Log # 2022-2554

FINAL SUMMARY REPORT[1]

I. EXECUTIVE SUMMARY

On June 21, 2022, the Civilian Office of Police Accountability (COPA) received a telephone complaint from [redacted] regarding alleged misconduct by members of the Chicago Police Department (CPD). [redacted] alleged that on June 20, 2022, CPD Officers Roger Farias, Ryan Trujillo, and David Arauz stopped and searched the vehicle he was driving without justification. [redacted] also alleged that Officers Fredy Sotelo and Carlos Herrera searched his vehicle without justification. Additionally, [redacted] complained that Officer Farias choked him by placing his arm around his neck. Upon review of the evidence, COPA served additional allegations that Officer Farias failed to complete a Tactical Response Report (TRR) subsequent to his physical contact with [redacted] that Officer Gilberto Garcia failed to timely activate his body-worn camera (BWC), and that Officers Arauz and Trujillo failed to complete an Investigatory Stop Report (ISR).

Following its investigation, COPA reached sustained findings for the search allegations and the allegations that Officer Farias choked and/or placed his arms around [redacted] neck and failed to document that action.

II. SUMMARY OF EVIDENCE[2]

On June 20, 2022, Beat 4165A, Officers Farias, Trujillo, and Arauz notified the Office of Emergency Management and Communications (OEMC) that they were conducting a traffic stop on [redacted] at 2200 S. Canal Street. Beat 4165B, Officers Herrera and Sotelo, notified OEMC that they were assisting with the traffic stop.[3] Officers Garcia and Derek Golak also joined at the scene.[4]

[redacted] told COPA that on the day of this incident he was working for Uber Eats delivering food, and he was driving his 2002 Jeep Cherokee when the police stopped his vehicle.

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[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 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, and statements from the involved officers.
[3] Atts. 8, 19, and 40
[4] Officer Garcia activated his BWC several minutes after he arrived on the scene as back-up, but before he actively interacted with [redacted] or assisted any officer. Att. 11 at 2:00.
[5] Atts. 1 and 2.

[redacted] stated that one of the officers[6] approached the driver's side of his vehicle while the other officer[7] approached the passenger side.

During the stop, Officer Farias informed Thomspon that they pulled him over because he failed to stop his vehicle at a stop sign. Thomspon denied failing to stop at the stop sign. The officers asked [redacted] to produce his driver's license and proof of insurance. [redacted] refused to comply with the officers' requests or answer any additional questions, explaining that he did not trust them. Instead, [redacted] asked the officers to have a supervisor come to the scene. [redacted] also explained that his vehicle's driver's side window and the front passenger window were not functional and could not be lowered, so the officers had to speak to him through the lowered backseat windows. Officer Farias then utilized the Portable Data Terminal (PDT) inside his police vehicle to conduct a license plate check on [redacted] vehicle.[8] After conducting the license plate check, Officer Farias returned to the driver's side of [redacted] vehicle and again asked him for his name and driver's license, but [redacted] refused to cooperate and continued to argue about the reason for the stop.[9]

Officer Farias used his left hand to reach through the lowered backseat passenger window on the driver's side and opened the rear driver's side door.[10] Officer Farias then tapped [redacted] on his left shoulder and asked him to step out of the vehicle. [redacted] turned his upper body counterclockwise and extended his left arm towards the opened door while telling Officer Farias to close the door. Officer Farias responded by grabbing [redacted] left arm.[11] [redacted] pulled away from Officer Farias, and the two struggled with each other, at which time Officer Farias said, "Stop."[12] The video footage shows that Officer Farias then used his left arm, wrapped it around [redacted] neck area, and pulled [redacted] back against the seat in what appeared to be a chokehold maneuver.[13] Officer Farias then said, "Fucking grabbed me. Don't fucking grab me, understand?"[14] [redacted] replied, "I'm sorry, I'm sorry. Alright?"[15] In his interview with COPA, [redacted] stated that he felt Officer Farias first grab his left arm and then felt Officer Farias's arm come around the front of his neck and grab him around the neck.[16]

Officer Farias told COPA that he grabbed [redacted] from behind with both arms in a bear-hug like movement to control [redacted] so that he could not reach for anything that could harm the officers until they could grab a hold of [redacted] arms.[17] Officer Farias explained that his forearm inadvertently made contact with the front of [redacted] neck due to [redacted] continuous movement and shifting in the driver's seat. Officer Farias stated that he did not place [redacted] in a chokehold, explaining that the contact his forearm made with the front of

[6] NKA Officer Roger Farias.
[7] NKA Officer David Arauz.
[8] Att. 10 from 2:11 to 4:26.
[9] Att. 10 from 6:19 to 8:06.
[10] Att. 10 at 8:07 to 8:18.
[11] Att. 10 at 8:20 to 8:25.
[12] Att. 10 at 8:25 to 8:32.
[13] Att. 14 at 6:24 to 6:45.
[14] Att. 10 at 8:34 to 8:38.
[15] Att. 10 at 8:39.
[16] Att. 2 at 11:18 to 11:50; Att. 14 at 6:24 to 6:45.
[17] Att. 57 at 6:00 to 6:18.

[redacted]neck was unintentional and brief. Officer Farias added that he never applied any pressure to the front of [redacted]neck, and that he was only attempting to control [redacted] and prevent him from reaching for any possible weapons. [18]

As Officer Farias and [redacted]continued to struggle, the other officers opened the driver's door and front passenger door, grabbed [redacted]and removed him from the vehicle. [redacted]was ultimately handcuffed and walked to the rear of his vehicle, where Officer Arauz conducted a pat down.[19] Officer Garcia remained at the rear of the Jeep with [redacted]for the entire encounter.[20] Officer Golak also remained near the rear of the Jeep and did not participate in the search of [redacted]Jeep or his person.[21]

Officers Farias, Arauz, Herrera, Sotelo, and Trujillo searched [redacted]Jeep for contraband.[22] According to the officers, they searched [redacted]Jeep suspecting there could be a weapon or narcotics in the vehicle, based on [redacted]movements, hostility, and the odor of cannabis.[23] In searching [redacted]vehicle, Officer Farias entered the driver's seat of the Jeep and removed the radio cover and opened the compartments around the driver's seat.[24] Officer Farias then moved to the backseat area of the Jeep and searched there, lifting the seats. Officer Farias then searched the trunk along with Officers Sotelo and Trujillo.[25] Officer Sotelo then opened and searched the engine compartment of [redacted]Jeep with Officer Herrera.[26] Officer Farias returned to the driver's seat and continued to search the Jeep, removing more paneling from the driver's area to look behind it.[27] Cannabis crumbs and residue were found on the floor inside [redacted]vehicle as well as a plastic baggie consistent with cannabis packaging.[28]

Officer Trujillo issued Thomspon traffic citations for Disregarding a Stop Sign and Failure to Carry / Display License / Permit.[29] Officers Farias and Arauz later completed and submitted an ISR, which was reviewed and approved by Sergeant Patrick Kenah.[30] Officer Trujillo stated that he believed he provided [redacted]with an Investigatory Stop Receipt.[31]

Officer Farias explained that he did not complete a (TRR) because the physical contact he had with [redacted]was only to control and handcuff him.[32] However, after watching the BWC, Officer Farias acknowledged that he maybe should have completed a TRR.[33]

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[18] Att. 58 at 00:50 to 2:50.
[19] Att. 11 at 3:14 to 3:25.
[20] Att. 11.
[21] Att. 12.
[22] Att. 10 at 13:50; Att. 13 at 7:05; Att. 14 at 7:21; Att. 18 at 9:29; Att. 20 at 9:32.
[23] Att. 57 at 3:46 to 5:50, 7:30, and 15:20; Att. 50 at 14:40; Att. 51 at 20:35; Att. 41 at 18:35; and Att. 46 at 8:53.
[24] Att. 10 at 12:38 to 16:10.
[25] Att. 10 at 16:15 to 18:40. Att. 14. at 15:45. Att. 18 at 9:20.
[26] Att. 14 at 16:59 to 17:45. Att. 13 at 17:12 to 17:45.
[27] Att. 10 at 20:00 to 20:55.
[28] Att. 57 at 15:25; Att. 41 at 18:43; Att. 40 at 20:25.
[29] Att. 18 at 19:20 to 28:30. Att. 27.
[30] Att. 40.
[31] Att. 51 at 26:53.
[32] Att. 58 at 4:25 to 2:50.
[33] Att. 58 at 4:48 to 5:03.

III. ALLEGATIONS

Officer Roger Farias:[34]

1. Stopping the vehicle [redacted] was driving without justification;
   - Not Sustained.
2. Searching the vehicle [redacted] was driving without justification;
   - Exonerated.
3. Choking and/or placing his arms around [redacted] neck;
   - Sustained – Violation of CPD Rules 2, 3, 6, 8, and 9.
4. Failing to complete a Tactical Response Report subsequent to his physical contact with [redacted]
   - Sustained – Violation of CPD Rules 3, 5, 6, and 10.

Officer David Arauz:[35]

1. Stopping the vehicle [redacted] was driving without justification;
   - Not Sustained.
2. Searching the vehicle [redacted] was driving without justification;
   - Exonerated.
3. Failing to complete an Investigatory Stop Report (ISR) to document the pat down of [redacted] and/or the search of the vehicle [redacted] was driving.
   - Unfounded.

Officer Ryan Trujillo:[36]

1. Stopping the vehicle [redacted] was driving without justification;
   - Not Sustained.
2. Searching the vehicle [redacted] was driving without justification;
   - Exonerated.
3. Failing to complete an Investigatory Stop Report (ISR) to document the pat down of [redacted] and/or the search of the vehicle [redacted] was driving.
   - Unfounded.

Officers Fredy Sotelo and Carlos Herrera:[37]

1. Searching the vehicle [redacted] was driving without justification.
   - Exonerated.

Officer Gilberto Garcia:[38]

1. Failing to timely activate his body-worn camera, in violation of Special Order S03-14.
   - Sustained – Violation of CPD Rules 3, 5, 6, and 10.

[34] Att. 59.
[35] Att. 36.
[36] Att. 38.
[37] Atts. 37, 43.
[38] Att. 53.

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. ANALYSIS[39]

COPA finds that **Allegation #1 against Officer Farias**, that he stopped the vehicle [redacted] was driving without justification, is not sustained. CPD policy permits officers to conduct a traffic stop if the officer can provide a reasonable articulable suspicion that the person stopped is committing, has committed, or is about to commit a criminal offense.[40] Officer Farias explained that they stopped [redacted] vehicle because he failed to stop at a stop sign.[41] Although the involved officers documented and subsequently issued traffic citations to [redacted] for failing to stop at a stop sign, [redacted] claimed that he did in fact stop at the stop sign. This investigation revealed insufficient evidence to prove or disprove the allegation. Accordingly, COPA finds Allegation #1 against Officer Farias is **not sustained**.

Similarly, COPA finds that **Allegation #1 against Officers Arauz and Trujillo**, that they stopped the vehicle [redacted] was driving without justification, is also not sustained, for the same reasons provided above for Officer Farias.

COPA finds that **Allegation #1 against Officers Sotelo and Herrera, and Allegation #2 against Officers Farias, Arauz, and Trujillo,** that they searched the vehicle [redacted] was driving without justification, are **exonerated**. CPD members are permitted to search a vehicle when: (1) there is probable cause to believe evidence of a crime in present;[42] (2) there is reasonable suspicion the vehicle contains a weapon and/or that the occupants are armed and dangerous;[43] (3) an arrest is made, provided there is reasonable suspicion that the vehicle contains evidence of the crime for which the arrest is made;[44] (4) a vehicle is being impounded by CPD;[45] or (5) consent is obtained. In Illinois and the City of Chicago, cannabis can only be lawfully transported if it is in a sealed, odor-proof, child-resistant container.[46] Therefore, when a CPD member detects the odor of cannabis emitting from a vehicle, the officer has probable cause to conduct a search of a vehicle. Further, this principle has been extended to include searches of the driver and passengers of that vehicle.[47]

[39] For a definition of COPA's findings and standards of proof, *see* Appendix B.
[40] Att. 22, S04-13-09(II)(A), Investigatory Stop System (effective July 10, 2017 to present).
[41] Att. 57 at 1:50.
[42] *Maryland v. Dyson*, 527 U.S. 465 (1999).
[43] *Michigan v. Long*, 463 U.S. 1032 (1983).
[44] *Arizona v. Grant*, 556 U.S. 332 (2009).
[45] *South Dakota v. Oppeman*, 428 U.S. 364 (1976).
[46] 625 ILCS 5/11-502.15(c); see also MCC 7-24-099(b)(4).
[47] *People v. Zayed*, 2016 IL App (3rd) 140780 (2016).

Here, the officers each recounted they detected an odor of cannabis emitting from [redacted] vehicle.[48] Additionally, this information is detailed in the ISR the officers completed to document the interaction. While the officers' decision to search the engine compartment, move seats, and open interior paneling may not be ideal, they were authorized to search for cannabis in this manner.

COPA finds that **Allegation #3 against Officer Farias**, that he choked and/or placed his arms around [redacted] neck without justification, is **sustained**. Although Officer Farias denied that he choked [redacted] he did acknowledge that during the struggle, his forearm unintentionally made contact with [redacted] neck, because of [redacted] movements to prevent the officers from gaining control of him. Officer Farias further explained that he grabbed [redacted] to prevent him from reaching for any weapons he might have had in the vehicle. Officer Farias believed that he prevented the situation from escalating and resulting in injury to those involved. However, Officer Farias's concern about [redacted] having a weapon was never articulated during the stop. Officer Farias's calm behavior also does not support his belief that [redacted] may have had a weapon.

The BWC footage clearly shows that Officer Farias placed his arm around [redacted] neck and pulled him backward against the driver's seat. This was an objectively unreasonable and ineffectual way to deal with [redacted] alleged movements, because Officer Farias' position from the rear driver's side door made it very difficult to grab [redacted] or control his movements. Officer Farias indicated that he was putting [redacted] in a type of bear hug to prevent him from being able to harm the other officers. However, when Officer Farias put his arm around [redacted] neck, he did nothing to prevent [redacted] from using his arms and hands to reach for anything. CPD policy provides that officers may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances.[49] In this case, Officer Farias' use of force met none of these requirements. Accordingly, COPA finds Allegation #3 against Officer Farias, that he choked and/or placed his arms around [redacted] neck without justification, is sustained.

COPA finds that **Allegation #4 against Officer Farias**, that he failed to complete a TRR subsequent to his physical contact with [redacted] is **sustained**. CPD policy requires that a TRR be completed if an officer uses certain types of force, including a chokehold, carotid artery restraint, or other maneuver for applying direct pressure on a windpipe or airway.[50] Officer Farias placed his arm around [redacted] neck, which could have resulted in the application of direct pressure to [redacted] windpipe or airway. Accordingly, Officer Farias was required to complete a TRR, and this allegation is sustained.

[48] COPA notes that the discovery of cannabis residue and/or packaging inside the vehicle corroborates the officers' accounts.
[49] Att. 25, G03-02(III)(B), De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 28, 2023).
[50] Att. 26, G03-02-02(III)(B)(2)(c)(1), Incidents requiring the Completion of a Tactical Response Report (effective April 15, 2021 to June 28, 2023).

COPA finds that **Allegation #3 against Officers Arauz and Trujillo**, that they failed to complete an ISR to document the pat down of [redacted] and/or search of his vehicle, is **unfounded**. This investigation revealed that ISR was completed and submitted regarding this incident, and it documents both the pat down and vehicle search.[51]

COPA finds that **Allegation #1 against Officer Garcia**, that he failed to timely activate his BWC, is **sustained**. CPD policy provides that members will activate their BWCs "to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical."[52] This investigation showed that Officer Garcia did not activate his BWC until several minutes after he arrived on the scene, when he was already standing to the side of the encounter.[53] During his statement to COPA, Officer Garcia acknowledged that he should have activated his BWC sooner, when he first exited his vehicle.[54] While COPA recognizes that Officer Garcia did activate his camera before he interacted with [redacted] his untimely activation violated CPD policy. For that reason, COPA finds this allegation is sustained.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Roger Farias

i. Complimentary and Disciplinary History[55]

Officer Farias has received 211 various awards, including one Police Officer of the Month Award, one Top Gun Arrest Award, one Traffic Stop of the Month Award, and three Department Commendations. His disciplinary history includes a 1-day suspension for failing to complete an ISR and investigatory stop receipt in 2019, and a 3-day suspension for conduct unbecoming, improper pat downs, failing to record, and failing to complete an ISR in 2019. Finally, Officer Farias has received five SPARs (two court appearance violations, two preventable accidents, and one failure to perform assigned tasks), for which he received four reprimands.

ii. Recommended Discipline

COPA has found that Officer Farias violated Rules 2, 3, 5, 6, 8, 9, and 10 when he used excessive force against [redacted] and failed to document that force in a TRR. Officer Farias' decision to place his arm around [redacted] neck and pull him backward was grossly out of proportion to [redacted] level of resistance. It was also an unwarranted and ineffectual method of controlling [redacted] which created significant risk of choking and/or other injury. COPA also notes that Officer Farias has a significant disciplinary record, which includes prior incidents in which he failed to complete the required documentation. In mitigation, COPA recognizes Officer Farias' extensive complimentary history and years of service. For these reasons, COPA

[51] See Att. 40.
[52] Att. 23, S03-14(III)(A)(2), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).
[53] Att. 11.
[54] Att. 52 at 27:32.
[55] Att. 65.

recommends that Officer Farias receive a **10-day suspension and retraining** regarding CPD's use of force policy.

b. Officer Gilberto Garcia

i. Complimentary and Disciplinary History[56]

Officer Garcia has received 23 various awards, including 20 Honorable Mentions. He has no sustained disciplinary history in the past five years.

ii. Recommended Discipline

COPA has found that Officer Garcia violated Rules 3, 5, 6, and 10 when he failed to timely activate his BWC during this incident. Officer Garcia's failure to timely activate his BWC undermined CPD's commitment to transparency and could have deprived this investigation of valuable evidence. However, Officer Garcia accepted responsibility for his actions, and he did eventually activate his camera prior to interacting with [redacted] It is for these reasons, combined with Officer Garcia's complimentary and lack of disciplinary history, that COPA recommends he receive a **reprimand and retraining** regarding CPD's BWC policy.

Approved:

[redacted]

Steffany Hreno
Director of Investigations

1/16/2024

Date

[56] Att. 63.

Appendix A

Case Details

Date/Time/Location of Incident:	June 20, 2022 / 5:52 pm / 2200 S. Canal Street / Chicago, Illinois 60616.
Date/Time of COPA Notification:	June 21, 2022 / 9:35 am.
Involved Officer #1:	Roger Farias / Star #9942 / Employee ID # [redacted] / DOA: December 16, 2009 / Unit: 215 / Male / Hispanic.
Involved Officer #2:	Fredy Sotelo / Star #15400 / Employee ID # [redacted] / DOA: December 12, 2016 / Unit: 715 / Male / Hispanic.
Involved Officer #3:	Gilberto Garcia / Star 15304 / Employee ID # [redacted] / DOA: May 16, 2018 / Unit: 715 / Male / Hispanic.
Involved Officer #4:	Carlos Herrera / Star #12178 / Employee ID # [redacted] / DOA: February 29, 2016 / Unit: 715 / Male / Hispanic.
Involved Officer #5:	Ryan Trujillo / Star #16453 / Employee ID # [redacted] / DOA: October 26, 2015 / Unit: 211 / Male / Hispanic.
Involved Officer #6:	David Arauz / Star #4101 / Employee ID # [redacted] / DOA: June 25, 2018 / Unit: 211 / Male / Hispanic.
Involved Individual #1:	[redacted] / Male / Black.

Applicable Rules

- ☒ **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- ☒ **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- ☒ **Rule 5:** Failure to perform any duty.
- ☒ **Rule 6:** Disobedience of an order or directive, whether written or oral.
- ☒ **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- ☒ **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- ☒ **Rule 10:** Inattention to duty.
- ☐ **Rule 14:** Making a false report, written or oral.
- ☐ **Rule 38:** Unlawful or unnecessary use or display of a weapon.
- ☐ **Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- G03-02, De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2020 to June 28, 2023).
- G03-02-01, Response to Resistance and Force Options (effective April 15, 2020 to June 28, 2023).
- G03-02-02, Incidents Requiring the Completion of a Tactical Response Report (effective April 15, 2020 to June 28, 2023).
- S03-14, Body Worn Cameras (effective April 30, 2018 to December 29, 2023).
- 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.[57] 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."[58]

[57] *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).
[58] *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 Information

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