



Log # 2020-0004438

FINAL SUMMARY REPORT

I. EXECUTIVE SUMMARY

On September 24, 2020, the Civilian Office of Police Accountability (COPA) received a complaint in the form of a letter from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). COPA opened Log 2020-0004438 and commenced collecting information about the incident ██████████ was describing. On September 22, 2022, COPA received notice from the Department of Law that ██████████ filed a civil suit against the City and two Accused officers invoking similar allegations to the already opened complaint log. This summary is derived from these documents and the aforementioned ██████████ correspondence.

██████████ alleged that following his arrest on July 7, 2020, Officer Nader Ismail shoved the handcuffed ██████████ against the frame of a CPD SUV and then threw him to the ground by his handcuffs when he tried to escape Officer Ismail's assault. Immediately after this, ██████████ alleges Officer Victor Guebara punched him in the face two to three times, causing him to suffer injury to his left eye. Based on this information, COPA served Officer Ismail and Officer Guebara with these allegations from ██████████ Upon review of the evidence, COPA served additional allegations that Officer Guebara failed to activate his body worn camera ('BWC') to document the law enforcement activities he undertook as he arrived on the scene and engaged members of the public; and that Officer Guebara failed to complete a tactical response report ('TRR') to document the use of force and subsequent injury caused by said use of force. Following its investigation, COPA reached sustained findings regarding the allegations of excessive force committed by Officer Guebara and the failure of Officer Guebara to activate his BWC and complete a TRR.

II. SUMMARY OF EVIDENCE

The following summary of the evidence is derived from BWC footage, PODS camera footage, medical records, and police reports. The evidentiary record shows that BT 368A¹, a tactical unit, arrived to assist the other members of a tactical team with the arrest of an individual now known as ██████████ who was surveilled on PODs video² openly carrying a firearm as he stood in the vicinity of 7400 S. Colfax. The surveillance video showed the firearm visible on ██████████ waistband³ as various individuals on foot and in vehicles approached him and interacted

¹ Att. 10.

² Att. 3 at 7:09:10.

³ Att. 3 at 7:12:00.

with him. The tactical team moved in to detain ██████ but ██████ fled⁴ into the residence at ██████ ██████ as the CPD members approached in unmarked SUVs. CPD officers Blaydes and Ismail ran into the house⁵ and quickly located both ██████ and the suspected unlawful firearm he was carrying.⁷ ██████ was handcuffed and brought out of the residence with minimal resistance and in the interim, three other young males were detained and held in handcuffs.⁸ Officer Ismail was holding ██████⁹ apparently waiting for a caged unit to pull up when ██████ pulled away from Officer Ismail's grasp and ran away from him, getting about twenty feet away before stumbling and falling onto his back.¹⁰ Officer Ismail quickly caught up with ██████ and regained his hold on him¹¹ when Officer Guebara ran towards ██████¹² and drew his left arm backwards.¹³ He then simultaneously stooped down to one knee¹⁴ and delivers a closed-fist strike to the left side of ██████ face. Officer Guebara brings his left hand entirely through and he braces himself on the ground on ██████ left side.¹⁵ ██████ cries out as he is struck,¹⁶ and shortly after there appears to be blood and a cut on ██████ face near his left eye.¹⁷

After delivering the strike, Officer Guebara gets to his feet, limping slightly and rubbing his left shoulder¹⁸ with his right hand in an apparent sign of distress. ██████ is placed in a marked unit¹⁹ and the voice of the dispatcher can be heard over the radio saying, "everybody get off the block!"²⁰ The three detained males are released from their handcuffs. ██████ is transported to the 003 District and initially refuses to depart²¹ the department SUV he was transported in, angered that he was struck in the face and demanding to know which officer hit him.²² The blood from his wound is visible and some swelling has begun to form around his left eye.²³ ██████ is subsequently transported to the University of Chicago Hospital where his injuries are treated²⁴ and he is then returned to the 003 for further processing. ██████ subsequently contacts COPA via

⁴ Att. 3 at 7:29:15.

⁵ Att. 3 at 7:29:20.

⁶ Att. 21 at 2:03.

⁷ Att. 21 at 2:36.

⁸ Att. 23 at 3:04.

⁹ Att. 30 at 3:11; also Att. 2 at 2:14.

¹⁰ Att. 2 at 2:17.

¹¹ Att. 2 at 2:17.

¹² Att. 2 at 2:19.

¹³ Att. 3 at 7:30:47.

¹⁴ Att. 2 at 2:19.

¹⁵ Att. 3 at 7:30:47.

¹⁶ Att. 29 at 3:19.

¹⁷ Att. 29 at 3:23.

¹⁸ Att. 2 at 2:24.

¹⁹ Att. 23 at 5:51.

²⁰ Att. 23 at 6:07.

²¹ Att. 31 at 2:07.

²² Att. 31 at 2:04.

²³ Att. 31 at 3:13.

²⁴ Att. 12, pg. 2.

letter²⁵ while incarcerated at Cook County Jail and then almost two years later, files a lawsuit based on the incident.²⁶

III. ALLEGATIONS

Officer Nader Ismail:

1. Shoved ██████████ against the back of a Dept. vehicle causing him pain and discomfort.
 - **UNFOUNDED**
2. Swung ██████████ by his handcuffs to the ground causing him pain and discomfort.
 - **UNFOUNDED**

Officer Victor Guebara:

1. Struck ██████████ in the face while he was handcuffed without justification causing injury.
 - **SUSTAINED**, Violations Rule 1, 2, 6, & 8.
2. Engaged in an unnecessary physical confrontation with ██████████
 - **SUSTAINED**, Violations Rule 1, 2, 6, & 8.
3. Failing to prepare a Tactical Response Report to document your use of force against ██████████
 - **SUSTAINED**, Violation Rule 2, 3, & 6.
4. Failing to activate your Body Worn Camera to document law enforcement activity you engaged in during the detention and arrest of ██████████
 - **SUSTAINED**, Violation Rule 2, 3, & 6.

IV. CREDIBILITY ASSESSMENT

██████████ never sat for a COPA interview due to his incarcerated status during the COVID-19 pandemic and his counsel's advice to not give a statement to COPA. It should be noted that ██████████ wanted to cooperate with COPA's investigation fully and his letter to COPA was used

²⁵ Att. 19.

²⁶ Att. 39.

to open the complaint log that the Accused CPD members are subjected to. Additionally, the text of ██████ civil court filing was also utilized in shaping the allegations brought against the Accused officers.²⁷ ██████ version of the events changes from letter to letter to eventual court filing, and the allegation of excessive force against Officer Ismail is inflated and not supported by ample BWC footage and POD footage. However, ██████ has consistently claimed that Officer Guebara struck him in the face with his fist while he was handcuffed, though he wavers on the number of times he was struck. The available BWC footage²⁸ and PODS video²⁹ supports the assertion that Officer Guebara struck ██████ at least once in the face causing an injury that is consistent with one being struck in the face with a closed fist. It is unknown as to why ██████ embellished the number of times he was struck, or why he claimed Officer Ismail shoved against a Dept. SUV before whipping him to the ground by his handcuffs³⁰ when these footages were available to ██████ to review during his criminal trial along with the other evidentiary items, he consulted in filing his civil suit. But the evidence supports at minimum his assertion he was struck in the face by Officer Guebara while he was handcuffed and helpless.

Officer Ismail is mostly credible in his recollection of the events and in providing a description of his actions during the incident that comprises this complaint. The ample video evidence does not support the allegations ██████ made against Officer Ismail with specificity in ██████ civil court filing.³¹ It is only when Officer Ismail is asked about the actions of Officer Guebara—actions that Officer Ismail was in very close proximity to witness—that his credibility slightly wanes. Officer Ismail denies seeing Officer Guebara punch or hit ██████ in the eye³² or hearing the blow.³³ He denies this despite being within inches of ██████ and Officer Guebara at the moment.

Officer Guebara is not credible in his recollection of the events or in his description of his actions during the events that comprise this complaint. Officer Guebara did not provide plausible explanations for his failure to activate his BWC at any point during the duration of the incident. Officer Guebara has only one recording³⁴ for the entirety of his shift, and he asserts that he doesn't know if any law enforcement activity was taking place³⁵ in front of him when he arrived at ██████ despite footage from Officer Ahmad's BWC showing him at the rear of the residence with his gun drawn and pointed in his right hand.³⁶ Later, he can be seen standing on the porch of the house.³⁷

²⁷ Att. 39.

²⁸ Atts. 2, 30, 21.

²⁹ Att. 3.

³⁰ Att. 39, pgs. 10-11.

³¹ Att. 39, pg. 10.

³² Att. 45, pg. 32.

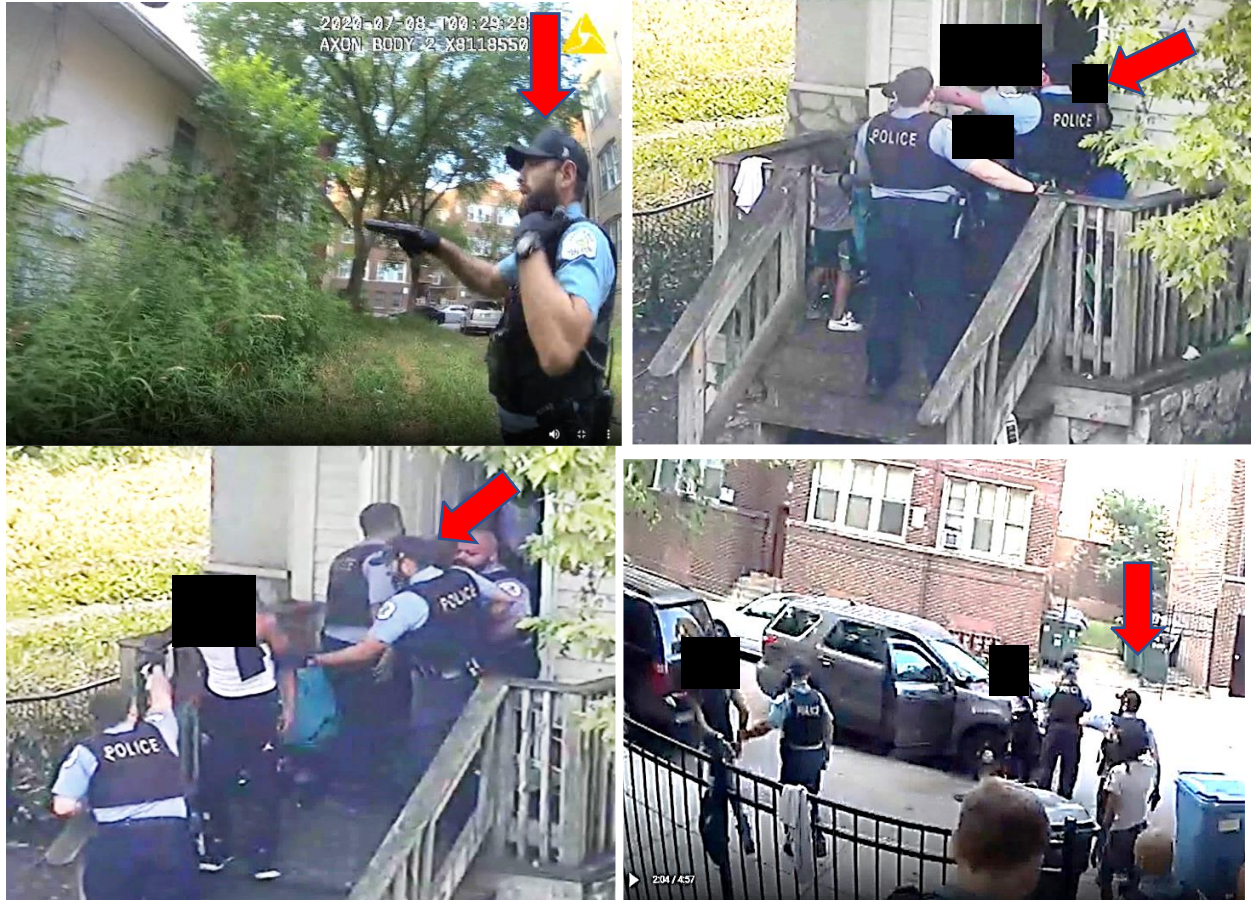
³³ Att. 45, pg. 32.

³⁴ Att. 28.

³⁵ Att. 55, pg. 27.

³⁶ Att. 2 at 1:04.

³⁷ Att. 3 at 7:29:44.



The biggest sticking point to his credibility is his assertion that he made no contact with [REDACTED] body at any point when he attests he fell³⁸ rushing towards him to assist Officer Ismail with regaining control of [REDACTED]. Officer Guebara asserts that the BWC footage and the POD footage show he fell and did not drop to one knee with his left fist drawn back, which he then brings forward striking [REDACTED] in the left eye. Officer Guebara claims not to know why [REDACTED] is heard crying out in pain³⁹ at the exact moment Officer Guebara’s body undertakes the motion he describes as falling; nor does he claim to have noticed⁴⁰ the injury that [REDACTED] sustained which immediately began bleeding. Subsequently, COPA finds that Officer Guebara’s testimony is unreliable and substantially undercut by the available video evidence and stills taken from said video evidence.

³⁸ Att. 55, pg. 50.

³⁹ Att. 30 at 3:16.

⁴⁰ Att. 55, pg. 39.

V. ANALYSIS⁴¹

██████████ was arrested on suspicion of unlawfully possessing a firearm after being observed in the SDSC room by a tactical team monitoring the area for gun or drug activity. The firearm was not concealed in a manner consistent with the State's concealed carry act⁴² which presented the tactical team with the minimal reasonable articulable suspicion to detain and question ██████████ about the legal status of his firearm. Rushing to the scene at the 7400 block of South Colfax in unmarked vehicles, ██████████ saw them approaching and fled into the residence. It is unknown what connection, if any, he had with the residence he ran into. ██████████ was successfully apprehended and handcuffed while the firearm was retrieved; all that remained was to place him in a cage car and free the other persons who were being detained in handcuffs.

But ██████████ briefly 'escaped' Officer Ismail's grasp before stumbling to the ground and landing on his back. ██████████ does not kick or offer any offensive attack towards the officers at any point during the entire incident. Officer Ismail appears to re-secure ██████████ holding his right arm while both he and ██████████ are on the ground. This is the entirety of Officer Ismail's involvement, supported by clear and convincing video evidence. Officer Ismail did not swing or shove or slam ██████████ into a CPD vehicle. ██████████ appears to fall on his own and is not apparently whipped to the ground by the handcuffs he was placed in by Officer Ismail. Accordingly, COPA finds the **Allegations 1 and 2 against Officer Ismail** to be **UNFOUNDED**.

After observing ██████████ running away from Officer Ismail, Officer Guebara runs up to ██████████ and for reasons unknown, delivers a strike that contacts ██████████ in the left eye area, causing a minor cut and a black eye.⁴³



⁴¹ For a definition of COPA's findings and standards of proof, see Appendix B.

⁴² Att. 57.

⁴³ Att. 12, pg. 47.

Things become so tense that the CPD officers shorten their investigation, release the three male detainees without preparing investigatory stop reports and issuing investigatory stop receipts, and do not take any follow-up actions regarding the aggressive threats leveled against them. Officer Shafer's BWC footage captures him saying, "everybody off the block; get in the car and get off the block."⁴⁴

Officer Guebara disregarded Department policy in that he never activated his BWC⁴⁵ during the incident and he never filled out a TRR⁴⁶ for the force he used against [REDACTED]. The only BWC recording Officer Guebara has for the entire day is him recording the screen in the SDSC room after the incident, showing [REDACTED] with the firearm in his waistband.⁴⁷



Officer Guebara has the ability to operate his BWC here, but it never occurs to him to have his camera activated while he was on the scene of [REDACTED] arrest or immediately following the moment, he assisted in preventing [REDACTED] brief escape. As COPA pointed out, following his "fall" after running towards [REDACTED] Officer Guebara could've turned on his camera and as a result, created a two-minute soundless video of the moments leading up to [REDACTED] attempted escape.⁴⁸ Officer Guebara told COPA that he did not believe he was required to activate his camera because he was not the arresting officer and because he believed the scene was already under control.⁴⁹ Department policy requires that member's activate their BWC at the beginning of an incident for all law enforcement related activities. Law enforcement activities include, relevant to this incident: calls for service, arrests; use of force incidents; high-risk situations, any encounter with the public that becomes adversarial after the initial contact; arrestee transports, and any other instances when enforcing the law.⁵⁰ The evidence establishes that there was no reason Officer Guebara could not activate his camera at the several points during the incident where Department

⁴⁴ Att. 33 at 6:14.

⁴⁵ Att. 55.

⁴⁶ Att. 54.

⁴⁷ Att. 28 at 0:48.

⁴⁸ Att. 55, pg. 41-42.

⁴⁹ Att. 55, pgs. 15 and 16.

⁵⁰ Special Order S03-04.III.A.2 (eff. Apr. 30, 2018).

policy required activation. For these reasons, **Allegation 4** against Officer Guebara is **SUSTAINED**.

Department policy did not authorize Officer Guebara's use of a hand strike to [REDACTED] because he was not an assailant at the moment he was struck.⁵¹ [REDACTED] was handcuffed and had been subdued by another officer when Officer Geubara approached and struck [REDACTED]. Department policy discourages use of force against individuals who are handcuffed unless such force is necessary to prevent injury, escape, or there is some other compelling law enforcement objective.⁵² Officer Guebara stated that he realized Officer Ishmael "kind of had control of [REDACTED]" before he reached them.⁵³

Officer Guebara stated that he tripped and fell and that he did not use force against [REDACTED]. However, the video evidence shows it is more likely than not that Officer Guebara used improper force. Officer Guebara's left arm swings out widely and then comes down with force on [REDACTED] face. His movements simply are not consistent with a fall. In short, Officer Guebara violated multiple Department rules and arguably committed the criminal offense of battery when he struck [REDACTED] in the left eye without justification and while he was handcuffed. Accordingly, **Allegations 1 and 2 are SUSTAINED**. Further, Officer Guebara's use of force required completion of a TRR. Therefore, **Allegation 3 against Officer Guebara is Sustained**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Victor Guebara

i. Complimentary and Disciplinary History⁵⁴

Officer Victor Guebara has received a total of 58 awards, including one Department commendation, 46 honorable mentions, and one complimentary letter. He has no sustained disciplinary history in the past five years.

ii. Recommended Discipline

Here, COPA has found that Officer Guebara struck [REDACTED] in the eye, failed to document the incident and activate his BWC, violating Rules 2, 6, and 8. COPA recommends a penalty of **30 to 90 days suspension**.

⁵¹ Att. 52, pg. 6.

⁵² Att. 52, pg. 2.

⁵³ Att. 55, pg. 11.

⁵⁴ Att. 59.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

1-5-2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	July 7, 2020 / 7:30 pm / [REDACTED] Ave.
Date/Time of COPA Notification:	Sept. 24, 2020 / 3:38 pm
Involved Member #1:	Victor Guebara, Star #17147, Employee ID# [REDACTED], Date of Appointment: 18-Feb-2014, Unit of Assignment 003, Male, White Hispanic.
Involved Member #2:	Nader Ismail, Star #17965, Employee ID# [REDACTED], Date of Appointment: 16-Feb-2017, Unit of Assignment: 003, Male, White.
Involved Individual #1:	[REDACTED] M/B

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

- *[Directive #]: [Directive Name] (effective [date] to [date (or present)])*
- S03-14: Body Worn Cameras (effective April 30, 2018 to pres.)
- G03-02: Use of Force (effective Feb. 29, 2020 to April 1, 2021)
- G03-02-01: Force Options (effective Feb. 29, 2020 to April 1, 2021)
- G03-02-02: Incidents Requiring the Completion of a Tactical Response Report (effective Feb. 29, 2020 to April 15, 2021)

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.⁵⁵ 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.”⁵⁶

⁵⁵ 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).

⁵⁶ *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