



Log # 2023 - 0001203

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 21, 2023, the Civilian Office of Police Accountability (COPA) received a complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on March 14, 2023, Officer Zachary Westerfield, Officer Jose Patino, and Officer Joseph Pentimone stopped him without justification². Upon review of the evidence, COPA served additional allegations that Officers Westerfield, Patino, and Pentimone failed to timely activate their body worn cameras (BWCs). Following its investigation, COPA reached Sustained findings regarding the allegations of failing to timely activate their BWCs, and Exonerated findings for stopping ██████████ without justification.

II. SUMMARY OF EVIDENCE³

On March 14, 2023, Officers Pentimone, Westerfield, and Patino responded to a theft in progress at West Marine Store, located at or near 1160 N. Halsted Street.⁴ While interviewing the store manager, the officers did not activate their BWCs.⁵ The officers spoke with the store manager who stated that a Black male, wearing a dark jacket with no hood and dark pants, fled northbound through an alley at or near 1210 N. Division Street.⁶ The officers drove their department vehicle through the alley leading to Kingsbury Street when they observed ██████████ pushing an empty shopping cart around a parking lot.⁷ The officers observed ██████████ wearing a black jacket and dark pants matching the description provided by the store manager and within proximity of the

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 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, officer statements, and police reports.

⁴ Att. 22, Investigatory Stop Report (ISR).

⁵ Att. 50, Officer Westerfield's Audio Statement Transcripts, pg. 16, Ins. 17 to 19, Officer Westerfield could not recall activating his BWC during the interaction with the store manager. Att. 51, Officer Pentimone's Audio Statement Transcripts, pg. 11, Ins 17 to 24, Officer Pentimone forgot to turn on his BWC prior to entering the store. Att. 52, Officer Patino's Audio Statement Transcripts, pg 14, Ins 12-18, Officer Patino stated that he believed he had activated his BWC when he first arrived at the store.

⁶ Att. 22.

⁷ Att. 22.

incident.⁸ The officers exited their vehicle, informed ██████ of the reason for the stop, and instructed ██████ to remove his hands from his pockets. ██████ was handcuffed after he refused to remove his hands from his pockets.⁹

The officers placed ██████ into handcuffs and performed a protective pat-down on him due to his refusal to remove his hand from his pockets.¹⁰ ██████ refused to identify himself to the officers during his detention. The officers told ██████ that he was being detained because he matched the description of an offender and requested a CPD cage car to transport ██████ to the West Marine Store. The store manager confirmed that ██████ was not the wanted individual.¹¹ The officers released ██████ but ██████ refused to get out of the CPD vehicle. ██████ verbally requested to be transported to the 18th District Police Station. ██████ was transported to the 18th District Police Station and provided an ISR receipt.¹²

III. ALLEGATIONS

Officer Joseph Pentimone:

1. Stopping ██████ without justification.
 - Not Sustained
2. Failing to timely activate your BWC.
 - Sustained, in Violation of Rules 2, 3, 5, 6, and 10.

Officer Jose Patino:

1. Stopping ██████ without justification.
 - Not Sustained
2. Failing to timely activate your BWC.
 - Sustained, in Violation of Rules 2, 3, 5, 6, and 10.

Officer Zachary Westerfield:

1. Stopping ██████ without justification.
 - Not Sustained
2. Failing to timely activate your BWC.
 - Sustained, in Violation of Rules 2, 3, 5, 6, and 10.

⁸ Att. 50, pg. 7, Ins. 18 to 22; Att. 58 – Screenshot of ██████ wearing a brown jacket and dark blue pants; Att. 21, Event Query, pg. 2, documented that the suspect was described as a Black male wearing a black jacket and black jeans.

⁹ Att. 22; Att. 10, BWC of Officer Westerfield, at 2:00.

¹⁰ Att. 22, the officers did not recover contraband on ██████

¹¹ Att. 16, BWC of Officer Pentimone, at 4:38.

¹² COPA conducted an Audio Interview with ██████ Atts. 1-2.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. Due to the amount of video footage in this case, the facts concerning the incident were not in material dispute.

V. ANALYSIS¹³

a. Officers Westerfield, Patino, and Pentimone were justified in stopping [REDACTED]

COPA finds the allegation against Officers Westerfield, Patino, and Pentimone, in that they stopped [REDACTED] without justification, be **Not Sustained**. Special Order S04-13-09, Investigatory Stop System, requires sworn members to possess specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is committing, is about to commit, or has committed a criminal offense.¹⁴ In this case, the officers stated that [REDACTED] matched the description provided by the store manager resulting in the officers performing an investigatory stop. Under the totality of the circumstances, the officers had reasonable articulable suspicion to initiate an Investigatory Stop. However, the description of the subject was a Black male wearing a black jacket and black jeans,¹⁵ and Sewaga was wearing a brown jacket and dark blue pants.¹⁶ Based on the available evidence, there is insufficient evidence to prove/disprove the allegation. Therefore, COPA recommends that this allegation be Not Sustained against Officers Westerfield, Patino, and Pentimone.

b. Failure to Timely Activate BWCs.

COPA finds that the allegation against Officers Westerfield, Patino, and Pentimone, in that they failed to timely activate their BWCs, be **Sustained**. Special Order S03-14, Body Worn Camera, requires sworn members to activate the BWC to event mode at the beginning of an incident and will record the entire incident for all law-enforcement related activities.¹⁷ In this case, the officers did not activate their BWCs during their preliminary investigation while speaking with the store manager. There was no BWC footage revealing their first interaction with the store manager, only BWC footage revealing their encounter with [REDACTED]. Therefore, COPA

¹³ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹⁴ Att. 53, S04-13-09(II)(C)(1).

¹⁵ Att. 21.

¹⁶ Att. 58.

¹⁷ Att. 54, S03-14(V)(A)(2).

recommends the allegation be Sustained against Officers Westerfield, Patino, and Pentimone, in Violation of Rules 2, 3, 5, 6, and 10.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Zachary Westerfield

i. Complimentary and Disciplinary History¹⁸

Officer Westerfield has received 62 various awards, which included 1 Life Saving Award, 1 Honorable Mention Ribbon Award, and 4 Department Commendations. His disciplinary history included a SPAR in 2023 for Courteous Police Service, and he received a Reprimand.

ii. Recommended Discipline

Officer Westerfield failed to timely activate his BWC, in Violation of Rules 2, 3, 5, 6, and 10. Therefore, COPA recommends that Officer Westerfield receive a **Reprimand**.

b. Officer Jose Patino

i. Complimentary and Disciplinary History¹⁹

Officer Patino has received 61 various awards, which included 1 Superintendent's Honorable Mention and 1 Honorable Mention Ribbon Award. His disciplinary history included a SPAR in 2023 for Failure to Perform Assigned Tasks, and he received No Disciplinary Action.

ii. Recommended Discipline

Officer Patino failed to timely activate his BWC, in Violation of Rules 2, 3, 5, 6, and 10. Therefore, COPA recommends that Officer Patino receive a **Reprimand**.

c. Officer Joseph Pentimone

i. Complimentary and Disciplinary History²⁰

Officer Pentimone has received 62 various awards, which included 2 Life Saving Awards, 1 Superintendent's Honorable Mention, and 3 Department Commendations. His disciplinary history included a SPAR in 2024 for a Preventable Accident, and he received a Reprimand.

¹⁸ Att. 55.

¹⁹ Att. 56.

²⁰ Att. 57.

ii. Recommended Discipline

Officer Pentimore failed to timely activate his BWC, in Violation of Rules 2, 3, 5, 6, and 10. Therefore, COPA recommends that Officer Pentimore receive a **Reprimand**.

Approved:



LaKenya White
Director of Investigations

9/16/24

Date

Appendix ACase Details

Date/Time/Location of Incident:	March 14, 2023 / 3:15 pm / 1419 Kingsbury ST, Chicago, IL 60614.
Date/Time of COPA Notification:	March 21, 2023 / 03:04 pm.
Involved Member #1:	Officer Zachary Westerfield, Star: 9502, Employee ID [REDACTED], DOA: Jun 16, 2017, Unit: 018, Male, White.
Involved Member #2:	Officer Jose Patino, Star: 8944, Employee ID [REDACTED], DOA: Jun 16, 2017, Unit: 018, Male, White Hispanic.
Involved Member #3:	Officer Joseph Pentimone, Star: 6054, Employee ID [REDACTED], DOA: Feb 29, 2016, Unit: 018, Male White.
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

- 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.²¹ 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.”²²

²¹ 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).

²² *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