



Log # 2023-2307

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

### I. EXECUTIVE SUMMARY

On May 29, 2023, the Civilian Office of Police Accountability (COPA) received an Initiation Report<sup>2</sup> from Sergeant Kyle Lloyd reporting alleged misconduct by a member of the Chicago Police Department (CPD). The complainant, [REDACTED] alleged that on May 28, 2023, Officer William Walter slammed his granddaughter, [REDACTED] to the ground without justification.<sup>4</sup> COPA served an allegation to Officer Monica Hernandez for failing to properly activate her Body Worn Camera (BWC), entering onto the property without justification, searching [REDACTED] without justification, and searching [REDACTED] purse without justification. Following its investigation, COPA reached an Exonerated finding for Officer Walter's use of force, a Sustained finding for Officer Hernandez' BWC violation, an Exonerated finding for entering onto the property without justification and searching [REDACTED] purse without justification, and Unfounded finding for searching [REDACTED] without justification.

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

Body Worn Camera (BWC) footage captured Officer Hernandez, approaching [REDACTED] while she was on a porch with two of her friends.<sup>6</sup> Officer Hernandez asked [REDACTED] and [REDACTED] if they had any guns on them. Officer Hernandez attempted to check [REDACTED] and [REDACTED] purses, but [REDACTED] got in front of her friends and told Officer Hernandez she needed to back away from them.<sup>7</sup> A struggle ensued between Officer Hernandez, [REDACTED] and [REDACTED].<sup>8</sup>

During the struggle on the porch, Officer Walter ran over to assist Officer Hernandez and other officers.<sup>9</sup> During his statement to COPA, Officer Walter stated that he observed several

<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. 12.

<sup>3</sup> [REDACTED] was fifteen years old at the time of the incident.

<sup>4</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>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, video footage, police reports, civilian interviews, and officer interviews.

<sup>6</sup> [REDACTED] identified [REDACTED] and [REDACTED] as her two friends. Att. 21 at 10:15 to 12:30.

<sup>7</sup> Att. 3, BWC of Officer Hernandez, at 01:36; Att. 21 at 6:08.

<sup>8</sup> Att. 3 at 01:42.

<sup>9</sup> Att. 2, BWC of Officer Walter, at 02:50.

females on the porch pulling back and forth and assumed a fight was going on.<sup>11</sup> Officer Walter grabbed [REDACTED] left arm and performed an emergency takedown.<sup>12</sup> Officer Walter held [REDACTED] on the ground momentarily until officers were able to escort her off the porch safely due to the chaotic scene.

Officer Walter stated that he performed an emergency takedown on [REDACTED] because he identified her as an assailant.<sup>14</sup> Officer Walter described [REDACTED] being an assailant because she was moving back and forth, pushing and shoving, and not following the verbal directives.<sup>15</sup> Officer Walter stated Officer Hernandez described [REDACTED] as an active resister because she was pulling, attempting to keep a purse away from Officer Hernandez, and stiffening her body.<sup>16</sup> Officer Walter stated it was the quickest use of force technique to diffuse the chaos. [REDACTED] was handed over to another officer on the scene and was subsequently released. Officer Walter stated that [REDACTED] was not arrested because it was a miscommunication, and due to the scene being unsafe, it was not worth reapproaching the house to arrest her. The adults on scene refused to give any information on [REDACTED] [REDACTED] was taken to the University of Chicago Hospital for treatment and was treated for acute pain of the right knee and abrasions.<sup>17</sup>

Officer Hernandez stated surveillance was being conducted on [REDACTED] due to continuous drug and firearm activity in the area. During the surveillance, Officer Hernandez said multiple firearms were observed on the public way (sidewalk) and on the porch of [REDACTED] and [REDACTED].<sup>18</sup> Officer Hernandez approached the porch of [REDACTED] because there were guns seen on the porch during surveillance. Officer Hernandez approached the females on the porch because of the surveillance information and she observed [REDACTED] and [REDACTED] concealing [REDACTED].<sup>19</sup> Officer Hernandez stated when she walked onto property, she relayed her purpose for being there while walking up the stairs. At this time, the situation became hostile right away and [REDACTED] concealed herself even more behind [REDACTED] and [REDACTED].”

Officer Hernandez stated she attempted to do a protective pat down when a struggle occurred that started with [REDACTED] began pushing Hernandez’s hands off the purse and telling Officer Hernandez to get away. Officer Hernandez felt a hard object inside of [REDACTED] purse and assumed it was a firearm.<sup>20</sup> When Officer Walter came to assist, she was

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<sup>11</sup> Att. 2 at 03:01.

<sup>12</sup> Att. 2 at 03:07.

<sup>14</sup> Att. 11, Officer Walter’s Tactical Response Report (TRR).

<sup>15</sup> This is corroborated by BWC footage. See Att. 2 at 03:00.

<sup>16</sup> Att. 26, Officer Walter’s Audio Statement, starting at 21:28.

<sup>17</sup> Att. 24, [REDACTED] Medical Records, document her admission to hospital staff that she was attempting to interfere with CPD when she was taken to the ground (pgs. 6, 11, and 16). Att. 36, Police Observation Device (POD) footage corroborates Officer Hernandez’ assertion.

<sup>18</sup> Att. 29, Officer Hernandez’s Statement, at 04:34.

<sup>19</sup> Att. 29 from 05:00 to 005:15.

<sup>20</sup> Att. 7, Investigatory Stop Report (ISR) for “Jane Doe” was completed to document contact with [REDACTED] (pg. 2).

able to search through the purse but did not find anything.<sup>21</sup> [REDACTED] was detained, but Hernandez did not know what happened after [REDACTED] was escorted off the porch.<sup>22</sup> No one on the porch was arrested during this incident. Officer Hernandez stated her BWC was activated late due to her rushing to the scene.<sup>23</sup>

### III. ALLEGATIONS

#### Officer William Walter:

1. Slammed K'Mora [REDACTED] on the ground without justification.
  - Exonerated.

#### Officer Monica Hernandez:

1. Searched K'Mora [REDACTED] without justification.
  - Unfounded.
2. Searched Shakayla [REDACTED] purse, without justification.
  - Exonerated.
3. Failed to timely activate your body worn camera.
  - Sustained in violation of Rules 2, 3, 5, 6, and 10.
4. Entered onto the property without justification.
  - Exonerated

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

### V. ANALYSIS<sup>24</sup>

COPA finds that Allegation #1 against Officer Walter, that he slammed [REDACTED] to the ground without justification, **Exonerated**. CPD members are permitted to use force to overcome resistance.<sup>25</sup> When members encounter a citizen who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that citizen is an active resister.<sup>26</sup> Members are permitted to respond to active resistance with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; and taser deployment.<sup>27</sup> Additionally, when a member encounters a citizen who is using or threatening the use of force against another person or

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<sup>21</sup> Att. 6, an Investigatory Stop Report (ISR) was completed by Officer Hernandez which describes a female subject wearing a black sweater and blue jean shorts. The female subject, listed as Jane Doe, was identified as [REDACTED]

<sup>22</sup> Att. 29 at 11:20.

<sup>23</sup> Att. 29 at 13:12.

<sup>24</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

<sup>25</sup> Att. 28, G03-02-01, Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).

<sup>26</sup> Att. 28, G03-02-01 IV(B)(2).

<sup>27</sup> Att. 28, G03-02-01 IV(B)(2)(c).

themselves which is likely to cause injury, that citizen is an assailant.<sup>28</sup> If the citizen's actions are aggressively offensive with or without weapons,<sup>29</sup> members are permitted to respond with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; taser deployment; direct mechanical strikes; and impact weapons and munitions.<sup>30</sup>

Here, Officer Walter described [REDACTED] being an assailant because she was moving back and forth, pushing and shoving, and not following the verbal directives. Officer Walter performed an emergency takedown on [REDACTED] and stated it was the quickest use of force technique to diffuse the chaos. In addition, Officer Walter documented his use of force in a TRR. Therefore, COPA finds this allegation **Exonerated**.

COPA finds that Allegation #1 against Officer Hernandez, that she searched [REDACTED] without justification, **Unfounded**. COPA located no evidence that any CPD member searched [REDACTED] therefore, this allegation is **Unfounded**.

COPA finds that Allegation #2 against Officer Hernandez, that she searched [REDACTED] purse without justification, **Exonerated**. A person who is lawfully detained can be subjected to a limited search – a protective pat down – for weapons if a CPD member “reasonably suspects that [the member] or another is in danger of attack, [the member] may search the person for weapons.”<sup>31</sup> Further, if during the limited search the CPD member “encounters an object that, based on their training and experience, the[y] ... believe the object is contraband, the ... member may seize the item without a warrant[; however, prior to recovery t]he object may not be manipulated in order to determine the identity of the object.”<sup>32</sup>

Here, the totality of the circumstances, provided the reasonable basis for Officer Hernandez to complete a pat down of [REDACTED] purse. When Officer Hernandez felt what she believed to be a firearm concealed within the purse, a search of the purse was reasonably permitted. Officer Hernandez completed an ISR documenting her search of the purse. Therefore, COPA finds this allegation **Exonerated**.

COPA finds that Allegation #3 against Officer Hernandez, that she failed to timely activate her body worn camera, **Sustained**. CPD Members are required to activate BWC “at the beginning of” or “as soon as practical” for “all law-enforcement-related activities.”<sup>33</sup> Here, it is undisputed

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<sup>28</sup> Att. 28, G03-02-01 IV(C).

<sup>29</sup> The weapons can include a deadly weapon, but the citizen's actions did not constitute an imminent threat death or great bodily harm.

<sup>30</sup> Att. 28, G03-02-01 IV(C)(1).

<sup>31</sup> Att. 32, S04-13-09 IV(B), Investigatory Stop System (effective July 10, 2017 to current).

<sup>32</sup> Att. 32, S04-13-09 II (E).

<sup>33</sup> “Law-enforcement-related activities include but are not limited to:” “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the

that Officer Hernandez failed to timely activate her BWC. This failure violated CPD policy and Rules 2, 3, 5, 6, and 10. Therefore, COPA finds this allegation **Sustained**.

COPA finds that Allegation #4 against Officer Hernandez, that she entered onto the property without justification, **Exonerated**. CPD members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.<sup>34</sup> This detention is an Investigatory Stop. Reasonable articulable suspicion is defined as “an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion.”<sup>35</sup>

Here, surveillance was being conducted on this block and firearms were seen on the porch and public way of [REDACTED]. As Officer Hernandez was assisting other officers, she observed females on the porch concealing themselves from law enforcement which directed her attention to the porch. The porch was readily accessible to the public and would normally be considered the place in which any person would approach property to speak with occupants. Based on the totality of the circumstances, Officer Hernandez’ entry onto the porch to address individuals that were attempting to conceal themselves was reasonable and proper. In addition, Officer Hernandez completed ISRs documenting her contact with [REDACTED] and [REDACTED]. Therefore, COPA finds this allegation **Exonerated**.

## VI. DISCIPLINARY RECOMMENDATION

### a. Officer Monica Hernandez

#### i. Complimentary and Disciplinary History<sup>36</sup>

Officer Hernandez has received 36 various awards. Additionally, in 2023, Officer Hernandez received a Violation Noted for failing to timely activate her BWC.<sup>37</sup>

#### ii. Recommended Discipline

Here, COPA has found that Officer Hernandez failed to timely activate her BWC. Officer Hernandez admitted her failure to COPA and explained that it was due to the rapid nature of the incident requiring her immediate action. COPA finds this explanation persuasive and notes that the delay in activation did not negatively impact this investigation. Therefore, based on this,

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course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” Att. 32, S03-14 III(A)(2) (a-r).

<sup>34</sup> Att. 37, S04-13-09 II(A), Investigatory Stop System (effective July 10, 2017 to current).

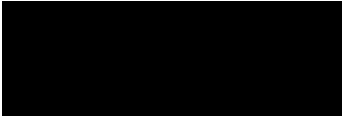
<sup>35</sup> Att. 37, S04-13-09 II(C).

<sup>36</sup> Att. 35.

<sup>37</sup> COPA acknowledges this discipline was issued for an incident that occurred *after* the incident that is the subject of this report. See Log 2023-2235.

combined with Officer Henandez’s complimentary and disciplinary history, COPA recommends Officer Hernandez receive a **Written Reprimand** and **Retraining** on BWCs.

Approved:



2-28-24

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LaKenya White  
Director of Investigations

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Date

Appendix ACase Details

Date/Time/Location of Incident:	[REDACTED]
Date/Time of COPA Notification:	May 28, 2023/10:46p.m.
Involved Member #1:	William Walter, Star # 19145, employee ID# [REDACTED] December 15, 2017, 011 District, White, Male
Involved Member #2:	Monica Hernandez, star # 3527, employee ID# [REDACTED] November 16, 2017, 011 District, White, Female
Involved Individual #1:	[REDACTED], Black, Female

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

- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).<sup>38</sup>
- S03-14: Body Worn Cameras (effective April 30, 2018 to December 29, 2023).<sup>39</sup>
- S04-13-09: Investigatory Stop System (effective July 10, 2017 to current).<sup>40</sup>

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<sup>38</sup> Att. 28.

<sup>39</sup> Att. 32.

<sup>40</sup> Att. 37.

## 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>41</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.”



**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