actions therefore would not be captured. But the Officers were mistaken, as the BWC Officer Silius wore had the longer two-minute buffer and recorded their true conduct.)

²³ Att. 21 at 2:06 to 2:27.

²⁴ Att. 21 at 2:27 to 2:49.

²⁵ Att. 21 at 2:49 to 3:04.

²⁶ Att. 21 at 3:04 to 3:10.

²⁷ Att. 21 at 3:10 to 3:37; also Att. 24 at 1:37 to 2:03. (While Officer Silius was driving the Corolla, Officer Moreno drove the CPD SUV behind him.)

²⁸ Att. 21 at 3:37 to 4:15.

²⁹ Att. 21 at 4:15 to 5:10.

³⁰ Att. 21 at 5:34 to 6:21; also Att. 24 at 4:01 to 4:49. (After Officer Moreno heard Officer Silius receiving the event number over the radio, he spoke the numbers "08637" to his BWC and then deactivated it.)

August 3, 2019, the day after this incident. At that time, ██████ provided Officer Silius with a signed consent form allowing him to search the residence she shared with ██████³¹

██████ participated in a remote interview with COPA, via Zoom, from the Cook County Jail. ██████ alleged that the officers who arrested him had done so without justification, that they had not reported everything they had seized from him, and that they used their authority as police officers to rob him for their own financial gain.³² He explained that this situation had begun approximately a month before his arrest, when he had filed a complaint with DCFS against ██████ accusing her of abusing the child they had together.³³

██████ reported that he had first come into contact with Officer Silius when the officer had unexpectedly placed a telephone call to him on July 28, 2019. This phone call caused ██████ to grow suspicious of the officer's attempt to draw him into a meeting at the police station to discuss the DCFS complaint.³⁴ On August 2, 2019, ██████ went to the DCFS offices to bring his complaint to the DCFS director.³⁵ He said that while he was waiting to meet the director, Officer Silius and the other officers from his tactical team arrived and told him he was under arrest for violating an order of protection – an order which ██████ insisted had never been served on him.³⁶ ██████ reported that Officer Silius asked if he had any weapons on him, which he denied, but at that point Officer Silius immediately reached into ██████ pocket and withdrew his keychain.³⁷

With regard to the search of his vehicle, ██████ said that before he went to DCFS he had intentionally parked his car two blocks away on a public street; a location he chose because he wanted to avoid giving the police an opportunity to search it.³⁸ ██████ made the assertion that the search the Officers conducted on his vehicle was unjustified.³⁹ He said his girlfriend knew some police officers personally, and that through them she had provided information which resulted in the police specifically targeting him.⁴⁰ ██████ stated that there was no warrant issued and no complaint signed against him until two days after he was arrested.⁴¹

Detective Gia Di Vito, who oversaw ██████ domestic battery investigation, was interviewed by COPA as a witness to this incident. During the interview, she explained that ██████ had first filled out a report of domestic battery on July 6, 2019, and that she was assigned this case on the following day, July 7, 2019.⁴² Det. Di Vito said she could not remember if she had contacted Officer Silius about this case first, or if he had called her, but she recalled that they began working

³¹ Att. 30.

³² Att. 19 at 5:28 to 5:44. (COPA did not serve all the allegations listed by ██████ during this interview, as some were determined to be unfounded due to the absence of sufficient objective verifiable evidence.)

³³ Att. 19 at 8:00 to 8:14.

³⁴ Att. 19 at 11:04 to 11:17

³⁵ Att. 19 at 9:19 to 9:59.

³⁶ Att. 19 at 11:17 to 12:09.

³⁷ Att. 46 at 12:29 to 12:42.

³⁸ Att. 46 at 14:07 to 14:41.

³⁹ Att. 46 at 14:41 to 15:11.

⁴⁰ Att. 46 at 15:11 to 15:30.

⁴¹ Att. 46 at 16:55 to 17:01.

⁴² Att. 46 at 4:30 to 5:27.

together because of ██████ claim that ██████ had weapons in his possession.⁴³ Det. Di Vito said Officer Silius was helping her to arrest ██████ and further explained that he was interested in the fact that ██████ was allegedly in possession of weapons and narcotics.⁴⁴ Det. Di Vito stated that she had probable cause to arrest ██████ explaining that she had emails from ██████ stating that she had been bruised by ██████ and had documented incidents of abuse.⁴⁵ When asked if she had obtained a signed complaint against ██████ Det. Di Vito replied that she did not recall, but she confirmed that there was no arrest warrant issued for him.⁴⁶

During his interview with COPA, Officer Moreno stated that on the date of ██████ arrest, he and Officer Silius had driven from the 14th District to the DCFS building in the 12th District. He explained that Officer Silius had received information from ██████ the complainant and victim in ██████ domestic battery case, that ██████ was at that location and could therefore be taken into custody.⁴⁷ When asked what plan he and Officer Silius had formulated with regard to this arrest, Officer Moreno said he did not know exactly what his partner was thinking, and he only knew that they were planning to make an arrest.⁴⁸ He explained that Officer Silius had become aware of ██████ through a domestic battery case report, and they were not pursuing ██████ based on any report from the Office of Emergency Management and Communications (OEMC).⁴⁹ When asked if he had knowledge of any arrest warrants issued for ██████ Officer Moreno answered, no. However, based on what Officer Silius told him, he believed that his partner had received signed complaints against ██████ and that the complainant was the mother of ██████ child.⁵⁰ Officer Moreno affirmed that he never actually saw a signed complaint for ██████ and had no knowledge of any arrest warrants for him.⁵¹

When asked to explain what probable cause he and his partner had to arrest ██████ in the absence of a signed complaint or arrest warrant, Officer Moreno said that he believed they did have both signed warrants and probable cause based on what his partner had told him.⁵² With regard to the question of why Officer Moreno did not activate his BWC during the arrest at the DCFS building, he answered, "I'm not sure," and suggested that he might have attempted to press the BWC button but failed to activate it.⁵³

Officer Moreno stated that he did not recall receiving any information from Officer Silius that would indicate what his intentions were with respect to ██████ vehicle.⁵⁴ Officer Moreno was given the opportunity to refresh his recollection by reviewing multiple BWC videos, but he maintained that he could not remember what his partner had said to him at the time ██████

⁴³ Att. 46 at 9:28 to 9:47.

⁴⁴ Att. 46 at 10:13 to 10:25

⁴⁵ Att. 46 at 12:13 to 12:24.

⁴⁶ Att. 46 at 12:28 to 12:38.

⁴⁷ Att. 59 at 6:04 to 6:55.

⁴⁸ Att. 59 at 8:15 to 8:46.

⁴⁹ Att. 59 8:46 to 9:09.

⁵⁰ Att. 59 at 10:29 to 10:46, and 11:22 to 11:50.

⁵¹ Att. 59 at 15:30 to 15:46.

⁵² Att. 59 at 15:56 to 16:35.

⁵³ Att. 59 at 20:20 to 20:41.

⁵⁴ Att. 59 at 24:50 to 25:00.

vehicle was searched.⁵⁵ After being pressed to recount the nature of the conversation that took place after Officer Silius closed the door of [REDACTED] vehicle and returned to the CPD SUV, Officer Moreno said he did not remember what was said or if it was related to searching the vehicle.⁵⁶

Additionally, Officer Moreno could not remember why the buffered BWC footage showed him driving in reverse after Officer Silius rejoined him in the CPD SUV, but he suggested that there could have been many reasons for him to do this, such as officer safety or tactical positioning.⁵⁷ Officer Moreno was specifically asked what plan the Officers had followed that involved Officer Silius returning to the CPD SUV after beginning the vehicle search, and also involved reversing their CPD SUV away from [REDACTED] vehicle. He answered, "I don't recall. I have no idea."⁵⁸

Before Officer Moreno eventually activated his BWC, the buffered video captured his right hand reaching up toward the camera several times. Officer Moreno said he did not know why he did this, but he explained that the BWC systems were still fairly new within CPD, and he might have been attempting to make sure his camera was activated.⁵⁹ Officer Moreno was asked why he began driving the CPD SUV in a forward direction again, to which he answered he did not know but it could have been for reasons of tactical positioning or to avoid pot-holes in the street.⁶⁰ While reviewing the video footage, investigators pointed out that both Officers activated their BWCs at the same time. Officer Moreno responded by saying he believed it was common for partners to activate their BWCs together.⁶¹

In response to a direct query asking why he and Officer Silius had recreated the search of [REDACTED] vehicle, with Officer Silius going back into the vehicle a second time after both officers' BWCs were activated, Officer Moreno objected to the word "recreate" and insisted that his partner searched the vehicle so that it could be relocated to the 14th District station.⁶² When asked about the probable cause for [REDACTED] arrest, Officer Moreno answered that all the information he had came from Officer Silius, and he was only there to provide support to his partner.⁶³ Officer Moreno could not recall whether Officer Silius had actually told him the details of the probable cause;⁶⁴ however, he stated that he would not have participated in an arrest if he had not known what the probable cause was.⁶⁵

Near the conclusion of the interview, Officer Moreno confirmed that the location where he and Officer Silius discovered [REDACTED] vehicle was within one or two blocks from the DCFS

⁵⁵ Att. 59 at 25:53 to 26:04.

⁵⁶ Att. 59 at 27:13 to 27:34.

⁵⁷ Att. 59 at 29:37 to 30:10.

⁵⁸ Att. 59 at 31:15 to 31:30.

⁵⁹ Att.59 at 31:45 to 32:20.

⁶⁰ Att. 59 at 32:38 to 33:08.

⁶¹ Att. 59 at 34:13 to 36:19.

⁶² Att. 59 at 37:40 to 38:50.

⁶³ Att. 59 at 55:09 to 55:52.

⁶⁴ Att. 59 at 55:52 to 56:11.

⁶⁵ Att. 59 at 56:11 to 56:29.

building, if not on the same block.⁶⁶ He also stated that the search and impound of [REDACTED] vehicle were related to [REDACTED] arrest, in that they were conducted subsequent to the arrest.⁶⁷

Officer Moreno was asked to either affirm or deny each of the five allegations that were served on him, and he affirmed his culpability with regard to Allegation 4, that he failed to timely activate and his BWC.⁶⁸ However, he denied the other four allegations.⁶⁹

III. ALLEGATIONS

Officer Alejandro Moreno:⁷⁰

1. Arresting [REDACTED] without justification.
 - Not Sustained.
2. Searching [REDACTED] vehicle without justification.
 - Sustained, violation of Rules 1, 2, 3, and 6.
3. Seizing [REDACTED] vehicle without justification.
 - Sustained, violation of Rules 1, 2, 3, and 6.
4. Failing to timely activate and/or prematurely deactivating his body-worn camera.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10.
5. Aiding in the improper re-enactment of the recovery of a firearm.
 - Sustained, violation of Rules 2, 3, 5, and 6.

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. ANALYSIS⁷¹

a. [REDACTED] arrest

During his interview with COPA, [REDACTED] alleged that he was arrested without justification, because at the time of his arrest, there was no arrest warrant issued for him and no complaints signed against him.⁷² COPA's investigation determined that there were no arrest warrants or complaints for [REDACTED] on August 2, 2019, the date of his arrest. Among the CPD documents that COPA reviewed was a Case Supplementary Report (JC337264) that states, "On 02 Aug 2019, Sgt. K. Caraballo #1094 of Area North Detective Division SVU contacted victim

⁶⁶ Att. 59 at 57:37 to 57:57.

⁶⁷ Att. 59 at 57:57 to 58:26.

⁶⁸ Att. 59 at 1:00:17 to 1:00:32.

⁶⁹ Att. 59 at 59:43 to 1:00:38.

⁷⁰ Due to a scrivener's error, Officer Alejandro Moreno's name was inadvertently replaced on one of the allegation documents with "Officer Silius," the name of Officer Moreno's former partner at the time of this incident. Despite this typo, Officer Moreno's star number, 13379, was correctly given and makes it absolutely clear that Officer Moreno is the CPD member to whom these allegations were served.

⁷¹ For a definition of COPA's findings and standards of proof, see Appendix B.

⁷² Att. 19 at 16:55 to 17:01.

██████████ and she related that she would be able to relocate to Area North Detective Division the following morning to speak with R/D.”⁷³ Further on in the narrative, the report states, “On 03 Aug 2019, victim ██████████ relocated to Area North Detective Division at 2452 W. Belmont Ave. to pursue felony charges against ██████████”⁷⁴

During his statement with COPA, Officer Moreno stated that his partner, Officer Silius, had been in contact with ██████████⁷⁵ and he believed that Officer Silius had obtained a signed complaint from her prior to ██████████ arrest.⁷⁶ Officer Moreno said he never saw the complaint, but it was his understanding that he and his partner had probable cause to conduct the arrest and searches.⁷⁷ When asked to explain what the probable cause was, Officer Moreno attempted to deflect by answering that his role in the arrest was just to support his partner.⁷⁸

Det. Di Vito told COPA that Officer Silius met with ██████████ in person on August 3, 2019, the day after ██████████ arrest, and obtained signed documents from her that included a consent to search the residence she shared with ██████████⁷⁹ Although COPA was unable to interview Officer Silius due to his resignation from CPD, his own BWC footage from August 3, 2019 shows his interaction with ██████████ as she signed forms at the police station.⁸⁰ After she signed one of the documents, she turned toward Officer Silius with a smile and said, “I don’t know why I thought you were gonna have dark hair and shorter.”⁸¹ This interaction demonstrates that this was ██████████ first in-person contact with Officer Silius, and therefore he did not receive a signed complaint from her at an earlier time.⁸²

However, although the evidence shows that ██████████ did not sign a complaint until after ██████████ arrest, COPA is unable to prove that Officer Moreno acted in bad faith when he participated in the arrest. Det. Di Vito told COPA that she and Officer Silius worked together to investigate ██████████ and she believed they had probable cause to arrest him for domestic battery.⁸³ Officer Silius conveyed this information to Officer Moreno, who participated in the arrest of ██████████ based on what his partner had told him. Under these circumstances, COPA

⁷³ Att. 6, pg. 5.

⁷⁴ Att. 6, pg. 6.

⁷⁵ Att. 59 at 6:04 to 6:55.

⁷⁶ Att. 59 at 10:29 to 10:46.

⁷⁷ Att. 59 at 15:56 to 16:35.

⁷⁸ Att. 59 at 55:09 to 55:52.

⁷⁹ Att. 46 at 23:55 to 24:48.

⁸⁰ Att. 30 at 0:00 to 1:55.

⁸¹ Att. 30 at 1:35 to 1:39.

⁸² COPA notes that Officer Silius’ BWC footage appears to directly contradict his testimony during a motion to suppress hearing in ██████████ criminal case. Officer Silius testified to several facts that, while not challenged during the hearing, are not consistent with the evidence COPA discovered. For example, Officer Silius testified that he met ██████████ in person in the weeks prior to August 2, 2019, but his own BWC casts serious doubt on this claim. Additionally, Officer Silius testified that there was a signed complaint against ██████████ for domestic battery at the time of his arrest, but this is disproven by the case reports and Det. Di Vito’s statement. During the hearing, there was also no reference to the Officers’ use of BWCs to reenact the recovery of the firearm in the glove compartment. These issues alone raise questions about the credibility of Officer Silius’ testimony that he had probable cause to arrest ██████████ and that he searched ██████████ vehicle incident to arrest. See Att. 43.

⁸³ Att. 46 at 11:03.

lacks sufficient evidence to show that Officer Moreno's actions were unreasonable. Therefore, Allegation 1 is **not sustained**.

b. The warrantless search and seizure of [REDACTED] vehicle were unjustified.

CPD members are permitted to search a vehicle when: (1) there is probable cause to believe evidence of a crime is present;⁸⁴ (2) there is reasonable suspicion the vehicle contains a weapon and/or that the occupants are armed and dangerous;⁸⁵ (3) the vehicle is being impounded;⁸⁶ (4) consent is obtained; or (5) as a search incident to arrest.⁸⁷ Police may perform a warrantless vehicle search incident to a recent occupant's arrest "only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest."⁸⁸ If neither set of circumstances applies, "a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies."⁸⁹

Here, the Officers reported that they searched and seized [REDACTED] vehicle incident to his arrest. The first problem with the Officers' justification is that [REDACTED] was not arrested in the immediate vicinity of his vehicle, and there is no question that he was not within reaching distance of the vehicle at the time of the search. [REDACTED] was arrested at the DCFS building at 1026 S. Damen; his vehicle was legally parked more than a block away, at 1027 S. Hoyne. In fact, after the Officers took [REDACTED] car keys, they had to drive around the area to locate his vehicle. Additionally, Officer Silius ran the vehicle's license plate at the time he located it, which revealed that the vehicle was registered to a corporation, not [REDACTED].⁹⁰

Despite this, the Officers took the opportunity to search and seize the vehicle. One of their explanations for this was that, because [REDACTED] was under arrest and could not return to move his vehicle from its legally parked position at a streetside meter, it was therefore necessary to impound the vehicle and relocate it to the 14th District station. There are many situations in which police officers must impound a vehicle following an arrest, particularly if the vehicle poses a hinderance or hazard to traffic. However, in this case, the vehicle was lawfully parked in a metered spot at the time the Officers seized it, and they could not preemptively impound the vehicle on the assumption that [REDACTED] would receive a parking ticket for failing to pay the meter at some point in the future. Furthermore, it was possible that [REDACTED] family members or friends could have accessed the vehicle and driven it away, or, indeed, could have simply continued to pay for his parking there. Most importantly, there was no pressing need to move or search the vehicle right away. There was time for the Officers to obtain a lawful search warrant from a judge if they could establish probable cause to support it.

⁸⁴ *Maryland v. Dyson*, 527 U.S. 465 (1999).

⁸⁵ *Michigan v. Long*, 463 U.S. 1032 (1983).

⁸⁶ *South Dakota v. Opperman*, 428 U.S. 364 (1976).

⁸⁷ *Arizona v. Gant*, 556 U.S. 332 (2009).

⁸⁸ *Gant*, 556 U.S. at 351 (2009); *People v. Bridgewater*, 235 Ill. 2d 85, 94 (2009).

⁸⁹ *Gant*, 556 U.S. at 351.

⁹⁰ See Att. 13; Att. 43, pg. 6; Att. 1, pg. 6.

Additionally, COPA notes that [REDACTED] was arrested for domestic battery, not a weapons charge. There was no allegation of firearm usage by [REDACTED] in the underlying domestic battery complaint, and thus, it was not reasonable for the Officers to believe that [REDACTED] vehicle contained evidence of the offense for which he was arrested. Instead, the evidence indicates that Officer Silius received a tip from [REDACTED] that [REDACTED] drove a black Toyota with a firearm in the glove compartment, and the Officers used [REDACTED] arrest as a pretense to gain access to his vehicle without obtaining a search warrant.⁹¹ This is consistent with Officer Silius' own recorded statement, "I wanna try and find his car,"⁹² immediately after [REDACTED] arrest; it indicates that Officer Silius was attempting to connect the vehicle to the arrest the Officers had just completed.

Even if Officer Moreno was initially unaware of Officer Silius' deceptive intent, he willingly accompanied his partner to drive around in search of the vehicle, despite the fact that [REDACTED] was already in custody and en route to the 14th District. Moreover, it was not reasonable for Officer Moreno to believe that [REDACTED] vehicle contained evidence of domestic battery, the offense for which he was arrested. For these reasons, COPA finds Allegation 2 against Officer Moreno, that he searched [REDACTED] vehicle without justification, is **sustained** as a violation of Rules 1, 2, 3, and 6 by a preponderance of the evidence.

Similarly, COPA also finds Allegation 3 against Officer Moreno, that he seized [REDACTED] vehicle without justification, is **sustained** as a violation of Rules 2, 3, 6, and 11 by a preponderance of the evidence.

c. Officer Moreno violated CPD's BWC policy.

To increase transparency and improve the quality and reliability of investigations, CPD policy requires law-enforcement-related activities to be electronically recorded.⁹³ Law-enforcement-related activities include, but are not limited to, calls for service; investigatory stops; traffic stops; arrests; use of force incidents; seizure of evidence; searches, including searches of people, items, vehicles, buildings, and places; high risk situations; and any other instances when enforcing the law.⁹⁴ The decision to record is mandatory, not discretionary.⁹⁵ CPD members are required to activate their BWCs at the beginning of an incident and record the entire incident.⁹⁶ If circumstances prevent the activation of a BWC at the beginning of an incident, the member will activate their camera as soon as practical.⁹⁷

Here, COPA finds that Officer Moreno failed to activate his BWC during [REDACTED] arrest at the DCFS office. By his own admission, Officer Moreno was late in activating his BWC, and his video demonstrates that he did not start recording until after he and Officer Silius were in the process of searching and seizing [REDACTED] car.⁹⁸ Similarly, Officer Silius did not activate his

⁹¹ See Att. 43.

⁹² Att. 20 at 3:15 to 3:24; also Att. 26 at 2:35 to 2:44, and Att. 28 at 3:12 to 3:21.

⁹³ Att. 61, S03-14 II(A), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).

⁹⁴ Att. 61, S03-14 III(2)(a-r).

⁹⁵ Att. 61, S03-14 III(A)(1).

⁹⁶ Att. 61, S03-14 III(A)(2).

⁹⁷ Att. 61, S03-14 III(A)(2).

⁹⁸ Att. 24 at 0:00 to 0:28.

BWC until after ██████ had already been taken into custody. The failures of both Officers to follow established BWC policy meant that no audio was captured during the arrest, and as a result, crucial details of the Officers' conduct during this incident were not documented. Additionally, both Officers failed to activate their cameras when they later arrived at the location of ██████ vehicle and began its search. Therefore, COPA finds Allegation 4 against Officer Moreno, that he failed to activate his BWC in a timely manner, is **sustained** as a violation of Rules 2, 3, 5, 6, and 10 by a preponderance of the evidence.

d. Officer Moreno was complicit in improperly re-enacting the search of ██████ vehicle.

As previously stated, both Officers failed to activate their BWCs when they first arrived at the location of ██████ parked vehicle, which meant that the only video captured at the beginning of the search was in the buffered mode, without audio. Officer Silius' camera footage began as he entered ██████ vehicle, quickly opened and closed the glove compartment, then suddenly exited the vehicle to return to Officer Moreno, who was waiting in their CPD SUV.⁹⁹ Following this, Officer Moreno reversed their CPD SUV away from ██████ vehicle.¹⁰⁰ Officer Moreno then drove the vehicle forward a short distance,¹⁰¹ and while doing so both Officers activated their respective BWCs at the same time.¹⁰² Officer Silius then entered ██████ vehicle a second time, opened the glove box again, and took care to show for the camera that there was a handgun concealed inside the compartment. Simultaneously, he announced, "Oh, shit," as if he had not previously looked in the same compartment and was surprised to find the weapon there.¹⁰³

COPA observes that the way Officer Silius held his hand poised over his BWC, and the way Officer Moreno moved his hand over his own BWC in brief tapping motions, combined with the fact that they both activated their BWCs at the same time, strongly indicates that the Officers were preparing to activate their cameras at a specific time to achieve a specific purpose.¹⁰⁴ Furthermore, Officer Moreno's rearward-then-forward driving maneuvers suggest that the Officers' intended goal was to record their vehicle coming to a stop at the time they activated their cameras, as if to give the appearance that they had just driven up to ██████ vehicle for the first time.

Most significantly, the fact that one of the Officers (most likely Officer Silius) uttered the words "30 seconds" shortly after they activated their BWCs demonstrates the Officers' intent to defeat their BWCs' automatic buffered mode by waiting 30-seconds before they resumed searching ██████ vehicle. If both Officers had been equipped with a BWC that only had a 30-second buffer period, then they likely would have avoided the buffer capturing them in the midst

⁹⁹ Att. 21 at 0:00 to 0:42.

¹⁰⁰ Att. 24 at 0:00 to 0:14; also Att. 21 at 1:30 to 1:47.

¹⁰¹ Att. 24 at 0:14 to 0:28; also Att. 21 at 1:47 to 2:00.

¹⁰² Att. 24 at 0:28; also Att. 21 at 2:00.

¹⁰³ Att. 21 at 2:00 to 3:03.

¹⁰⁴ Although COPA was unable to interview Officer Silius, the evidence indicates that he may have been motivated to conduct the initial search without his BWC activated to verify his suspicions that the vehicle contained a weapon, and that he and Officer Moreno only committed to recording the search and seizure of the vehicle after confirming the presence of the firearm.

of committing misconduct. However, as chance would have it, Officer Silius had been issued a newer BWC that was programmed with a two-minute-long buffer period, as opposed to the older 30-second models. Consequently, the Officers' misconduct was successfully recorded in that extended buffer period.

Officer Moreno repeatedly denied having any clear recollection of the details of this incident, and he denied all knowledge of or culpability for the re-enactment of the vehicle search. Instead, he argued that although he could not remember the situation, there could have been innocent explanations for his actions throughout this incident. However, the timing and substance of the Officers' conversations, their simultaneous BWC activations, Officer Moreno's unusual vehicle repositioning, and the fact that [REDACTED] vehicle was searched a second time all demonstrate that Officer Moreno was aware of Officer Silius' actions and was actively complicit in the attempt to fabricate fraudulent BWC footage of the search. Consequently, COPA finds that Allegation 5 against Officer Moreno, that he aided in the improper re-enactment of the recovery of a firearm, is **sustained** as a violation of Rules 2, 3, 5, and 6 by a preponderance of the evidence.¹⁰⁵

VI. DISCIPLINARY RECOMMENDATION

a. Officer Alejandro Moreno

i. Complimentary and Disciplinary History¹⁰⁶

Officer Moreno's complimentary history includes 56 awards, the highlights of which include one Department Commendation and one Police Officer of the Month Award. His disciplinary history includes a sustained finding for a 2019 incident where he directed profanity at a civilian, resulting in a reprimand.

ii. Recommended Discipline

COPA has found that Officer Moreno violated Rules 1, 2, 3, 5, 6, and 10 when he searched and seized [REDACTED] vehicle without justification, failed to timely activate his BWC, and aided in the improper re-enactment of the recovery of a firearm. While COPA notes that Officer Silius led the charge in almost every act of misconduct during this incident, Officer Moreno was a willing participant. Most concerning is Officer Moreno's participation in Officer Silius' scheme to reenact the firearm discovery, a deed that came precariously close to an act of dishonesty and could have jeopardized the criminal prosecution of [REDACTED]. Officer Moreno's actions brought discredit to CPD and call into question his integrity and trustworthiness as a police officer. In addition, Officer Moreno took virtually no responsibility for his actions, and conceded only to the irrefutable BWC allegation.

¹⁰⁵ Under Illinois law, a person obstructs justice when, with intent to prevent the prosecution or defense of any person, he or she knowingly commits one of various acts, including furnishing false information. COPA notes the implications of this statute on this investigation. See Att. 64, 720 ILCS 5/31-4(a)(1).

¹⁰⁶ Att. 62.

In mitigation, COPA has considered Officer Moreno’s complimentary history and his relatively minor disciplinary history. However, given the gravity of his misconduct, COPA recommends that Officer Moreno receive a **substantial disciplinary penalty, up to and including separation** from CPD.

Approved:



Steffany Hreno
Director of Investigations

1/27/2024

Date



Andrea Kersten
Chief Administrator

1/27/2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	August 2, 2019 / Approximately 1:16 p.m. / 1026 S. Damen Avenue, Chicago, IL 60612
Date/Time of COPA Notification:	September 27, 2021 / 12:33 p.m.
Involved Officer #1:	Officer Alejandro Moreno / Star #13379 / Employee ID # [REDACTED] / Date of Appointment: February 23, 2015 / Unit of Assignment: 014 th District / Male / Hispanic
Involved Officer #2:	Officer Michael J. Silius / Star #17661 (resigned) / Employee ID # [REDACTED] / Date of Appointment: September 26, 2005 / Unit of Assignment: 014 th District / Male / White
Involved Individual #1:	[REDACTED] / Male / White

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 11:** Incompetency or inefficiency in the performance of duty.
- Rule 14:** Making a false report, written or oral.

Applicable Policies and Laws

- S03-14, Body Worn Cameras (effective April 30, 2018 to December 29, 2023).
- 720 ILCS 5/31-4, Obstructing Justice (effective January 1, 2013).

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.¹⁰⁷ 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.”¹⁰⁸

¹⁰⁷ 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).

¹⁰⁸ *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