

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 5, 2018
Time of Incident:	1:40 pm
Location of Incident:	1004 North Clark Street
Date of COPA Notification:	July 11, 2018
Time of COPA Notification:	2:30 pm

Officers Guam Traan, star #11514 (“Officer Traan”) and Luis Laurenzana, star #19637 (“Officer Laurenzana”), working bicycle patrol, attempted to detain [REDACTED] [REDACTED] (“[REDACTED]”) for having open alcohol on the public way. [REDACTED] fled, and the officers pursued him on their bicycles. At the end of the pursuit, Officer Laurenzana performed a takedown and delivered forearm strikes to [REDACTED] head. Subsequently, Officer Laurenzana completed a Tactical Response Report (“TRR”) that was reviewed and approved by Sergeant Richard Lorenz, star #2233 (“Sgt. Lorenz”) and Lieutenant Michael O’Malley, star #402 (“Lt. O’Malley”). The Chicago Police Department (“CPD”) Force Review Unit, after reviewing Officer Laurenzana’s TRR and the available body-worn camera (“BWC”) video recordings, initiated complaints against Officer Laurenzana for excessive force and against Lt. O’Malley for failing to report Officer Laurenzana’s excessive force. COPA investigated these allegations and determined that Officer Laurenzana used excessive force when he struck [REDACTED] COPA also determined that Lt. O’Malley failed to report Officer Laurenzana’s use of excessive force.

II. INVOLVED PARTIES

Involved Officer #1:	Luis Laurenzana, star #19637, Employee ID# [REDACTED] Date of Appointment March 27, 2006, Police Officer, Unit of Assignment 006, DOB [REDACTED], 1981, male, Hispanic.
Involved Lieutenant #1:	Michael O’Malley, star #402, Employee ID# [REDACTED] Date of Appointment August 5, 1996, Lieutenant of Police, Unit of Assignment 018, DOB [REDACTED], 1958, male, White. <sup>1</sup>
Involved Individual #1:	[REDACTED] DOB [REDACTED], 2000, male, Hispanic.

<sup>1</sup> A PAR form obtained from CPD Human Resources documents that Lt. O’Malley retired from the Department as of October 20, 2020. Attachment 20.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Luis Laurenzana	1. It is alleged that on July 5, 2018 at or around 1004 N. Clark Street, at approximately 1:40 pm, you struck [REDACTED] [REDACTED] about the head area while he was on the ground in a defensive posture.	Sustained / 30-day Suspension
Lieutenant Michael O'Malley	1. It is alleged that you failed to report excessive force in that on July 5, 2018 at approximately 8:53 pm you reviewed and approved the Tactical Response Report relative to JB336551 and did not obtain a Complaint Log number.	Sustained / Case Suspended

**IV. APPLICABLE RULES AND LAWS**

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Rules

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The Chicago Police Department Rules of Conduct set forth expressly prohibited acts:

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department
  2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals
  3. Rule 5: Failure to perform any duty
  4. Rule 6: Disobedience of an order or directive, whether written or oral
  5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty
  6. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty
  7. Rule 10: Inattention to duty
  8. Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department
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General Orders

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1. General Order G03-02, Use of Force (effective date: October 16, 2017)<sup>2</sup>
2. General Order G03-02-01, Force Options (effective date: October 16, 2017)<sup>3</sup>

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<sup>2</sup> Attachment 36.

<sup>3</sup> Attachment 37.

3. General Order G03-02-02, Incidents Requiring the Completion of a Tactical Response Report (effective date: October 16, 2017)<sup>4</sup>
4. General Order G08-01-02, Specific Responsibilities Regarding Allegations of Misconduct (effective date: May 4, 2018)<sup>5</sup>

## V. INVESTIGATION<sup>6</sup>

### a. Interviews<sup>7</sup>

**Witness Police Officer Guam Traan was interviewed by COPA investigators on March 13, 2019.**<sup>8</sup> Officer Traan told investigators that on the afternoon of July 5, 2018, he was on duty and assigned to bicycle patrol duties with his partner, Officer Luis Laurenzana. While patrolling in a park near Division Street and Orleans Street, Officer Traan saw a person later identified as ██████ drinking alcohol. Officer Traan approached ██████ and tried to speak with him, but ██████ ran. Officer Laurenzana was on the other side of the park, so Officer Traan yelled for assistance and both officers chased ██████ on their bicycles. ██████ ran into a parking lot, and the officers split up and went down different aisles. Officer Traan heard a commotion, and when he turned, he saw Officer Laurenzana attempting to re-mount his bicycle while ██████ ran down the street.

The officers chased ██████ for about a mile to the intersection of Division Street and Clark Street, where Officer Laurenzana dismounted his bicycle and began chasing ██████ on foot. Officer Traan remained on his bicycle and followed, turning onto Clark from Division. Officer Traan's view was momentarily obscured by a Chicago Transit Authority bus, but he saw that Officer Laurenzana had ██████ on the ground after coming around the bus. Officer Laurenzana was on top of ██████ giving orders to stop resisting, while ██████ swung his arms in an apparent attempt to avoid handcuffing. Officer Laurenzana then delivered two elbow strikes to ██████ arms while ██████ held his arms around his head. ██████ continued moving his arms and Officer Laurenzana delivered a third elbow strike. Officer Traan then dismounted his bicycle and assisted in handcuffing ██████ who continued to resist by both stiffening and moving his arms. Officer Traan did not observe any injuries to ██████ although ██████ said he could not breathe. The officers called for an ambulance, and ██████ was transported by ambulance to Northwestern Memorial Hospital. Officer Traan opined that Officer Laurenzana's elbow strikes were within CPD policy because ██████ was an active resistor who was moving and attempting to avoid being handcuffed.

**Accused Police Officer Luis Laurenzana was interviewed by COPA investigators on April 9, 2019.**<sup>9</sup> Officer Laurenzana told investigators that on the afternoon of July 5, 2018, he was on duty and assigned to bicycle patrol duties with his partner, Officer Guam Traan. At

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<sup>4</sup> Attachment 38.

<sup>5</sup> Attachment 39.

<sup>6</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>7</sup> COPA attempted to interview the juvenile victim, ██████ ██████ but his mother did not consent to an interview.

<sup>8</sup> Attachment 4.

<sup>9</sup> Attachment 41.

approximately 1:25 pm, the officers were patrolling in Seward Park near the intersection of Orleans Street and Division Street. Officer Laurenzana was on the opposite side of the park from his partner when he heard Officer Traan scream that two people were running from him. Officer Laurenzana rode his bicycle towards Officer Traan to assist. Officer Traan followed both individuals, one now known to be [REDACTED] [REDACTED] into a parking lot. Officer Laurenzana rode into the parking lot and saw both individuals emerge from between parked cars, and he ordered them to stop. As Officer Laurenzana dismounted his bicycle, both individuals charged at him. Officer Laurenzana positioned his bicycle in front of him and again ordered the individuals to stop, but [REDACTED] lowered his shoulder and ran into Officer Laurenzana, contacting the officer's left shoulder and causing the officer to lose his balance and fall. Both individuals continued running, and Officer Laurenzana got up, re-mounted his bicycle, and gave chase, along with Officer Traan. Officer Laurenzana lost sight of the second individual but continued to chase [REDACTED]

The officers caught up to [REDACTED] and urged him to stop in both English and Spanish, saying that they wanted to talk to him. [REDACTED] ignored the officers' commands and began yelling, "Help me, please!" as he continued to run. [REDACTED] began to run in traffic on the street, which was wet from rain. They entered a busier area with more traffic near the intersection of Clark Street and Oak Street, and Officer Laurenzana became increasingly concerned, so he dismounted his bicycle and continued to urge [REDACTED] to stop and speak with the officers. [REDACTED] crossed the street and went towards a stopped bus, and Officer Laurenzana thought that [REDACTED] might attempt to board the bus. Officer Laurenzana caught up to [REDACTED] and performed an emergency takedown by pushing [REDACTED] to the ground.

Officer Laurenzana explained that he believed the takedown was necessary because [REDACTED] could have otherwise boarded the bus and assaulted the occupants or could have assaulted someone on the sidewalk. After completing the takedown, [REDACTED] arms were up, and his body was turned towards Officer Laurenzana. Officer Laurenzana acknowledged that [REDACTED] was holding his arms in a defensive position in front of his face but explained that [REDACTED] fists were closed, describing [REDACTED] position as a "boxer's [or] striker's defensive position." Officer Laurenzana also described giving verbal directions for Braemer to "give me your hands" while [REDACTED] stiffened and pulled away. Officer Laurenzana performed "head stuns" on [REDACTED] using the "meaty portion of his forearm" to stun [REDACTED] across his shoulder, forearms, and the side of his face, with the intent to "rake" [REDACTED] arm out, while [REDACTED] continued to squirm. Officer Traan then assisted by grabbing [REDACTED] arms, but [REDACTED] kept his arms stiff and continued resisting, yelling, "Help me, help me, I can't breathe." While Officer Traan held [REDACTED] arms, Officer Laurenzana was able to use his radio to call for assistance, and [REDACTED] was handcuffed after assisting officers arrived. [REDACTED] closed his eyes and did not respond to verbal direction, so Officer Laurenzana called for an ambulance, and [REDACTED] was transported to Northwestern University Hospital. Officer Laurenzana accompanied [REDACTED] while Officer Traan went to begin [REDACTED] arrest paperwork. In the ambulance, Officer Laurenzana noticed that [REDACTED] smelled like alcohol and that [REDACTED] eyes were red and glassy. Officer Laurenzana did not learn why Officer Traan initially decided to stop [REDACTED] until later.

Officer Laurenzana returned to the area where the incident occurred to retrace his path and look for any surveillance cameras that might have recorded the incident. Officer Laurenzana asked a parking lot attendant if the lot was equipped with surveillance cameras. When the attendant replied affirmatively, they reviewed the available recordings and Officer Laurenzana recorded the screen of the surveillance-system monitor using his cell phone. Officer Laurenzana returned to the district station and completed a Tactical Response Report (TRR) to document his use of force against [REDACTED]. At the station, Officer Laurenzana discussed his use of force with both of his supervisors, Sgt. Lorenz and Lt. O'Malley. Both supervisors were initially skeptical about the propriety of Officer Laurenzana's actions. However, Lt. O'Malley changed his mind after noting that Officer Laurenzana had been injured and after viewing the parking lot surveillance video on Officer Laurenzana's cell phone, showing [REDACTED] striking Officer Laurenzana in the parking lot. Officer Laurenzana later provided the parking lot video on his cell phone to his attorney and to COPA.<sup>10</sup>

Officer Laurenzana explained that he initially classified [REDACTED] as an active resistor when [REDACTED] ran and refused the officers' commands to stop. He later classified [REDACTED] as an assailant when [REDACTED] charged at him and struck his shoulder, and then again as an active resistor when [REDACTED] continued to run. Officer Laurenzana admitted that, as alleged, he struck [REDACTED] about the head while [REDACTED] was on the ground in a defensive posture. While admitting that the allegation was true, Officer Laurenzana asserted that his actions were justified because of [REDACTED] "threat level" and the need to secure [REDACTED] hands and prevent [REDACTED] from running in traffic. Officer Laurenzana also explained that he needed to assure that [REDACTED] would not reach for any weapons and that [REDACTED] was struggling and failing to comply with verbal commands.

**Accused Lieutenant Michael O'Malley was interviewed by COPA investigators on March 13, 2019.**<sup>11</sup> Lt. O'Malley recounted that on the afternoon of July 5, 2018, he was the watch operations lieutenant in the Eighteenth District. Officers Laurenzana and Traan were also working that afternoon in the Eighteenth District, although they were assigned to the Area Central bicycle patrol team. After the arrest of [REDACTED] [REDACTED] Lt. O'Malley spoke with Officer Traan in the district station while Officer Laurenzana was at the hospital with [REDACTED]. At that time, Lt. O'Malley viewed Officer Traan's body-worn camera recording and waited for Officer Laurenzana to come to the station. When Officer Laurenzana arrived, Lt. O'Malley asked to review his body-worn camera recording, but Officer Laurenzana told him that he had been unable to activate the camera at the beginning of the incident and that the camera had been knocked off his body at the end of the incident. Officer Laurenzana had, however, obtained a surveillance video recording from a parking lot by using his personal cell phone to record images from the surveillance system. The parking-lot video showed [REDACTED] knocking the officer from his bicycle.

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<sup>10</sup> Attachments 24, 25. The parking lot surveillance video is consistent with Officer Laurenzana's account and depicts [REDACTED] running towards Officer Laurenzana. Due to the quality of the recording, the distance between the camera and the parking lot, and various obstructions, it is not possible to determine precisely how [REDACTED] made contact with Officer Laurenzana.

<sup>11</sup> Attachment 40.

Lt. O'Malley explained that when he first viewed Officer Traan's body-worn camera recording, he believed both officers exercised good judgment by allowing the incident to play out while attempting de-escalation techniques, and he did not observe any excessive force. Because [REDACTED] assaulted Officer Laurenzana in the parking lot by knocking him from his bicycle and caused injury to the officer, Lt. O'Malley classified [REDACTED] as an assailant. Lt. O'Malley further explained that when arresting an assailant and attempting to overcome resistance, an officer can use direct mechanical striking techniques; the forearm strikes delivered by Officer Laurenzana were direct mechanical strikes that were used to assure [REDACTED] compliance. Lt. O'Malley said that he could not recall if he saw any of the forearm strikes land on [REDACTED] head; he only remembered seeing Officer Laurenzana strike [REDACTED] hands, which [REDACTED] was holding up near his head. Lt. O'Malley conceded that it was very possible that the strikes may have landed on [REDACTED] head, but he did not recall seeing it. Also, even if the strikes landed on [REDACTED] head, Lt. O'Malley believed they would have been justified and consistent with CPD directives.

Lt. O'Malley further explained that [REDACTED] was properly classified as an assailant at the time of the arrest, even though [REDACTED] fled from the parking lot where he assaulted Officer Laurenzana and the arrest occurred approximately three-quarters of a mile away. Lt. O'Malley did not believe time or distance changed [REDACTED] status as an assailant, particularly because [REDACTED] was still resisting and because [REDACTED] attempted to strike Officer Traan with his knee after being taken to the ground by Officer Laurenzana. Lt. O'Malley also believed that even if [REDACTED] was an active resistor, instead of an assailant, direct mechanical strikes would still have been appropriate and authorized by CPD directives.

#### **b. Digital Evidence<sup>12</sup>**

A **body-worn camera ("BWC") video recording<sup>13</sup>** from Officer Traan depicts the officer confronting a subject, later identified as [REDACTED] [REDACTED] in Seward Park. [REDACTED] flees on foot, disregarding Officer Traan's commands, and Officers Traan and Laurenzana pursue [REDACTED] on their bicycles. Officer Traan loses sight of [REDACTED] but then locates him in a parking lot on the 300 block of West Hill Street. As Officer Traan rounds a corner at the end of an aisle, Officer Laurenzana's bicycle is on the ground, and Officer Laurenzana runs back towards the bicycle from the street entrance to the lot. Both officers continue to pursue [REDACTED] south through the east alley of North Orleans Street, east on West Oak Street, and south on North Wells Street. [REDACTED] reverses course and again flees east along West Oak Street, then south along North Clark Street before again reversing course back towards the intersection of Oak and Clark. At times, [REDACTED] runs between moving vehicles, and the officers repeatedly order him to stop while [REDACTED] periodically yells for help.

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<sup>12</sup> In addition to the body-worn camera recordings described below, COPA also obtained recordings from three additional CPD members who arrived at the scene of [REDACTED] arrest after Officer Laurenzana's use of force and from two additional CPD members who transported [REDACTED] to the 18<sup>th</sup> District station after he was discharged from the hospital. None of these recordings depict the emergency takedown or strikes. Attachment 23. One or more pedestrians standing on the sidewalk also appeared to be video recording the encounter using cell phones. The pedestrians have not been identified and their video recording(s) have not been obtained by COPA.

<sup>13</sup> Attachment 23.

Officer Laurenzana dismounts his bicycle at the corner of Oak and Clark while [REDACTED] runs north on the west sidewalk. Both Officer Laurenzana and [REDACTED] are momentarily out of Officer Traan's sight as they run behind a southbound CTA bus that stops at the northwest corner of Oak and Clark. As Officer Traan clears the bus, [REDACTED] falls to the sidewalk just north of the bus shelter near a sidewalk tree enclosure. [REDACTED] falls on his right side, with Officer Laurenzana standing immediately behind him. [REDACTED] and Officer Laurenzana are then momentarily out of view as Officer Traan turns around and dismounts his bicycle.

As Officer Traan turns around, [REDACTED] is lying on the sidewalk adjacent to the planter, face up, with his hands clasped behind his head and his forearms and elbows in front of his face. Officer Laurenzana is kneeling on [REDACTED] torso with his left knee and holding [REDACTED] right arm with his (Laurenzana's) left hand. Officer Laurenzana draws his right hand and arm back from [REDACTED] head and then brings his right forearm down, striking [REDACTED] right forearm and head. Officer Laurenzana then places his right hand on [REDACTED] right arm, now holding [REDACTED] right arm with both of his hands. Officer Laurenzana draws his right arm back again before moving it in a downward motion and striking [REDACTED] head with his elbow and forearm. Officer Laurenzana again grabs [REDACTED] right arm with both of his hands as Officer Traan dismounts his bicycle. Both officers give verbal commands for [REDACTED] to get on his stomach and place his arms and hands behind his back. Officer Laurenzana stands up as Officer Traan grabs [REDACTED] wrists. [REDACTED] continues to shout for help as he accuses the officers of being abusive, occasionally writhing and possibly kicking. [REDACTED] also shouts that he was hit three times on his head by an officer's elbow. [REDACTED] also denies pushing officer Laurenzana and says that he fled because the officer tried to run him over with his bicycle. A group of other officers arrive and assist in handcuffing [REDACTED]. They begin walking [REDACTED] to a waiting patrol vehicle, but then request an ambulance when [REDACTED] complains of a concussion and appears to lose consciousness. After [REDACTED] is placed in the ambulance, Officer Traan rides his bicycle back to the 18<sup>th</sup> District station while Officer Laurenzana accompanies [REDACTED] to the hospital.

**Officer Laurenzana's BWC recording<sup>14</sup>** begins after [REDACTED] has been placed in custody and does not depict the use of force. When Chicago Fire Department ("CFD") ambulance personnel arrive, Officer Laurenzana describes [REDACTED] fleeing from Officer Traan in Seward Park and then pushing him (Officer Laurenzana) in a parking lot before fleeing again. Officer Laurenzana also described administering a head stun to [REDACTED] after [REDACTED] refused to get on his stomach after being taken to the ground. While riding with [REDACTED] and CFD personnel in the ambulance, Officer Laurenzana described delivering a head stun to [REDACTED] and also striking [REDACTED] in the gut in order to cause [REDACTED] to lower his hands. Later, Officer Laurenzana described tackling [REDACTED] and then delivering a head stun to the side of [REDACTED] face with his forearm after [REDACTED] raised his hands and resisted arrest. The recording ends after [REDACTED] is wheeled into the emergency room at Northwestern University Hospital.

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<sup>14</sup> *Id.*

### c. Physical Evidence

**Medical records**<sup>15</sup> from Northwestern Medicine document that [REDACTED] [REDACTED] was treated in the emergency department on the afternoon of July 5, 2018, arriving at 2:20 pm. [REDACTED] complained that he was struck by a police officer on his chest and head. A chest x-ray and a CT scan of [REDACTED] head did not reveal any abnormalities. The records also document that [REDACTED] did not respond to questions from ambulance personnel during transport, but he immediately sat up and began speaking when he arrived at the hospital. [REDACTED] was discharged to CPD custody at 5:22 pm after being diagnosed with head injury due to trauma and chest injury. [REDACTED] was given instructions for home care of a chest contusion and was told to follow up with his primary care provider.

### d. Documentary Evidence

An **Original Case Incident Report**<sup>16</sup> authored by Officer Traan documents [REDACTED] fleeing during an investigatory stop at Seward Park after Officer Traan observed [REDACTED] in possession of beer. After chasing [REDACTED] to a parking lot on Hill Street, Officer Laurenzana used his bicycle as a barrier to stop [REDACTED] from running, but [REDACTED] shoved the officer off the bicycle, causing him to fall and injure his hand. After chasing [REDACTED] further, Officer Laurenzana used an emergency takedown when [REDACTED] stiffened his arms and pulled away as Officer Laurenzana grabbed him. On the ground, [REDACTED] stiffened his arms when Officer Laurenzana attempted to handcuff him and refused Officer Laurenzana's order to stop resisting. Officer Laurenzana then utilized forearm strikes to [REDACTED] hands and arms. Officer Traan was then able to assist by holding [REDACTED] arms, but [REDACTED] attempted to strike Officer Traan's head with his knee before the officers succeeded in handcuffing [REDACTED] [REDACTED] then complained of shortness of breath and an ambulance was summoned. Two glass bottles of beer in [REDACTED] possession were placed in police inventory.<sup>17</sup> Charges listed on the report are aggravated battery to a police officer, aggravated assault of a police officer, and interference with a public officer, with both officers listed as victims and [REDACTED] listed as the offender.<sup>18</sup>

A **Tactical Response Report**<sup>19</sup> ("TRR") authored by Officer Laurenzana documents that [REDACTED] did not follow verbal direction, stiffened, pulled away, fled, made an imminent threat of battery without a weapon, and physically attacked the officer by striking him and pushing, shoving, or pulling him during a pursuit that followed an investigatory stop. Officer Laurenzana responded with force mitigation efforts including member presence, establishing a zone of safety, moving to avoid attack, tactical positioning, and verbal direction. Officer Laurenzana also utilized a takedown and forearm strikes to [REDACTED] hands, elbows, and upper body, along with escort holds and emergency handcuffing. In the report narrative, Officer Laurenzana described delivering forearm strikes to [REDACTED] arms and fists, which were placed about his face. Officer

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<sup>15</sup> Attachment 19. A Chicago Fire Department ("CFD") run sheet documenting [REDACTED] treatment and transport by CFD medics was included in with the medical records and is consistent with the medical records.

<sup>16</sup> Attachment 8.

<sup>17</sup> Attachment 42.

<sup>18</sup> Substantially the same information is documented on an Arrest Report (Attachment 6) also authored by Officer Traan. The arrest report was approved by Lt. O'Malley.

<sup>19</sup> Attachment 21. Officer Traan also completed a TRR, which was approved by Lt. O'Malley. Attachment 22. Officer Traan's TRR is consistent with Officer Laurenzana's TRR.

Laurenzana also documented that he fell to the ground after he was pushed by [REDACTED] sustaining injuries to his finger, shoulder, knee, and ankle. The report was reviewed and approved by Sgt. Lorenz and Lt. O'Malley, both of whom reviewed the available BWC recordings and determined that Officer Laurenzana's use of force fell within the standards established by the CPD's use-of-force model and in compliance with CPD policy and directives.

An **Initiation Report**<sup>20</sup> authored by Captain Eve Gushes<sup>21</sup> of the CPD Force Review Unit ("FRU") documents that the FRU reviewed the available documents and video recordings associated with Officer Laurenzana's TRR and obtained a complaint log number. Captain Gushes alleged that Officer Laurenzana used excessive force and that Lt. O'Malley failed to report the use of excessive force. A **Revised Initiation Report**,<sup>22</sup> also authored by Capt. Gushes, provides more specific allegations. In the revised report, Capt. Gushes alleged that Officer Laurenzana struck [REDACTED] about the head area while [REDACTED] was on the ground in a defensive posture attempting to protect his head from blows. Capt. Gushes also alleged that Lt. O'Malley reviewed and approved Officer Laurenzana's TRR that showed excessive force but did not report the use of excessive force or obtain a Complaint Log number.

## VI. LEGAL STANDARD

### a. Use of Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>23</sup> 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."<sup>24</sup>

The factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) the severity of the crime at issue; (2) whether the subject was posing an immediate threat to the safety of officers or others; and (3) whether the subject was actively resisting arrest or attempting to evade arrest by flight.<sup>25</sup> In all uses of force the goal of a Department member's response is to "resolve the incident with the foremost regard for the preservation of human life and the safety of all persons involved."<sup>26</sup>

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<sup>20</sup> Attachment 10.

<sup>21</sup> Captain Gushes has since been promoted to the rank of Deputy Chief, and she is now assigned to the Office of Constitutional Policing and Reform. In this report, she is referred to by the rank she held at the time of the incident.

<sup>22</sup> Attachment 35.

<sup>23</sup> General Order G03-02 (III)(B).

<sup>24</sup> *Plumhoff v. Rickard*, 572 U.S. 765, 775 (2014) (internal quotations and citation omitted).

<sup>25</sup> General Order G03-02 (III)(C)(1).

<sup>26</sup> *Id.* (II)(A).

## b. Standard 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 the conduct reviewed did not comply with CPD policy.<sup>27</sup> If the evidence gathered in an investigation establishes that it is more likely that the conduct violated 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.<sup>28</sup> 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."<sup>29</sup>

## VII. ANALYSIS

### a. Officer Luis Laurenzana's Use of Force

To address the allegation of excessive force, COPA must first determine whether Officer Laurenzana was justified in using *any* force against [REDACTED]. Police officers can use reasonable force to detain and handcuff a subject who flees or attempts to flee from a valid *Terry* stop.<sup>30</sup> Based on the officers' undisputed observations and the available BWC video recording from Officer Traan, the officers here had (at a minimum) reasonable suspicion that [REDACTED] was committing an offense by drinking alcohol in a park,<sup>31</sup> and they had the authority to detain him to investigate that

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<sup>27</sup> See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) ("A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.").

<sup>28</sup> See, e.g., *People v. Coan*, 2016 IL App (2d) 151036.

<sup>29</sup> *Id.* ¶ 28.

<sup>30</sup> See *People v. Eyler*, 2019 IL App (4<sup>th</sup>) 170064, ¶ 35 (holding that police have probable cause to arrest an individual who attempts to flee from a lawful *Terry* stop) (citing *People v. Johnson*, 408 Ill. App. 3d 107, 119–120 (2010) (holding that when an individual has been validly detained by police and then flees or attempts to flee from the stop, the police have probable cause to arrest the individual for obstructing a police officer and may handcuff the individual as part of the arrest)); see also *People v. Zanders*, 2018 ILL App 5<sup>th</sup> 150069, ¶25 ("During a *Terry* stop, an officer may . . . detain a suspect with a drawn gun or handcuffs without converting the stop into a full arrest so long as doing so is reasonable under the circumstances.") (citing *People v. Walters*, 256 Ill. App. 3d 231, 237 (1994)); *People v. Martin*, 121 Ill. App. 3d 196, 206 (1984)).

<sup>31</sup> CHI., ILL., PARK DIST. CODE ch. 7, § B.8 (2015).

offense. When ██████ ignored their orders and ran, the officers had probable cause to arrest him for resisting or obstructing a peace officer.<sup>32</sup>

COPA also finds, as a matter of fact, that Officer Laurenzana struck ██████ twice, both times using his forearm to strike ██████ head. The strikes are shown clearly in the video recording of the incident. Both blows were delivered while ██████ was in a defensive position, lying on the ground with his hands clasped behind his head.<sup>33</sup> There is no evidence indicating that ██████ was attempting to strike either Officer Laurenzana or Officer Traan either before or during this use-of-force by Officer Laurenzana. Officer Traan described ██████ attempting to strike him with his knee during handcuffing, but this is not clearly visible on the BWC recording. Even if ██████ did attempt to strike Officer Traan with his knee, this could not possibly have occurred until well after ██████ was struck by Officer Laurenzana, as Officer Traan had not yet made contact with ██████ when Officer Laurenzana delivered the two strikes described above.

While Officer Laurenzana was justified in detaining and handcuffing ██████ he remained responsible for obeying CPD's use-of-force model and associated directives while effectuating the detention. As explained below, Officer Laurenzana violated the use of force directive by using direct mechanical strikes to ██████ head while ██████ was an active resistor. The force options available to CPD members are dictated by the subject's actions, and subjects are placed into categories based on their actions. A subject "who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest" is classified as an "active resistor."<sup>34</sup> In contrast, "[A] subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury" is classified as an "assailant."<sup>35</sup>

CPD directives require that members modify their level of force in relation to the amount of resistance offered by the subject.<sup>36</sup> Members must "use only the force that is proportional to the threat, actions, and level of resistance offered by a subject" and must "use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances."<sup>37</sup> The specific requirements of General Orders G03-02 and G03-02-01 are also placed in the context of the Department's general policy, which, in part, places an emphasis on eliminating or reducing the use of force when possible.

COPA finds, as a matter of fact, that ██████ was an active resistor. ██████ ran from the police and was stopped only when Officer Laurenzana executed an emergency takedown. The force options available to an officer attempting to gain control of an active resistor include holding techniques, compliance techniques, takedowns, and stunning.<sup>38</sup> However, just because these techniques are potential options does not mean that a CPD member can use them indiscriminately against any active resistor. As explained above, the use of these techniques must be proportional to the subject's actions, and members must attempt to use de-escalation techniques before using

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<sup>32</sup> 720 ILCS 5/31-1.

<sup>33</sup> The full sequence of events is described in above in Section V.b.

<sup>34</sup> General Order G03-02-01 § (IV)(B)(2). Attachment 37.

<sup>35</sup> *Id.* § (IV)(C).

<sup>36</sup> General Order G03-02 § (III)(B)(2-3). Attachment 36.

<sup>37</sup> *Id.* § (III)(B)(3-4).

<sup>38</sup> General Order G03-02-01 § (IV)(B)(2).

force, when feasible. Here, ██████ led the officers on a long bicycle and foot chase, and both Officer Laurenzana and Officer Traan made multiple attempts to convince ██████ to stop using verbal commands and persuasion. Just before Officer Laurenzana executed the emergency takedown, ██████ was running in and out of traffic, and a CTA bus had just stopped immediately adjacent to their location. Under these circumstances, an emergency takedown was appropriate, as Officer Laurenzana had attempted various force mitigation techniques, those techniques had not succeeded, and ██████ actions created danger to himself, the officers, motorists, and bus passengers. However, Officer Laurenzana's use of force did not end with the emergency takedown. Instead, Officer Laurenzana delivered forearm strikes to ██████ head.

COPA finds that Officer Laurenzana's strikes to ██████ head were direct mechanical techniques, which are defined as "forceful, concentrated striking movements such as punching or kicking, or focused pressure strikes and pressures," which "are designed to establish control by means of applying mechanical impact to a subject in order to disable elements of his or her musculoskeletal structure."<sup>39</sup> Direct mechanical techniques are allowed against assailants, but these techniques are not allowed against active resisters. Officer Laurenzana's contention that ██████ fists were closed, in a boxer or striker's defensive position, is not supported by the BWC video recording. Rather, ██████ hands were clasped behind his head. ██████ may have been an assailant earlier in the pursuit when he struck Officer Laurenzana's shoulder while fleeing the parking lot. ██████ however, was not an assailant when he was on the ground after Officer Laurenzana executed the emergency takedown, and Officer Laurenzana was required to modify his level of force in proportion to ██████ level of resistance.

Because Officer Laurenzana used direct mechanical techniques against an active resistor when such force was both unauthorized by CPD directives and was disproportional to the level of resistance exhibited by ██████ **Allegation One against Officer Laurenzana is Sustained.** COPA also finds that Officer Laurenzana's use of excessive force in striking ██████ brought discredit upon the Department (violating Rule 2), failed to promote the Department's efforts to implement its policy or accomplish its goals (violating Rule 3), disobeyed General Orders G03-02 and G03-02-01 (violating Rule 6), maltreated ██████ (violating Rule 8), and engaged in an unjustified physical altercation with ██████ (violating Rule 9).

#### **b. Lieutenant Michael O'Malley's Review and Approval of the TRR**

As the supervisor responsible for conducting the preliminary investigation into this use-of-force incident, Lt. O'Malley was required to review all Department-recorded video (including Officer Traan's BWC) and to document any allegations of excessive force.<sup>40</sup> If Lt. O'Malley determined that Officer Laurenzana used excessive force, he was required to notify COPA and to obtain a complaint log number.<sup>41</sup> Based on the available BWC video recording, it was apparent to Captain Gushes of the Force Review Unit that an allegation of excessive force should have been lodged against Officer Laurenzana by Lt. O'Malley. COPA, as discussed above, concurs with Captain Gushes' assessment of Officer Laurenzana's use of force, and COPA concurs with Captain Gushes' assessment that Lt. O'Malley's failed to recognize and to report the use of excessive force.

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<sup>39</sup> *Id.* § (IV)(C)(1)(a)(1).

<sup>40</sup> General Order G03-02-02 § (V)(C)(1)(b)(2-3). Attachment 38.

<sup>41</sup> *Id.* § (V)(C)(2)(d)(5).

In his statement to COPA, Lt. O'Malley correctly classified Officer Laurenzana's strikes as direct mechanical techniques. However, Lt. O'Malley contended that these techniques were appropriate because he classified [REDACTED] as an assailant based on [REDACTED] knocking Laurenzana from his bicycle while fleeing from the parking lot earlier in the incident. Lt. O'Malley also concluded that [REDACTED] was an assailant because he attempted to strike Officer Traan with his knee during handcuffing. These assessments may be correct, but Lt. O'Malley failed to consider Officer Laurenzana's obligation to modify his level of force based on the level of resistance being offered by [REDACTED]

While [REDACTED] may have been an assailant in the parking lot, he was not an assailant when he clasped his hands behind his head in a defensive position after Officer Laurenzana executed the emergency takedown. Likewise, at the time Officer Laurenzana delivered the forearm strikes, he could not have known that [REDACTED] would attempt to strike Officer Traan with his knee in the future, during handcuffing. Because Lt. O'Malley failed to consider Officer Laurenzana's obligation to modify his use of force, he improperly found that Officer Laurenzana's actions were appropriate and authorized by CPD directives. Lt. O'Malley should have recognized that Officer Laurenzana's use of force warranted further investigation, and Lt. O'Malley should have documented this during his review of the TRR. COPA therefore finds that **Allegation One against Lt. O'Malley is Sustained**. COPA also finds that Lt. O'Malley's failure to document and report Officer Laurenzana's use of excessive force failed to promote the Department's efforts to implement its policy or accomplish its goals (violating Rule 3), failed to perform a required duty (violating Rule 5), and disobeyed General Order G03-02-02 (violating Rule 6).

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Luis Laurenzana

#### i. Complimentary and Disciplinary History

COPA has reviewed and considered Officer Laurenzana's complimentary history and his disciplinary history.<sup>42</sup>

#### ii. Recommended Penalty

Officer Laurenzana struck [REDACTED] [REDACTED] an unarmed suspect, while [REDACTED] was on the ground with his hands clasped behind his head in a defensive posture. Officer Laurenzana failed to properly modify his level of force based on [REDACTED] level of resistance. This incident occurred on a busy street and was witnessed by members of the public. The use of excessive force by an officer serves to undermine the fragile relationship between the Department and the citizens it serves. COPA recognizes that Officer Laurenzana displayed commendable patience and attempted to use force mitigation techniques earlier during his encounter with [REDACTED]. But ultimately, Officer Laurenzana did not exhibit the judgment and professionalism that is expected from

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<sup>42</sup> See Attachment 43.

members of the Department, and a significant penalty is warranted. COPA recommends a suspension of 30-days.

**b. Lieutenant Michael O’Malley**

Lt. O’Malley retired from the Department during the pendency of this investigation. COPA recommends that this investigation, as to Lt. O’Malley, be placed in “Case Suspended” status.

**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Luis Laurenzana	1. It is alleged that on July 5, 2018 at or around 1004 N. Clark Street, at approximately 1:40 pm, you struck [REDACTED] [REDACTED] about the head area while he was on the ground in a defensive posture.	Sustained / 30-day Suspension
Lieutenant Michael O’Malley	1. It is alleged that you failed to report excessive force in that on July 5, 2018 at approximately 8:53 pm you reviewed and approved the Tactical Response Report relative to JB336551 and did not obtain a Complaint Log number.	Sustained / Case Suspended

Approved:

[REDACTED]

6/16/2021

\_\_\_\_\_  
 Matthew Haynam  
 Deputy Chief Administrator – Chief Investigator

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	2
<b>Major Case Specialist:</b>	Greg Masters
<b>Supervising Investigator:</b>	Robert Coleman
<b>Deputy Chief Administrator:</b>	Matthew Haynam