



Log # 2024-0002320

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

### I. EXECUTIVE SUMMARY

On February 10, 2024, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD).<sup>2</sup> ██████████ alleged that on January 17, 2024, Officer Victor Lopez improperly handcuffed and performed a pat down on ██████████ without justification. Further, ██████████ alleged that Officer Lopez failed to de-escalate the interaction with him and engaged in a verbal altercation with him.<sup>3</sup> Following its investigation, COPA sustained the allegations regarding the handcuffing, pat down, and failed to de-escalate. COPA did not sustain the allegation that Officer Lopez engaged in a verbal altercation.<sup>4</sup>

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

On the afternoon of January 17, 2024, Officers Lopez, Endri Peci, and Nickolas Capello were assigned as a “tactical team” patrolling the 019 CPD District; Officer Lopez characterized this as an area known for high levels of gang violence.<sup>6</sup> The officers were not in uniform and were operating from an unmarked CPD vehicle.

At approximately 3 pm, the officers pulled their vehicle up behind ██████████ vehicle and conducted an inquiry in the Law Enforcement Agencies Data System (LEADS). The officers determined the license plate on ██████████ vehicle exhibited an expired registration.<sup>7</sup> Officer Capello, who was driving, exited the unmarked CPD vehicle and engaged ██████████ in conversation at the driver’s side window of ██████████ vehicle. Officer Peci exited the unmarked vehicle to provide security for Officer Capello; Officer Lopez stayed in the vehicle.<sup>8</sup> Even before Officer Capello spoke with ██████████ it became clear to Officer Capello that ██████████ vehicle had a valid seven-day

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<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. 11.

<sup>3</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>4</sup> COPA served a fifth allegation against Officer Lopez for retaliatory actions. COPA withdraws this allegation.

<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 body worn camera (BWC) footage, civilian and officer interviews, event queries, and the review of written police reports.

<sup>6</sup> Att. 18, pg. 8, Ins. 19 to 21. *See also* Att. 23.

<sup>7</sup> Att. 18, pg. 8, Ins. 19 to 24.

<sup>8</sup> Att. 5 at 2:00.

temporary permit affixed to the rear windshield of his vehicle and Officer Capello acknowledged this is his initial statement to ██████<sup>9</sup>

Officer Capello subsequently asked ██████ for his driver's license. ██████ acknowledged that he had a driver's license in his possession. ██████ inquired as to the initial reason for the stop and seeing as that issue had been resolved, refused to provide his driver's license to Officer Capello.<sup>10</sup> Officer Capello indicated that he would prepare a ticket for ██████ for not providing his license and proceeded to the rear of the unmarked CPD vehicle to retrieve his ticket book.<sup>11</sup> Officer Capello informed Officer Lopez that ██████ refused to provide his driver's license and that ██████ requested a supervisor. Officer Lopez requested that a supervisor come to the scene.

Officer Lopez suggested that they remove ██████ from his vehicle and Officer Capello acquiesced in that suggestion.<sup>12</sup> Officer Lopez approached the driver's side of ██████ vehicle, said, "You are not going to give us your drivers' license?" and directed ██████ to exit his vehicle several times.<sup>13</sup> Officer Lopez opened the driver door to ██████ vehicle. After some hesitation, ██████ did exit the vehicle.

As ██████ exited, Officer Lopez directed ██████ to the rear of the vehicle, while Officer Peci and Officer Cappello also stood at the rear of the vehicle. Officer Lopez then approached ██████ and repeated the demand for ██████ driver's license, pointing his finger towards ██████ chest. ██████ responded, "You can't intimidate me, I'm not scared."<sup>14</sup> Officer Lopez then asked, "Do you want to go to jail?"<sup>15</sup> ██████ threatened Officer Lopez with a civil lawsuit. ██████ then produced his driver's license, "under threat of arrest,"<sup>16</sup> to Officer Lopez, who gave it to Officer Capello, who returned to the police vehicle to check ██████ name against a database. Officers Lopez, Peci, and ██████ remained at the back of ██████ vehicle.

As ██████ returned his wallet to the front pocket of his sweatshirt, Officer Lopez instructed ██████ to keep his hands out of his pockets. ██████ removed the one hand from his sweatshirt pocket that had been in the pocket replacing the wallet. Officer Lopez then removed ██████ phone from ██████ other hand, tossed ██████ phone onto the trunk of ██████ car, placed ██████ hands behind his back, bent ██████ over the trunk of ██████ car, and handcuffed ██████ Officer Lopez then conducted a second pat down of ██████ outer clothing, again with negative results.

While ██████ remained handcuffed and his arm was restrained by Officer Lopez, Officer Peci addressed ██████ in a calm and measured tone, explaining the discrepancies that occurred during the stop. Officer Peci discussed the requirement for ██████ to produce his driver's license

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<sup>9</sup> Att. 12.

<sup>10</sup> Att. 5 at 2:25.

<sup>11</sup> Att. 5 at 2:57 to

<sup>12</sup> Att. 5 at 3:00.

<sup>13</sup> Att. 6 at 4:20; Att. 7 at 4:26.

<sup>14</sup> Att. 6 at 4:40.

<sup>15</sup> Att. 6 at 4:45.

<sup>16</sup> Att. 13 at 7

to law enforcement officers when driving a motor vehicle, as well as the details of the seven-day temporary permit.<sup>17</sup> Once Officer Capello alerted Officer Lopez that ██████ name cleared a database search, Officer Lopez removed the handcuffs from ██████ Officer Lopez can be heard telling ██████ that, “The moment you failed to render your driver’s license that’s a form of disrespect,”<sup>18</sup> and saying, “Next time, you need to listen to the police.”<sup>19</sup>

The interaction concluded shortly afterwards, when the officers released ██████ and issued him an investigatory stop receipt.<sup>20</sup> ██████ declined to wait for the previously requested supervisor to arrive at the scene and left; he indicated that he was eager to get to work.

### III. ALLEGATIONS

#### Officer Lopez:<sup>21</sup>

1. Performing a pat down on ██████ without justification.
  - **Sustained**, in violation of Rules 1, 2 and 6
2. Handcuffing ██████ without justification.
  - **Sustained**, in violation of Rules 1, 2 and 6
3. Failing to utilize de-escalation techniques to prevent or reduce the need for force when interacting with ██████
  - **Sustained**, in violation of Rule 2, 3, 6
4. Engaging in a verbal altercation with ██████ without justification.
  - **Not Sustained**

### IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: the individual’s truthfulness and 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 later accurately recall the event from memory.

COPA found reason to question Officer Lopez’s credibility in so far as Officer Lopez stated that he observed a bulge in ██████ front pocket suggesting the possibility that ██████ had a weapon. This appears to have been disingenuous, based on Officer Lopez’s direct observation of

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<sup>17</sup> Att. 7 at 6:40.

<sup>18</sup> Att. 6 at 8:40.

<sup>19</sup> Att. 5 at 9:00.

<sup>20</sup> Att. 7 at 9:26.

<sup>21</sup> COPA served Officer Lopez with a fifth allegation for retaliation against ██████ COPA withdraws this allegation.

█████ removing his wallet from his sweatshirt pocket and replacing it there, as well as BWC footage showing █████ wearing tight fitting garments with no observable bulge.<sup>22</sup>

COPA found no reason to question the credibility of the complainant █████ his statement was generally consistent with BWC evidence.

## V. ANALYSIS<sup>23</sup>

As a general matter, state law requires drivers of motor vehicles to provide their drivers' licenses in response to a request by law enforcement.<sup>24</sup> CPD policy regarding investigatory stops provides that a failure to do so is not in and of itself grounds for further detention.<sup>25</sup> The violation can appropriately be the subject of a ticket; the motorist subsequently producing the license in court is an absolute defense to the charge.

### a. Improper Handcuffing and Pat Down Search

COPA **sustains** the allegation that Officer Lopez handcuffed █████ without justification.

“[H]andcuffing is proper during an investigatory stop only when it is a necessary restraint to effectuate the stop and foster the safety of the officers.”<sup>26</sup> When officers take measures such as handcuffing a suspect, “they must be reasonable in light of the circumstances that prompted the stop, or that developed during its course.”<sup>27</sup> To handcuff a person, officers must have a sufficiently reasonable concern for officer safety.<sup>28</sup> Whether an officer's handcuffing was reasonable depends on the totality of the circumstances.<sup>29</sup> Officers must have reasonable articulable suspicion to believe that their safety is in danger to handcuff persons.<sup>30</sup> Courts weigh factors such as the ratio of officers to persons during the incident, the confirmed or suspected presence of weapons,

<sup>22</sup> Att. 6 at 4:45.

<sup>23</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>24</sup> 625 ILCS 5/6-112. See also Chicago Municipal Code section 9-40-030(b)(4) (“No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer...In connection with a traffic stop as the result of a suspected traffic or compliance violation, such an order or direction from a police officer may include...to provide appropriate identification including, in the case of the driver, the driver's license...”). In his statement Officer Capello also mentioned “obstruction of identification,” a Class A misdemeanor (720 ILCS 5/31-4.5). Obstruction of identification occurs when a person provides a false name or false address to a police officer after having been arrested or detained. █████ however, did not provide false information to the officers; he simply refused to identify himself.

<sup>25</sup> S04-13-09 V (B).

<sup>26</sup> See *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2010), for additional case law.

<sup>27</sup> *People v. Daniel*, 2013 IL App (1st) 111876, ¶ 40, 987 N.E.2d 470 (internal quotations omitted).

<sup>28</sup> *People v. Wells*, 403 Ill. App. 3d. 849, 857 (1st Dist. 2010) (citing *People v. Arnold*, 394 Ill. App. 3d 63, 71 (2nd Dist. 2009)); see also *People v. Colyar*, 2013 IL 111835, ¶ 46 (citing e.g., *United States v. Glenna*, 878 F.2d 967, 972 (7th Cir. 1989)).

<sup>29</sup> *People v. Colyar*, 2013 IL 111835, ¶ 32.

<sup>30</sup> *People v. Colyar*, 2013 IL 111835, ¶ 45 (“when an officer has reasonable suspicion during an investigatory stop that the individual may be armed and dangerous, the officer is permitted to take necessary measures to determine whether the person is armed and to neutralize any threat of physical harm,”) (citing *Terry v. Ohio*, 392, U.S. 1, 24 (1968)).

criminal activity in the neighborhood, and whether officers have reasonable articulable suspicion relating to a violent crime.<sup>31</sup>

In the totality of the circumstances COPA finds there was no way for Officer Lopez to reasonably conclude that ██████ was a threat to their safety. Officer Lopez related that he handcuffed ██████ due to being in a high crime area, ██████ moving his hands and not removing his hands from his pockets. He further categorized it as a form of de-escalation. However, ██████ does not appear to be moving his hands in a manner that a reasonable officer would believe constituted a threat to their safety. Officer Lopez was repeatedly asking ██████ for his license. ██████ removed his wallet from the front of his sweater with one hand while holding a phone with his other hand. Just before he was handcuffed by Officer Lopez, ██████ was returning his wallet to the front pocket of his sweatshirt. There was nothing a reasonable officer, acting in good faith, would find furtive or threatening in this action. Thus, the allegation is sustained.

COPA finds the allegation that Officer Lopez performed a pat down on ██████ without justification, is **sustained**.

A protective pat-down is a limited search during an investigatory stop in which the officer feels the outer clothing of a person to discover the presence of weapons. CPD officers have the authority to perform a protective pat down during an investigatory stop when an officer has detained a subject based on reasonable articulable suspicion that criminal activity is afoot and, during that detention, develops additional reasonable articulable suspicion that the subject is armed and dangerous or reasonably suspects that the person presents a danger of attack to the officer or another. The purpose of the pat down is for the safety of officers and members of the public; it is not to search for evidence.<sup>32</sup>

At the time the pat down search of ██████ was effected by Officer Lopez, Officer Lopez did not have a reasonable articulable suspicion that ██████ had committed a crime,<sup>33</sup> was in possession of a weapon, or was dangerous. In his statement to COPA, Officer Lopez justified both the handcuffing and pat down of ██████ “because of his irate demeanor, because of his hands in his pockets, bulges...I didn’t know what he was going to do.”<sup>34</sup> Notably, ██████ was wearing a

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<sup>31</sup> Compare *People v. Delaware*, 314 App. 3d 363, 371 (1st Dist. 2000) (handcuffing was unreasonable when three officers had no reasonable basis to continue to detain one defendant after hearing gunshots and observing him flee officers into an apartment, but observing no additional facts arising to reasonable suspicion or probable cause); with *People v. Richardson*, 2017 IL App (1st) 130203-B, ¶ 29 (handcuffing was reasonable at dusk when officers had reasonable suspicion that one of the subjects they stopped was armed, and the subjects outnumbered the officers).

<sup>32</sup> S04-13-09.

<sup>33</sup> There was arguably some type of administrative violation in so far as ██████ was displaying two sets of vehicle registration information, but this was not a crime requiring further investigation and no ticket was written in this regard. Ill. Admin. Code tit. 92, § 1010.426(e) – “Seven Day Permits provides that “The permit shall be displayed in the upper left corner of the rear window of the vehicle. License plates are not to be displayed on the vehicle if the permit is being used.” Contrary to what the officers said, ██████ *did* have the temporary permit correctly displayed in the rear window of his vehicle. In so far as he failed to remove the expired license plate from the rear bumper of the vehicle there appears to have been some violation of the administrative code.

<sup>34</sup> Att. 18, p.10, lns. 9-21.

tight-fitting “hoodie” style sweatshirt jacket, which clearly depicted the contour of [REDACTED] body, and no bulge was present. Prior to being handcuffed, [REDACTED] removed his wallet to retrieve his driver’s license at Officer Lopez’s direction, and it was entirely reasonable for [REDACTED] to then return the wallet to his sweatshirt’s front pocket. Given the timeline of events and the fit of [REDACTED] clothing, it was unreasonable to conclude that [REDACTED] was armed with a weapon. The pat down search by Officer Lopez was unreasonable, unjustified, and, therefore, misconduct.

#### **b. De-escalation and Verbal Abuse**

COPA **sustains** the allegation that Officer Lopez failed to utilize de-escalation techniques to prevent or reduce the need for force when interacting with [REDACTED]

CPD policy states that members “will act with a high degree of ethics, professionalism, and respect for the public, and in a manner that promotes trust between the Department and the communities it serves.”<sup>35</sup> “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.”<sup>36</sup> When assessing uses of force, members decisions must be judged on the totality of circumstances “from the perspective of a reasonable Department member on the scene, in the same or similar circumstances.”<sup>37</sup>

Officer Lopez did not implement de-escalation techniques. Rather, he resorted to threats to arrest [REDACTED] and send him to jail. In fact, [REDACTED] asked Officer Lopez why he was stepping close to him and trying to intimidate him. In this case, Officers Capello and Peci were in the precisely the same circumstance as Officer Lopez, but conducted themselves very differently. Officer Peci’s successful use of de-escalation techniques stands in contrast to Officer Lopez’s aggressive and escalatory response.

COPA finds the allegation that Officer Lopez engaged in a verbal altercation with [REDACTED] without justification, is not sustained. CPD Rules 8 and 9 prohibit members from engaging in any unjustified verbal altercation or maltreating or disrespecting any person.<sup>38</sup> CPD policy requires that “members treat all persons with courtesy and dignity which is inherently due to every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, and maintain a courteous attitude in all contacts with the public.”<sup>31</sup> CPD officers “will not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner.”<sup>39</sup> Here, while Officer Lopez should have engaged [REDACTED] in a more courteous manner, COPA does not find that there is sufficient evidence that this altercation rose to the level of a verbal altercation. Thus, this allegation is not sustained.

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<sup>35</sup> GO3-02 II (B).

<sup>36</sup> GO3-02 II (D).

<sup>37</sup> GO3-02 II (E).

<sup>38</sup> Article V, Rules 8 and 9 of the Rules and Regulations of the Chicago Police Department.

<sup>39</sup> Att. 29, G02-01 III(D).

**VI. DISCIPLINARY RECOMMENDATION**

**a. Officer Victor Lopez**

**i. Complimentary and Disciplinary History**

The “Five Year Sustained Complaints History Report” received from CPD in regard to Officer Lopez lists “no records found.” This officer’s SPAR history report lists no entries. This officer has received 121 awards and commendations, to include a life saving award, a police officer of the month award, and five problem solving awards.

**ii. Recommended Discipline**

COPA has considered Officer Lopez’s complimentary and disciplinary history. COPA has considered the following factors in aggravation: the nature of the sustained allegations, to include violations of state and federal law, the nature of the misconduct, that the victim is a member of the public, the officer’s disregard of training expectations, as well as the officer’s failure to accept responsibility for his misconduct. COPA recommends the officer receive a **suspension of up to 30 days.**

Approved:

[Redacted Signature]

Sherday Jackson  
*Deputy Chief Administrator – Chief Investigator*

December 30, 2024

Date

Appendix A**Case Details**

|                                 |   |
|---------------------------------|---|
| Date/Time/Location of Incident: | January 17, 2024 / 3:30 pm / 440 N. Broadway, Chicago, IL 60640.  |
| Date/Time of COPA Notification: | February 10, 2024 / 8:51 am.  |
| Accused Member #1:              | Officer Victor Lopez, Star #16182, Employee ID # [REDACTED]<br>DOA: February 23, 2015, Unit: 019, Male, Hispanic.                   |
| Involved Member #2:             | Officer Endri Peci, Star #10452, Employee ID # [REDACTED]<br>DOA: April 25, 2016, Unit: 019, Male, White.                           |
| Involved Member #3:             | Officer Nickolas Capello, Star #9030, Employee ID # [REDACTED]<br>DOA: June 16, 2017, Unit: 019/ 195, Male, Asian Pacific Islander. |
| 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 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.

**Applicable Policies and Laws**

- U.S. Const. amend. IV
- Illinois Officer Worn Camera Act, 50 ILCS 706/10
- Ill. Admin. Code tit. 92, § 1010.426(e)
- GO2-01, Protection of Human Rights (effective June 30, 2022, to present)
- GO3-02, De-escalation, Response to Resistance, and Use of Force (effective June 28, 2023 to present)
- G03-02-01, Response to Resistance and Force Options (effective June 28, 2023 to present)
- GO8-05, Prohibition of Retaliation (effective August 22, 2023, to present)
- S04-13-09, Investigatory Stop Systems (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.<sup>40</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>41</sup>

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<sup>40</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>41</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