

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

I. EXECUTIVE SUMMARY

Date of Incident:	August 22, 2017
Time of Incident:	8:53 pm
Location of Incident:	2550 S. Albany Ave, Chicago, IL
Date of IPRA Notification:	August 22, 2017
Time of IPRA Notification:	10:44 pm

On August 22, 2017, at approximately 8:53 pm, Officers Dan Cojocnean #15003, Alexander Franco #10805, Jose Valdovinos #11820, Mark Bronke #15695,<sup>2</sup> assisted Officers Gabino Cortez and Augustine Lozano<sup>3</sup> in a pursuit of a green Mercury Mountaineer (“the Mercury”) driven by [REDACTED]. The Mercury headed westbound through an alley just north of 26<sup>th</sup> Street and east of Albany Avenue. The Mercury continued through the alley and came to a stop once it reached Albany Avenue. Several of the occupants in the Mercury exited and ran in different directions. The unmarked Chicago Police Department (CPD) vehicle turned northbound on Albany Avenue and came to a stop upon seeing the Mercury stop and the occupants run out. As Officers Cojocnean and Franco exited their vehicle, [REDACTED] continued driving the Mercury southbound on Albany Avenue, in the direction of the officers. [REDACTED] drove his vehicle in the narrow space between the unmarked CPD vehicle and the parked vehicles on the west side of Albany Avenue, where Officer Cojocnean stood. Officer Dan Cojocnean and Officer Alexander Franco fired their weapons at [REDACTED] and his vehicle, striking the vehicle but missing [REDACTED]. [REDACTED] continued driving south on Albany Avenue striking multiple parked vehicles on the west side of the street. [REDACTED] eventually stopped his vehicle and was apprehended.

II. INVOLVED PARTIES

Involved Officer #1:	Dan Cojocnean, Star #15003, Employee ID#[REDACTED], Date of Appointment February 2, 2015, Police Officer, Unit of Assignment 010, DOB [REDACTED], 1991, Male, White
Involved Officer #2:	Alexander Franco, Star #10805, Employee ID#[REDACTED], Date of Appointment October 17, 2011, Police Officer, Unit of Assignment 010, DOB: [REDACTED], 1978, Male, White

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> Officers Valdovinos and Franco were assigned to Beat 1065A; Officers Bronke and Cojocnean were assigned to Beat 1065B. All four officers were assigned to unmarked vehicle #4532 together due to a shortage of available vehicles at the time.

<sup>3</sup> Officer Cortez and Officer Lozano were assigned to Beat 1088C.

Involved Officer #3:	Jose Valdovinos, Star #11820, Employee ID# [REDACTED], Date of Appointment July 28, 2008, Police Officer, Unit of Assignment 010, DOB [REDACTED], 1982, Male, Hispanic
Involved Officer #4:	Gabino Cortez, Star #18785, Employee ID# [REDACTED], Date of Appointment March 8, 1999, Police Officer, Unit of Assignment 010, DOB: [REDACTED], 1973, Male Hispanic
Involved Officer #5:	Augustine Lozano, Star #14790, Employee ID# [REDACTED], Date of Appointment August 4, 1997, Police Officer, Unit of Assignment 010, DOB: [REDACTED], 1971, Male Hispanic
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1988, Male, Hispanic

**III. ALLEGATIONS**

Officer	Allegation	Finding/ Recommendation
Officer Dan Cojocnean	1. Fired weapon at a moving vehicle, in violation of Deadly Force General Order G03-02-03, and Rules 1, 6, and 38.	Exonerated
Officer Alexander Franco	1. Fired weapon at a moving vehicle, in violation of Deadly Force General Order G03-02-03, and Rules 1, 6, and 38.  2. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Exonerated  Sustained/ Reprimand
Officer Jose Valdovinos	1. Violated the CPD pursuit policy, in violation of Rules 2 and 6.  2. Violated the provisions of the Body Worn Camera Special Order S03-14, in violation of Rule 6.	Unfounded  Sustained/ Reprimand
Officer Gabino Cortez	1. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Sustained/ Reprimand
Officer Augustine Lozano	1. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Sustained/ Reprimand

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 1: Violation of any law of ordinance
  2. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
  3. Rule 6: Disobedience of an order or directive whether written or oral
  4. Rule 38: Unlawful or unnecessary use of a weapon
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##### General Orders

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1. G03-02-03: Deadly Force, Effective February 10, 2015-October 15, 2017
  2. G03-03-01: Emergency Vehicle Operations – Pursuits, Effective March 28, 2016-April 8, 2019
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##### Special Orders

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1. S03-14: Body Worn Cameras, Effective June 9, 2017-April 29, 3018

#### V. INVESTIGATION<sup>4,5</sup>

##### a. Police Statements

In an interview with IPRA on September 12, 2017 and COPA on January 4, 2018, Officer Dan Cojocnean, #15003, stated he and three other tactical officers, Jose Valdovinos, Alexander Franco and Mark Bronke, working Beat #1065B, were on routine patrol near the south end of the district. Officer Cojocnean was seated behind Officer Valdovinos, who was the driver. Officer Franco was the front seat passenger. Officer Bronke was seated behind the front passenger. They were in an unmarked Ford Explorer on 25<sup>th</sup> Street and Whipple Avenue when they heard a call over the radio of shots fired near 24<sup>th</sup> Street and Washtenaw Avenue. When they received the call, they began traveling northbound on California Avenue to 24<sup>th</sup> Street, then eastbound on 24<sup>th</sup> Street towards Washtenaw Avenue.

As they were traveling, Officer Cojocnean heard an additional report over the radio that Unit 1088C was driving behind a dark greenish-colored SUV-type Mercury thought to be near the location of the shots fired call. While they were traveling eastbound on 24<sup>th</sup> Street, Officer

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<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> COPA investigators made multiple attempts to contact [REDACTED] and the occupants of the Mercury ([REDACTED] and [REDACTED]) for interviews. None of the passengers accepted COPA's request for a witness statement.

Cojocnean observed the “offending vehicle”<sup>6</sup> southbound on Washtenaw Avenue, headed toward 26<sup>th</sup> Street, followed by CPD marked Unit 1088C. The Mercury then headed westbound on 26<sup>th</sup> Street from Washtenaw Avenue, followed by Unit 1088C. Officer Valdovinos followed approximately two car lengths behind Unit 1088C.

The Mercury then turned northbound onto Sacramento Avenue, then westbound into an alley, parallel to 26<sup>th</sup> Street, while Unit 1088C “continued to follow”<sup>7</sup> behind it. Officer Valdovinos continued westbound on 26<sup>th</sup> Street, where Officer Cojocnean saw the Mercury travel down the alley toward Albany Avenue. Officer Cojocnean observed the Mercury slowing down as it approached Albany Avenue from the alley. Officer Valdovinos turned northbound onto Albany Avenue from 26<sup>th</sup> Street. Officer Cojocnean then observed approximately four to five individuals jump out of the Mercury and run in various directions. Officer Cojocnean exited their vehicle because he believed they were about to engage in a foot chase. The officers’ vehicle was facing north on Albany Avenue, close to the west side of the street, approximately five feet from the parked vehicles. As Officer Cojocnean exited the unmarked vehicle, the Mercury turned southbound onto Albany Avenue toward his direction. Officer Cojocnean yelled out verbal commands to the driver, now known as [REDACTED] to stop the car. [REDACTED] continued driving toward him. Officer Cojocnean initially had nowhere to retreat because he was between the unmarked vehicle and the parked vehicle on the westside of Albany Avenue. [REDACTED] drove toward Officer Cojocnean at a high rate of speed and [REDACTED] Officer Cojocnean responded by discharging his weapon at the driver of the vehicle, [REDACTED] in an attempt to stop “the threat”<sup>8</sup> from hitting him head-on with the Mercury. Officer Cojocnean aimed at “the driver’s side of the windshield.”<sup>9</sup> The Mercury continued driving toward Officer Cojocnean and hit the rear passenger door of the unmarked CPD vehicle, causing the door to close. Officer Cojocnean was diving out of the way at that point and noted that the door missed striking him “within inches.”<sup>10</sup> The Mercury came to a stop and [REDACTED] attempted to flee. Officer Cojocnean ran toward [REDACTED] and placed him in custody.<sup>11</sup>

**In an interview with IPRA on September 12, 2017 and COPA on January 4, 2018, Officer Alexander Franco, #10805, stated he was the front passenger of the unmarked vehicle. Officer Franco and his partners (Officers Valdovinos, Bronke, and Cojocnean) heard a call of shots fired over the radio. Unit 1088C called over the radio that they observed an SUV (the Mercury) fleeing the scene from the area where the shots were heard. Once they arrived at 2550 S. Albany Avenue, Officer Franco observed the Mercury come to a stop at the end of the alley, north of 26<sup>th</sup> Street. More than four people got out of the Mercury and ran in different directions. Officer Franco and other officers exited their vehicle. He observed one of the offenders, now known to be [REDACTED]**

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<sup>6</sup> Att. 61, Page 8, Line 22. Officer Cojocnean referred to the green Mercury as the “offending vehicle” or “offender’s vehicle” throughout his statements to COPA.

<sup>7</sup> Att. #61, Page 10, Line 2

<sup>8</sup>Att. 61, Page 24, Line 2

<sup>9</sup> Att. 61, Page 29, Line 9. Officer Cojocnean did not specifically indicate where his fired shots hit, but COPA’s review of the Evidence Technician photographs show the windshield and front hood of the Mercury were hit.

<sup>10</sup> Att. 61, Page 15, Line 2

<sup>11</sup> Atts. 53, 58, 61, 105, 107, 126

██████████<sup>12</sup> running southbound on the east side of Albany Avenue. Officer Franco stated he ran in a southeast direction on Albany Avenue to chase ██████████

As he was chasing ██████████ Officer Franco heard shots coming from behind him and thought someone was shooting at him. Officer Franco looked to his right and saw muzzle flashes coming from the driver's side of the Mercury. Officer Franco did not recall how many shots he heard. Officer Franco stated he returned fire at the driver of the Mercury. Officer Franco did not know at the time how many times he fired his weapon but later learned he fired eleven times. After he fired his weapon, Officer Franco observed ██████████ running back toward Officer Franco. Officer Franco chased him northbound on Albany Avenue and caught him near the alley north of 26<sup>th</sup> Street. Officer Franco stated he placed ██████████ in custody and sat him inside a CPD vehicle. Officer Franco stated he then checked himself for injuries.<sup>13</sup>

In a **follow-up interview** with COPA on **August 13, 2018, Officer Alexander Franco** stated he turned on his body worn camera after the incident occurred because he had forgotten to turn it on sooner. Officer Franco stated he was nervous and trying to figure out what was going on at the scene and that was when he remembered he needed to turn on his camera. Officer Franco stated due to the stress of the incident, he forgot to turn on his camera sooner.<sup>14</sup>

In an **interview with COPA on January 10, 2018, Officer Jose Valdovinos, #11820,** stated he was assigned to Beat 1065A, driving an unmarked CPD vehicle which was occupied by Officers Franco, Bronke and Cojocnean. The officers were on 25<sup>th</sup> Street and California Avenue when a call of shots fired come in over the radio. Officer Franco went over the radio and notified dispatch that they would respond to the call. Officer Valdovinos headed north on California Avenue to 24<sup>th</sup> Street, then east on 24<sup>th</sup> Street, where he saw a marked CPD vehicle heading south on Washtenaw Avenue from 24<sup>th</sup> Street. By the time Officer Valdovinos headed south on Washtenaw Avenue, he observed the marked CPD unit near 25<sup>th</sup> Street. Officer Valdovinos observed the marked CPD unit behind an SUV (the Mercury) but could not make out a description because he was approximately one block away.

When Officer Valdovinos observed the marked unit head west on 26<sup>th</sup> Street, Officer Valdovinos headed west on 26<sup>th</sup> Street. The marked unit continued behind the Mercury, to Sacramento Avenue then turned northbound. Officer Valdovinos lost sight of both vehicles when he reached Sacramento Avenue on 26<sup>th</sup> Street. One of the officers in his vehicle said, "they're in the alley approaching Albany,"<sup>15</sup> so Officer Valdovinos continued westbound on 26<sup>th</sup> Street, toward Albany Avenue.

Officer Valdovinos is familiar with the area and knew the alley the Mercury and marked CPD vehicle were traveling on ended at Albany Avenue. Officer Valdovinos did not see the Mercury or the marked vehicle driving in the alley as he traveled down 26<sup>th</sup> Street. Officer

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<sup>12</sup> Att. 104. At minute 13:24 of 23:24, Officer Franco explains that he later learned that the person he refers to as "the offender" has the last name of ██████████ Based on the related CPD reports (JA402313), the person Officer Franco was chasing was ██████████

<sup>13</sup> Atts. 52, 56, 95, 104, 106, 125

<sup>14</sup> Att. 97, 117, 124

<sup>15</sup> Att. 76, Page 14, Line 22

Valdovinos stated he does not believe he was in a pursuit because he was so far behind the two vehicles. Once he reached Albany Avenue, Officer Valdovinos turned northbound and observed the Mercury stopped in the alley at Albany Avenue, facing west. Officer Valdovinos saw multiple passengers of the Mercury jump out and run in different directions. Officer Valdovinos stated he stopped the vehicle in the middle of Albany Avenue, leaving space for other vehicles to drive by on either side of him.

One of the passengers ran in his direction as Officers Cojocnean, Franco, and Bronke exited the vehicle. Officer Valdovinos was about to exit the vehicle as well, when he looked up and observed the Mercury turn south on Albany Avenue and drive in his direction. Once the vehicle passed him, Officer Valdovinos heard multiple gunshots but he did not know where they came from. Officer Valdovinos exited his vehicle and placed the driver in custody.<sup>16</sup>

In a **follow-up interview with COPA on August 20, 2018, Officer Jose Valdovinos** stated he did not activate his body-worn camera until after he assisted placing two individuals into custody.<sup>17</sup> Officer Valdovinos stated after assisting with the arrests, he looked down and realized his camera was not on. Officer Valdovinos acknowledged he should have activated his body-worn camera when he began driving toward the area where the incident took place. Officer Valdovinos explained that at the time of the incident, he was focused on driving and where the vehicle was located and forgot to turn on his body-worn camera. Officer Valdovinos further explained that at the time, he did not have a clear understanding regarding when the body-worn camera should be turned on. Officer Valdovinos added he is currently aware the body-worn camera must be turned on at the beginning of every incident.<sup>18</sup>

In an **interview with COPA on June 13, 2018, Officer Mark Bronke, #15695,** stated he and Officers Valdovinos, Franco, and Cojocnean were near the area of Washtenaw Avenue and Cermak Road when they heard a call of shots fired over the radio. Officer Valdovinos began driving east in the direction of the call. Officer Bronke observed an SUV (the Mercury) near 24<sup>th</sup> Street and Washtenaw Avenue, followed by a marked CPD SUV. Officer Valdovinos turned south on Washtenaw Avenue behind the marked CPD SUV.

The Mercury and the marked CPD SUV turned westbound on 26<sup>th</sup> Street, northbound onto an unknown street, and westbound in the alley north of 26<sup>th</sup> Street. Officer Valdovinos turned westbound onto 26<sup>th</sup> Street and stayed on that street. Officer Bronke described seeing the Mercury briefly stop in the alley, just before Albany Avenue. Approximately six to eight people got out of the Mercury and ran in different directions. Officer Bronke saw this take place because their vehicle was on 26<sup>th</sup> Street just before Albany Avenue, where an empty lot allows a view of the alley.

Officer Valdovinos turned northbound on Albany Avenue and stopped their vehicle near the west side of the street. Officers Bronke, Cojocnean, and Franco exited the vehicle to chase the individuals who had gotten out of the Mercury. Just as he exited the vehicle, Officer Bronke saw

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<sup>16</sup> Att. 60, 76-78, 108-110

<sup>17</sup> Officer Valdovinos did not name these individuals, but he identified one as the driver (██████████) and the other as a juvenile (██████████)

<sup>18</sup> Att. 99, 118, 123

the Mercury turn southbound onto Albany Avenue from the alley. The Mercury continued southbound on the furthest west side of Albany Avenue. Officer Bronke ran north on Albany Avenue and heard approximately twelve gunshots behind him. Officer Bronke crouched down and headed west to the sidewalk before continuing south on Albany Avenue. When the gunshots stopped, Officer Bronke looked up and saw Officers Franco and Valdovinos taking the driver of the Mercury, now known as ██████████ out of his car. After ██████████ was in custody, Officer Bronke noticed the Mercury was facing south on Albany Avenue between the officers' vehicle and the parked cars on the west side of the street. Officer Bronke also observed damage on the driver's side of their vehicle.<sup>19</sup>

In an **interview with COPA on June 13, 2018, Officer Gabino Cortez, #18785**, stated he was the passenger of marked CPD vehicle number #9194, assigned to Beat 1088C, and his partner Officer Augustine Lozano, #14790, the driver on the date of the incident. Officers Cortez and Lozano were parked near the intersection of 24<sup>th</sup> Street and Washtenaw Avenue when he heard gunshots north of his location. Officer Cortez reported the shots over the radio, and Officer Lozano drove north on Washtenaw Avenue. Officer Cortez observed a vehicle (the Mercury) heading in his direction from the area where he heard the gunshots. Officer Cortez saw two male juveniles seated in front of the vehicle and possibly a third occupant seated in the middle of the rear seat. Officer Lozano made a U-turn when the Mercury accelerated southbound on Washtenaw Avenue. Officer Cortez reported the pursuit over the radio and provided a description of the vehicle. Officer Cortez and Officer Lozano followed the vehicle as it drove south on Washtenaw Avenue, then westbound on 26<sup>th</sup> Street, northbound on Sacramento Avenue, then a quick left turn westbound into the alley just north of 26<sup>th</sup> Street. Officer Cortez saw the vehicle head westbound down the alley, approximately five to six car lengths away. Officer Cortez observed the vehicle disregard multiple stop signs at a high rate of speed throughout the pursuit. Officer Cortez and Officer Lozano pursued the vehicle until they arrived at the T-alley, north of 26<sup>th</sup> Street and Albany Avenue.

As the vehicle continued down the alley, the passenger side and rear drivers side doors were opening and closing as if the occupants wanted to exit. Once the vehicle reached the intersection of the alley and Albany Avenue, it slowed down momentarily, and the passengers exited and ran in different directions. Officer Cortez was approximately four to five car lengths away as the occupants exited the vehicle. The driver of the vehicle made a left-hand turn southbound onto Albany Avenue. At the same time the vehicle made the left turn, Officers Cortez and Lozano arrived at the T-alley. Officers Cortez and Lozano exited their vehicle to chase the fleeing occupants. As they chased occupants, Officer Cortez immediately heard gunfire.

Officer Cortez got down to the ground. Officer Cortez believed the offenders were shooting at him. Once the gunfire stopped, Officer Cortez started running northbound on Albany Avenue in pursuit of an offender he observed on foot, now known to be ██████████. Officer Cortez caught up to ██████████ and placed him in custody. Officer Cortez turned on his body-worn camera after ██████████ was in custody. Officer Cortez added that was his first attempt at turning on his body-worn camera throughout the incident. Officer Cortez then escorted ██████████ to

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<sup>19</sup> Atts. 88, 89, 115-116

the back of his CPD vehicle and placed him inside. Officer Cortez did not see Beat 1065A/B's vehicle until he was walking back to his own vehicle with [REDACTED]<sup>20</sup>

In an **interview with COPA on June 12, 2018, Officer Augustine Lozano, #14790**, stated he was the driver, and his partner, Officer Cortez, was the passenger in CPD marked vehicle #9194, assigned to Beat 1088C. Officer Lozano stated he heard shots fired, which he described as "rapid,"<sup>21</sup> when they were near the area of 24<sup>th</sup> Street and Washtenaw Avenue. Officer Lozano drove northbound on Washtenaw Avenue toward the gunshots, while Officer Cortez reported the shots the over the radio. As Officer Lozano headed northbound, he observed a light green SUV (the Mercury) southbound on Washtenaw Avenue and 23<sup>rd</sup> Street. Officer Lozano saw the driver, the passenger, and a third passenger in the middle of the two front occupants. Officer Lozano made a U-Turn to head southbound on Washtenaw Avenue. In the time it took for Officer Lozano to complete the U-Turn, the Mercury accelerated and was further ahead of him. At that point, Officer Cortez called in the vehicle over the radio and Officer Lozano continued in pursuit of the Mercury.

The Mercury turned west on 26<sup>th</sup> Street, then north on Sacramento Avenue before turning left into the alley just north of 26<sup>th</sup> Street. As the Mercury proceeded at a high rate of speed down the alley, Officer Lozano saw the rear passenger and rear driver's side doors opening and closing as if the occupants were attempting to jump out of the vehicle. Officer Lozano saw the Mercury slow down as it approached Albany Avenue from the alley. While it was still moving slowly, the passengers jumped out of the vehicle. The Mercury then turned left, southbound, onto Albany Avenue, at which point Officer Lozano lost sight of it (the SUV).

Officer Lozano parked his CPD vehicle and exited, because he intended to chase the occupants that jumped out of the Mercury. As he and Officer Cortez exited their vehicle, Officer Lozano heard a volley of gunshots and got down to the ground for cover because he believed he was being shot at. Officer Cortez reported the shots over the radio. After the shots stopped, Officer Lozano looked up and saw "an offender"<sup>22</sup> running northbound on Albany Avenue. Officer Lozano stated he ran around the front of his CPD vehicle and proceeded to chase after this individual, who was eventually apprehended by another officer. Officer Lozano assisted Officer Cortez with securing [REDACTED]

According to Officer Lozano, he thought he turned on his body-worn camera when he began the pursuit on Washtenaw Avenue, but realized it was not on after [REDACTED] was handcuffed. Officer Lozano activated his camera when he made that realization. Officer Lozano did not see Beat 1065A/B's vehicle until approximately ten minutes after the shots were fired because he was not in that immediate area before that.<sup>23</sup>

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<sup>20</sup> Att. 84, 86, 114

<sup>21</sup> Att. 83 Page 14, Line 2

<sup>22</sup> Att. 86 Page 15, Line 7. COPA investigators were unable to identify which of the arrestees Officer Lozano chased.

<sup>23</sup> Atts. 81, 82, 83, 101, 111-113



**b. Digital Evidence**

**Evidence Technician (ET) photographs** depict a light green Mercury Mountaineer, license plate number [REDACTED], with approximately four bullet holes in the front windshield and another four in the front hood. The photographs also show several scratches on the front left quarter panel and dents and scratches along the front and rear doors on the right side of the vehicle. Additionally, there are photographs of a blue Ford Explorer (unmarked vehicle, license plate number MP 10597) which has a dent and scratches on the left rear passenger door. There are photographs of a black Acura, license plate number [REDACTED], and red Chevy Blazer, license plate number [REDACTED]; both vehicles depict damage on their left sides. Photographs of Officer Alexander Franco and Officer Dan Cojocnean and multiple cartridge casings found at the scene were taken.<sup>24</sup>

**Officer Cojocnean's Body-Worn Camera (BWC)** footage shows him exiting an unmarked blue Ford Explorer, from the rear driver's side. As soon as he exits, an SUV (the Mercury) speeds right past him at close range. The video footage does not provide sound until 30 seconds into the recording; therefore, there is no sound when Officer Cojocnean fires his shots. After additional officers arrive on the scene, Officer Cojocnean repeatedly says that he was almost hit by a car.<sup>25</sup>

**Officer Franco's BWC** footage begins when the driver of the Mercury, [REDACTED] is apprehended. As they move around the scene, Officer Franco can be heard saying that someone fired at him and that he saw a muzzle flash coming from the vehicle. It does not contain any images of the weapons discharge.<sup>26</sup>

**Officer Valdovinos' BWC** footage begins after the driver of the Mercury, [REDACTED] is in custody. Once [REDACTED] is placed in handcuffs, Officer Valdovinos walked around the scene of the incident as he and other officers looked for the other people who fled from the Mercury. It does not contain any images of the weapons discharge.<sup>27</sup>

**Officer Bronke's BWC** footage begins when he is seated in the rear passenger seat of the unmarked Ford Explorer. Officer Bronke exits the vehicle and runs northbound on Albany Avenue before suddenly turning around and running southbound. The Mercury can be seen between the unmarked Ford Explorer and the parked cars on the east side of Albany Avenue. Officer Bronke runs toward the front of the Mercury where the driver, [REDACTED] is placed in custody. and Officer Bronke runs north on Albany Avenue. It does not contain any images of the weapons discharge.<sup>28</sup>

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<sup>24</sup> Att. 62

<sup>25</sup> Att. 63. Approximately 11 minutes and 55 seconds into the recording, someone put Officer Cojocnean's vest with his BWC still attached in a trunk and closed the lid. The remaining recording (total length is 1:46:54) consists of a black screen and the audio of OEMC radio transmissions.

<sup>26</sup> Att. 64. Similar to what was shown on Officer Cojocnean's recording, approximately 9 minutes and 35 seconds into the recording, someone put Officer Franco's vest with his BWC still attached in the trunk of a car. The remaining time (total: 1:44:47) consists of a black screen and audible OEMC transmissions.

<sup>27</sup> Att. 91

<sup>28</sup> Att. 90

**Officer Cortez's BWC** footage contains two clips. The first one begins when he has [REDACTED] lying on the ground, handcuffed and in custody. Officer Cortez searched [REDACTED] and puts him in the back seat of a marked CPD SUV. The second clip shows Officer Cortez walking through an alley in the area. It does not contain any images of the weapons discharge.<sup>29</sup>

**Officer Lozano's BWC** footage contains three clips. The first one is of him and other officers looking through various yards, apparently searching for one of the people who ran from the Mercury. The other clips include interactions between police and crowds of people at the crime scene perimeter. It does not contain any images of the weapons discharge.<sup>30</sup>

In-Car Camera footage from Beat 1088C (Officers Cortez and Locano) corroborates the officers' descriptions of their pursuit of the Mercury and shows multiple people exiting the Mercury and running from it at the mouth of the alley on Albany Ave. Gunshots can be heard shortly thereafter, but the camera does not have a view of what happened. Additional officers and vehicles can be seen chasing people and searching the area.<sup>31</sup>

**Security surveillance footage obtained from the restaurant Pollo Feliz, located at 3120 W 26<sup>th</sup> Street**, shows an SUV (the Mercury) driving westbound through an alley just north of 26<sup>th</sup> Street and east of Albany Avenue. The Mercury comes to a brief stop where approximately four occupants exit and run in different directions. An unmarked CPD vehicle (Unit 1065A/B) stops on Albany near the west side of the street, at least one car length south of the alley.<sup>32</sup> Officers get out of their vehicle and start chasing the people who fled from the Mercury. The Mercury turns southbound on Albany Avenue toward the unmarked vehicle. At that point, one officer (Officer Cojocnean) is standing outside of the unmarked vehicle near the rear driver's side, between their vehicle and those parked on the west side of the street. Another officer (Officer Franco) is on the east side of Albany Avenue, attempting to apprehend one of the fleeing occupants. The Mercury drives toward Officer Cojocnean and between the unmarked vehicle and the vehicles located on the west side of Albany Avenue. Officer Cojocnean fires his weapon at the Mercury as it is approaching him. Officer Franco also fires his weapon toward the Mercury from the east side of the street. Officer Franco is at an angle to the Mercury when he fires, in front and to the east (driver's side). The Mercury stops and the driver appears to make a brief attempt to run before he is apprehended by Officer Cojocnean.<sup>33</sup>

### c. **Documentary Evidence**

[REDACTED] **Arrest Report (CB # [REDACTED])** under report number **JA402313** documents that he was driving a Mercury that was seen fleeing from an area where shots had been fired. Unit 1088C pursued [REDACTED] and tried to stop it, but he disregarded multiple stop signs and went continued westbound in the north alley of 26<sup>th</sup> Street. [REDACTED] stopped the car at the mouth of the alley on Albany Avenue where several Hispanic males fled from the Mercury. [REDACTED] continued driving south on Albany Avenue, striking multiple parked

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<sup>29</sup> Att. 87

<sup>30</sup> Att. 80

<sup>31</sup> Att. 79

<sup>32</sup> COPA notes that the officers' vehicle was partially in the southbound lane even though they were facing north.

<sup>33</sup> Att. 49

vehicles on the west side of the street and driving in the direction of Officer Cojocnean. Officers Cojocnean and Officer Franco fired their weapons at [REDACTED] and struck his vehicle but did not strike any people. [REDACTED] was subsequently placed in custody, charged with Aggravated Assault and Fleeing/Attempting to Elude, and issued multiple citations. [REDACTED] later pled guilty to Aggravated Assault.<sup>34</sup>

The **Tactical Response Report filed by Officer Alexander Franco** indicates Officer Franco perceived that [REDACTED] was firing at him (and/or another officer) when he fired his weapon 11 times at [REDACTED].<sup>35</sup>

The **Tactical Response Report filed by Officer Dan Cojocnean** indicates [REDACTED] drove a vehicle at the officer. Officer Cojocnean responded by firing his weapon five times at [REDACTED].<sup>36</sup>

The **Original Case Incident Report and Case Supplementary Reports (RD JA402313)** contain a summary of the investigation conducted by Detectives Anthony Green and Michael Chiocca. They interviewed Officers Cojocnean, Franco, Bronke, Valdovinos, Lozano, and Cortez, who all provided essentially the same information that they provided to IPRA/COPA. Detectives interviewed [REDACTED] who denied being in the Mercury or being an eyewitness to the weapons discharge incident.<sup>37</sup> None of the other arrestees agreed to be interviewed by detectives. The detectives' canvass of the location of incident did not reveal any eyewitnesses to the weapons discharge incident.<sup>38, 39</sup>

The **Office of Emergency Management and Communications Event Query #1723414719** indicates that on August 22, 2017, at 10:50 pm, a call of shots fired was reported and a silver SUV was seen fleeing Southbound on Washtenaw Ave from approximately 22<sup>nd</sup> Place.<sup>40</sup>

The **Office of Emergency Management and Communications Event Query #1723414619** indicates that on August 22, 2017, at 8:55 pm, suspects were reported to be "bailing". At 8:57 pm, shots fired by police were reported.<sup>41</sup>

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<sup>34</sup> Att. 9, 129. [REDACTED] (Criminal Trespass to Land and Reckless Conduct), [REDACTED] (Criminal Trespass to Land), [REDACTED] (Reckless Conduct), and [REDACTED] (Reckless Conduct) were also arrested after fleeing from the Mercury. [REDACTED] and [REDACTED] are juveniles and the status of their cases is not readily available. Charges against [REDACTED] and [REDACTED] were dropped. See Att. 10, 11, 12, 120, 130, 131.

<sup>35</sup> Att. 8

<sup>36</sup> Att. 65. Officer Cojocnean's TRR has an incorrect RD Number, #JA402382. COPA was unable to find a case report with that number.

<sup>37</sup> COPA attempted to contact Mr. [REDACTED] for an interview but he did not respond. See Att. 72, 93.

<sup>38</sup> COPA conducted a canvass on May 2, 2018 but did not find any witnesses to the shooting. See Att. 74.

<sup>39</sup> Att. 121

<sup>40</sup> Att. 27. Although the call was about a silver SUV and the Mercury was green, the officers from Beat 1088C reported following the Mercury because of how it was driving in the vicinity of the shots fired call. No gun was found in the Mercury or on any of its occupants. It is unknown at this time what, if any, connection it had to the original shots fired.

<sup>41</sup> Att. 29, pages 2-3

**Traffic Pursuit Report #17-0222** indicates marked police vehicle 1088C, occupied by Officers Augustine Lozano (driver) and Gabino Cortez (passenger) was the only unit involved in the pursuit of the Mercury operated by [REDACTED]. The narrative of the report explains that Sergeant Steven Sautkus #1381, monitored the pursuit on the OEMC radio and the balancing test permitted the pursuit to continue.<sup>42</sup> Sergeant Sautkus reported the officers exercised proper judgement and followed department policy and procedure.<sup>43</sup>

The **Crime Scene Processing Report** list the evidence that was recovered following this incident, including the firearms of the involved officers. Officer Cojocnean's Glock 17 had a 17-round capacity magazine with 12 live rounds in it, and another live round in the chamber. Officer Franco's Glock 19 had a 15-round capacity magazine with four live rounds in it, and another live round in the chamber.<sup>44</sup> Additionally, three fired bullets were recovered from the Mercury and a total of 15 fired cartridge cases were recovered from the street. Ten of the fired cartridge cases were on the sidewalk and parking lot around 2551 S. Albany; the other five were in the street at approximately 2550 S. Albany, including one that was under the Mercury.<sup>45</sup>

A report from the **Illinois State Police Division of Forensic Services** revealed that testing was conducted on the recovered fired evidence, which were compared to Officer Cojocnean's and Officer Franco's firearms. Five fired cartridge cases were found to have been fired from Officer Cojocnean's firearm and ten<sup>46</sup> were found to have been fired from Officer Franco's weapon.<sup>47</sup> Testing could not determine whether the fired bullets from the Mercury were fired from the same gun or from either the officers' weapons.<sup>48</sup>

## VI. ANALYSIS

### a. Applicable Law and Directives

#### 1. Motor Vehicle Pursuits - General Order 03-03-01

General Order 03-03-01<sup>49</sup> defines a motor vehicle pursuit as “[a]n active attempt by a sworn member operating an authorized emergency vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction,

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<sup>42</sup> This is corroborated in Event Query Report 1723414619, which shows that Sgt. Sautkus (Beat 1088) was monitoring the pursuit at 8:55 pm. See Att. 29, page 2.

<sup>43</sup> Att. 68

<sup>44</sup> Officer Franco's weapon also had an expended cartridge case in the chamber, which would indicate a possible jam.

<sup>45</sup> Att. 43

<sup>46</sup> Officer Franco reported that he fired eleven times. The eleventh cartridge case is the one that was recovered from the chamber of his weapon.

<sup>47</sup> A comparison with the Crime Scene Processing Report reveals that the five fired cartridge cases attributed to Officer Cojocnean's weapon were the ones found near 2550 S. Albany (crime scene markers 7-11); and the ten cases attributed to Officer Franco's weapon were the ones found near 2551 S. Albany (crime scene markers 1-6 and 12-15).

<sup>48</sup> Att. 128

<sup>49</sup> This report cites the version of General Order 03-03-01 in effect on the date of the incident.

increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.”<sup>50</sup>

General Order 03-03-01 provides that a CPD member will only engage in a motor vehicle pursuit when a pursuit is authorized after applying the balancing test and other restrictions of General Order 03-03-01. When applying the balancing test, CPD members are required to determine whether the:

- a. speeds involved and/or the maneuvering practices engaged in permit the Department vehicle operator complete control of the Department vehicle and do not create unwarranted danger to himself or others;
- b. volume of pedestrian and vehicular traffic reasonably permits initiating or continuing the pursuit; and
- c. weather and road conditions reasonably permit initiating or continuing the pursuit.<sup>51</sup>

## 2. Deadly Force – General Order 03-02-03

The applicable Chicago Police Department’s General Order is 03-02-03, II,<sup>52</sup> which states; A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
  - b. is attempting to escape by use of a deadly weapon or; otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

Additionally, General Order G03-02-03 Deadly Force, Section III, (E) applies. This section of General Order G03-02-03 prohibits Department members from firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person. Finally, General Order 03-02-03, Section IV, titled “Affirmation of Protection of Life Policy” states that “[s]worn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.”

The use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the State statute states that:

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<sup>50</sup> G03-03-01, (Glossary of Terms) (4).

<sup>51</sup> G03-03-01(II)(B)(1)(a)-(c).

<sup>52</sup> This report references the version of General Order 03-02-03 II in effect on the date of the incident. The Department subsequently amended its use of force directives.

...a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) "whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer's actions must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

### 3. Body-Worn Cameras

The applicable directive is Special Order S03-14<sup>53</sup> which states, in relevant part, the Department member will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities.

### 4. Legal Standard

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;

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<sup>53</sup> This report references the version of Special Order S03-14 in effect on the date of the incident.

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 the conduct reviewed violated Department policy. *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 has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

## b. Legal Analysis

### 1. Deadly Force Allegations

COPA finds that **Allegation #1** against Officer Cojocnean, that Officer Dan Cojocnean fired his weapon at a moving vehicle, in violation of Rule 1 and 38, is **Exonerated**.

The available video footage corroborates Officer Cojocnean's account of the incident. The video footage demonstrates Officer Cojocnean exited the police vehicle in anticipation of a foot pursuit, but ██████████ instead drove his vehicle towards Officer Cojocnean at a relatively high rate of speed. The video footage further demonstrates Officer Cojocnean had extremely limited options for cover because there were parked cars to his left and an unmarked police vehicle to his right. While Officer Cojocnean ultimately successfully dove out of the way and took cover behind the unmarked police vehicle, this position may not have protected Officer Cojocnean had ██████████ vehicle crashed into the unmarked vehicle at a high rate of speed.<sup>54</sup>

Officer Cojocnean stated he discharged his firearm at ██████████ the driver of the vehicle, to stop the threat the vehicle posed to him. While General Order G03-02-03 states that firing into a moving vehicle is prohibited when the vehicle is the only force used against the sworn member or another person, the order further states that sworn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.<sup>55</sup> Officer Cojocnean was forced to make a split-second judgment – in circumstances that were tense,

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<sup>54</sup> Officer Cojocnean could have also potentially dove back inside the unmarked police vehicle, but this may have been extremely difficult to do quickly, and this position may not have protected Officer Cojocnean had ██████████ vehicle crashed into the unmarked vehicle at a high rate of speed.

<sup>55</sup> Att. 66

uncertain, and rapidly evolving – about the amount of force that was necessary.<sup>56</sup> Under the totality of the circumstances, an objectively reasonable officer with similar training and experience as Officer Cojocnean would have also concluded that not discharging his or her firearm at ██████████ ██████████ would unreasonably endanger their own life.<sup>57</sup> Based on the totality of the circumstances, Officer Cojocnean’s use of deadly force complied with Department policy.

COPA finds that **Allegation #1** against Officer Franco, that Officer Alexander Franco fired his weapon at a moving vehicle, in violation of Rule 1 and 38, is **Exonerated**.

Officer Franco stated he exited the vehicle and chased a fleeing suspect when he heard gunshots and saw muzzle flashes coming from the offender’s vehicle, which led him to believe he was being shot at. Review of the available video footage corroborates Officer Franco’s statement as he is seen running after a subject when he suddenly ducks down, then begins firing his weapon toward the direction of the Mercury. Furthermore, muzzle flashes appear near the subject vehicle from Officer Cojocnean firing near the subject vehicle. It is reasonable that Officer Franco believed the shots were coming from the subject vehicle because when muzzle flashes were visible near the driver’s side of the Mercury.<sup>58</sup>

Furthermore, the OEMC event query #1723414719 provided officers with a description of the vehicle involved in a shots-fired incident, giving Officer Franco reason to believe the driver of the subject vehicle had a weapon in his possession based on his subsequent observations of the Green Mercury.<sup>59</sup>

Under the totality of the circumstances, an objectively reasonable officer with similar training and experience as Officer Franco would have also concluded that not discharging his or her firearm at ██████████ ██████████ would unreasonably endanger their own life. Based on the totality of the circumstances, Officer Franco’s use of deadly force complied with Department policy.

## 2. Pursuit Allegation

COPA finds that **Allegation #1** against Officer Valdovinos, that Officer Jose Valdovinos violated the pursuit policy, in violation of Rule 1 and 2, is **Unfounded**. Officer Valdovinos operated as a secondary vehicle responding to an incident and did not engage in an actual pursuit. Officer Valdovinos was not actively attempting to apprehend the subject vehicle; rather Officer

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<sup>56</sup> Approximately two and half seconds elapsed between Officer Cojocnean exiting the police vehicle and ██████████ ██████████ vehicle driving past him.

<sup>57</sup> There is no evidence that Officer Cojocnean discharged his firearm at ██████████ after the vehicle passed his position. All the bullet holes on the vehicle were located on the vehicle’s front windshield or the front hood

<sup>58</sup> The Fourth Amendment, Illinois law, and Department policy permit objectively reasonable mistakes of fact. *See Mason-Funk v. City of Neenah*, 296 F. Supp. 3d 1006 (E.D. Wis. 2017) (granting summary judgment to officers who mistakenly killed a hostage, mistakenly believing the hostage was the perpetrator).

<sup>59</sup> COPA recognizes that the Officer Franco received information about a “silver SUV” fleeing from the area where the shots were fired, and that he subsequently observed a green SUV (the Mercury) in the vicinity of the reported shooting. However, in light of Officer Franco observing four individuals run in different directions from the Mercury (*i.e.* fleeing from the responding officers), it was reasonable for Officer Franco to believe that the occupants of the Green Mercury had been involved in the prior shooting.



Valdovinos was attempting to respond to the area, locate the subject vehicle, and provide assistance as needed.<sup>60</sup>

### 3. Body-Worn Camera Allegations

COPA finds that **Allegation #2**, that Officer Jose Valdovinos failed to activate his Body Worn Camera (BWC) at the start of an incident, in violation of Rule 6, is **Sustained**. The start of the incident would have been when Officer Valdovinos was enroute to assist in the active pursuit at which point, according to Body Worn Camera Special Order S03-14, Officer Valdovinos was required to activate his BWC. Officer Valdovinos did not activate his camera until after shots were fired and the offender was in custody.

COPA finds that **Allegation #1** against Officer Cortez, that Officer Gabino Cortez failed to activate his Body Worn Camera (BWC) at the start of an incident, in violation of Rule 6, is **Sustained**. The start of the incident would have been when Officer Cortez called in the pursuit over the radio at which point, according to Body Worn Camera Special Order S03-14, Officer Cortez was required to activate his BWC. Officer Cortez did not activate his BWC until after he had exited his vehicle and assisted in placing an offender in custody.

COPA finds that **Allegation #1** against Officer Lozano, that Officer Augustine Lozano failed to activate his Body Worn Camera (BWC) at the start of an incident, in violation of Rule 6, is **Sustained**. The start of the incident would have been when Officer Lozano began driving in pursuit of the Mercury and Officer Cortez called in the pursuit over the radio. Officer Lozano was aware he was involved in a pursuit at which point, according to Body Worn Camera Special Order S03-14, Officer Lozano was required to activate his BWC. Officer Lozano did not activate his BWC until he had exited his vehicle and was on foot, searching for additional subjects in the area.

COPA finds that **Allegation #2** against Officer Franco, that Officer Alexander Franco failed to activate his Body Worn Camera (BWC) at the start of an incident, in violation of Rule 6, is **Sustained**. The start of the incident would have been when Officer Franco was en route to assist in an active pursuit at which point, according to the Body Worn Camera Special Order S03-14, Officer Franco should have activated his BWC. Officer Franco did not activate his BWC until after the driver of the Mercury was in custody.

## VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Alexander Franco

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<sup>60</sup> To find otherwise would mean that only two Department vehicles (a primary vehicle and secondary vehicle) could respond to the general area of the incident once a pursuit is initiated. COPA finds that General Order G03-03-02, Emergency /Vehicle Operations – Non-Pursuits, applies to responding vehicles not yet actively involved in apprehending the subject vehicle (*i.e.* chasing the subject vehicle). Although Officer Valdovinos partly obstructed the subject vehicle when he stopped his vehicle on Albany Avenue, the available evidence does not reflect that Officer Valdovinos intentionally used his vehicle to prevent the passage of the subject vehicle. Similarly, there is no evidence that Officer Valdovinos was paralleling the active pursuit when driving through the alley as he did not even know the location of the subject vehicle.

**i. Complimentary and Disciplinary History**

Officer Franco has been a CPD member since October 17, 2011. In that time, he has received 45 Honorable Mentions, 2 Complimentary Letters, and 1 Life Saving Award. In the last seven years, Officer Franco has not received any discipline.

**ii. Recommended Penalty, by Allegation**

For Allegation #2, COPA recommends a Reprimand. Officer Franco acknowledged his error in not turning on his body-worn camera earlier and attributed it to being nervous about the incident that was occurring.

**b. Officer Jose Valdovinos****i. Complimentary and Disciplinary History**

Officer Valdovinos has been a CPD member since July 28, 2008. In that time, he has received 99 Honorable Mentions, 2 Complimentary Letters, 2 Life Saving Awards, and 1 Honorable Mention Ribbon Award. In the last seven years, Officer Valdovinos received a SPAR for indebtedness to the city that did not have any disciplinary action associated with it.

**ii. Recommended Penalty, by Allegation**

For Allegation #2, COPA recommends a Reprimand. Officer Valdovinos acknowledged his error in not turning on his body-worn camera earlier and attributed it to being focused on driving the police vehicle and paying attention to what was going on around him. As Officer Valdovinos also expressed a lack of clear understanding about when during an incident to turn on his camera, COPA also recommends that he receive a refresher course of training on the issue.

**c. Officer Gabino Cortez****i. Complimentary and Disciplinary History**

Officer Cortez has been a CPD member since March 8, 1999. In that time, he has received 50 Honorable Mentions, 16 Emblems of Recognition – Physical Fitness, 5 Department Commendations, and 3 Complimentary Letters. In the last seven years, Officer Cortez has not received any discipline.

**ii. Recommended Penalty, by Allegation**

For Allegation #1, COPA recommends a Reprimand. Officer Gabino acknowledged his error in not turning on his body-worn camera earlier, although he did not explain why he did not do so.

**d. Officer Augustine Lozano****i. Complimentary and Disciplinary History**

Officer Lozano has been a CPD member since August 4, 1997. In that time, he has received 48 Honorable Mentions, 4 Department Commendations, and 2 Complimentary Letters. In the last seven years, Officer Lozano has not received any discipline.

**ii. Recommended Penalty, by Allegation**

For Allegation #2, COPA recommends a Reprimand. Officer Lozano acknowledged his error in not turning on his body-worn camera earlier. He said that he thought he had done so and turned on the camera as soon as he realized the mistake.

**VIII. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding/ Recommendation
Officer Dan Cojocnean	1. Fired weapon at a moving vehicle, in violation of Deadly Force General Order G03-02-03, as well as Rule 1 and 38.	Exonerated
Officer Alexander Franco	1. Fired weapon at a moving vehicle, in violation of Deadly Force General Order G03-02-03 as well as Rule 1 and 38.  2. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Exonerated  Sustained/ Reprimand
Officer Jose Valdovinos	1. Violated the provision of General Order G03-03-01, Emergency Vehicle Operations – Pursuits, in violation of Rule 1 and 2.  2. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Unfounded  Sustained/ Reprimand
Officer Gabino Cortez	1. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Sustained/ Reprimand
	1. Violated the provisions of Body Worn Camera Special Order S03-14, in violation of Rule 6.	Sustained/ Reprimand

Approved:



December 27, 2019

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Andrea Kersten  
*Deputy Chief Administrator*

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Date



December 27, 2019

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Sydney Roberts  
*Chief Administrator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	1
<b>Major Case Specialist:</b>	Emily Pierce
<b>Supervising Investigator:</b>	Shannon Hayes
<b>Deputy Chief Administrator:</b>	Andrea Kersten