

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 10, 2018 / 1:29 to 1:39 pm / 2900 N Parkside Ave and 5351 W Fletcher St., Chicago, IL 60643/41.
Date/Time of COPA Notification:	September 10, 2018 / 7:40 pm.
Involved Officer #1:	Officer Jairam Ramkumar / Star#15127 / Employee ID [REDACTED] / DOA: September 29, 2003 / Unit: 025 / Male / Asian Pacific Islander.
Involved Officer #2:	Officer Brian Dorsch / Star#4257 / Employee ID [REDACTED] / DOA: December 2, 1996 / Unit: 650 / Male / White.
Involved Individual #1:	[REDACTED] / Male / Hispanic.
Case Type:	05B – Excessive Force.

I. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Jairam Ramkumar	1. Discharging your Taser at Mr. [REDACTED] without justification.	Exonerated.
	2. Stomping / Kicking Mr. [REDACTED] without justification.	Sustained
	3. Failing to properly document the force used on Mr. [REDACTED]	Sustained
	4. Failing to complete annual recertification on your Taser.	Unfounded.
	5. Failing to timely activate your Body Worn Camera.	Sustained
	6. Deactivating your Body Worn Camera while still engaged in law-enforcement-related activity.	Sustained
Officer Brian Dorsch	1. Failing to report Officer Jairam Ramkumar for stomping / kicking Mr. [REDACTED] in the head.	Not Sustained.
	2. Holding a cigarette in your mouth while in uniform and in official contact with the public.	Sustained
	3. Failing to timely activate your Body Worn Camera.	Sustained
	4. Deactivating your Body worn Camera while still engaged in law-enforcement-related activity.	Sustained

II. SUMMARY OF EVIDENCE

While on patrol in an unmarked Department vehicle and wearing uniforms, Officers Jairam Ramkumar and Brian Dorsch (collectively “the Officers”) observed a motorcycle/scooter being driven without visible registration. The Officers attempted a traffic stop on the motorcycle/scooter; however, the driver (██████████) fled. After losing sight of ██████████ the Officers were informed by unidentified citizens of ██████████ direction of travel. The Officers located ██████████ and observed him travel the wrong way on N. Lotus St. The Officers again attempted to stop ██████████ who again fled until he collided with garbage cans in an alley behind ██████████. Once ██████████ crashed, he fled east on foot. Officer Ramkumar exited the Department vehicle and pursued ██████████. During the foot pursuit Officer Ramkumar observed ██████████ reaching for his waistband. Officer Ramkumar discharged his Taser at ██████████ causing ██████████ to fall to the ground. Once on the ground, ██████████ continued to reach for his waistband, which contained a visible firearm.¹ Officer Ramkumar discharged his Taser a second time and gained compliance from ██████████. Once ██████████ was handcuffed, Officer Ramkumar kicked/stomped ██████████ head² while Officer Dorsch, who was holding a cigarette in his mouth, recovered the firearm. Officer Dorsch, while still holding a cigarette in his mouth, cleared the firearm and placed the firearm, loaded magazine and live round on the hood of the Department vehicle.³ Officer Ramkumar requested CFD respond to treat ██████████ injuries from the traffic accident and Taser deployment.

COPA was notified of the Taser deployment, completed a cursory review, and determined the need for additional investigation was not warranted without a complaint. During a review by the Force Review Unit, Commander Crystal King-Smith and Sergeant James Berlage believed the force used required further inquiry and completed Initiation Reports requesting COPA investigate.⁴

During his statement,⁵ Officer Dorsch admitted that he deactivated his Body Worn Camera (BWC) in violation of Department policy. Additionally, Officer Dorsch explained that based on policy he did not believe there was a delay in activating his BWC. Further, Officer Dorsch admitted to being in uniform while holding a cigarette in his mouth. Finally, Officer Dorsch explained he was focused on securing the firearm from ██████████ waist and that he did not observe Officer Ramkumar stomp/kick ██████████ in the head.⁶

During his statement,⁷ Officer Ramkumar explained that he initially deployed his taser at ██████████ while pursuing him on foot because ██████████ was reaching for his waistband which led him to believe ██████████ was accessing a weapon. Additionally, Officer Ramkumar explained he arched his taser once ██████████ had fallen to the ground because ██████████ was still reaching for his waistband. Further, Officer Ramkumar explained he deployed his taser for the second time

¹ Att. 13, Dorsch – AXON_Body_2_Video_2018-09-10_1338 at 00:23.

² The action occurs in the upper righthand portion of the camera frame near the date and time stamp. *Id.*, at 01:01.

³ Att. 34.

⁴ Atts. 4 and 35.

⁵ Att. 50.

⁶ Officer Dorsch explained that had he witnessed Officer Ramkumar’s actions it would have been reported to supervision.

⁷ Att. 54.

after hearing Officer Dorsch yell “gun” and observing [REDACTED] reaching for the firearm in his waistband. Officer Ramkumar admitted to stomping/kicking [REDACTED] in the head after he was secured and compliant. Officer Ramkumar explained the stomp/kick occurred because of the high stress nature of the incident. Officer Ramkumar also admitted that he failed to document the stomp/kick in his Tactical Response Report (TRR), failed to timely activate his BWC and deactivated his BWC early. Finally, Officer Ramkumar provided COPA with a copy of a firearms qualification record that detailed his re-certification on a Taser on July 17, 2018.⁸

III. 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;
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 occurred and violated Department policy.⁹ If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, 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.¹⁰ 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.”¹¹

IV. ANALYSIS AND CONCLUSION

a. Use of Force

⁸ Att. 55.

⁹ *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).

¹⁰ *People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹¹ *Id.* at ¶ 28.

COPA finds that Allegation #1 against Officer Ramkumar is **exonerated**. Department Members are permitted to use force to apprehend an active resister.¹² An active resister is “a person who attempt[s] to create distance between himself ... and the member’s reach with the intent to avoid physical control and/or defeat arrest” these actions included “full flight by running.”¹³ To overcome an active resister, Department Members are permitted to deploy a Taser.¹⁴

Here, ██████ was an active resister as he fled from Officer Ramkumar. Additionally, as ██████ fled, he was reaching for his waistband causing Officer Ramkumar to believe that he was armed and needed to be immediately addressed. Thus, Officer Ramkumar’s initial discharge of the Taser was reasonable and permitted by policy. Once ██████ fell to the ground, he continued to ignore commands to provide his hands while still reaching towards his waistband, where a visible firearm was located. Thus, Officer Ramkumar’s subsequent arch and discharge of his Taser were reasonable and permitted by policy.

COPA finds that Allegation #2 against Officer Ramkumar is **sustained**. Department Members are permitted to use “direct mechanical” techniques to include “kicking” only when a subject is an assailant.¹⁵ An assailant is “a subject who is using or threatening the use of force against another person or himself ... which is likely to cause physical injury.”¹⁶ Here, while ██████ may have been an assailant as he was reaching for his firearm and refusing commands from the Officers, once he was handcuffed and directing Officer Dorsch to the location of the firearm, he was no longer an assailant; therefore, Officer Ramkumar was required to deescalate any force. However, Officer Ramkumar failed to properly deescalate his use of force and instead kicked/stomped ██████ in the head. This action was an impermissible use of force and a violation of Department Policy and Rules 2, 3, 6 and 8.

b. Failing to Properly Document Force

COPA finds that Allegation #3 against Officer Ramkumar is **sustained**. Department members are required to “completely describ[e] the facts and circumstances concerning any incident involving the use of force by [a] Department member.”¹⁷ Here, it is undisputed that Officer Ramkumar’s TRR does not contain any description of the stomp/kick to ██████ head. Therefore, the TRR does not comply with Department policy in violation of Rules 2, 3, and 6.

c. Failure to Report Misconduct

COPA finds that Allegation #4 against Officer Dorsch is **not sustained**. While Department Policy mandates the reporting of misconduct when it is observed,¹⁸ Officer Dorsch explained that he was focused on securing the firearm from ██████ waistband and did not witness Officer Ramkumar stomp/kick ██████ in the head. While Officer Ramkumar’s actions are depicted on the BWC footage, COPA understands that during high stress situations – such securing an armed

¹² G03-02-01.

¹³ G03-02-01 IV(B)(2)(a).

¹⁴ G03-02-01 IV(B)(2)(c).

¹⁵ G03-02-01 IV(C)(1)(A)(1).

¹⁶ G03-02-01 IV(C).

¹⁷ G03-02-02 II(B)(2).

¹⁸ G08-01-02 II(A)(5); (B)(1).

offender who was actively reaching for a firearm – can result in the reduction of an officer’s field of vision; therefore, Officer Dorsch’s claim that he did not observe the kick/stomp is credible.¹⁹ Additionally, COPA was unable to locate any evidence to show that Officer Dorsch in fact observed Officer Ramkumar’s kick/stomp.

d. BWC

COPA finds that Allegations #3 and 4 against Officer Dorsch and Allegations #5 and 6 against Officer Ramkumar are **sustained**. Department members are required to activate their BWC for “[l]aw-enforcement-related activities.”²⁰ Once a Department Member initiates a BWC recording it can only be stopped when “the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity.”²¹

Here, both Officers failed to activate their BWC when they attempted a traffic stop on ██████████. Additionally, both Officers’ failure continued during Officer Ramkumar pursuing ██████████ on foot, deploying his Taser and arresting ██████████. Finally, both Officers deactivated their BWC without securing ██████████ in a processing room, transferring his custody to another Department Member, being ordered to deactivate by a Bureau of Patrol supervisor, or clearing the assignment. Therefore, both Officers’ late activation and early deactivation of their BWC failed to comply with Department policy and in violation of Rules 2, 3, and 6.²²

e. Taser Qualification

COPA finds that Allegation #4 against Officer Ramkumar is **unfounded**. Department Members are required to complete an annual recertification to carry and deploy a Taser.²³ Here, Officer Ramkumar’s training records detail that he recertified to carry and deploy a Taser on July 17, 2018.

f. Rule 55

COPA finds that Allegation #3 against Officer Dorsch is **sustained**. Department Members in uniform and in official contact with the public are not permitted to hold cigarettes in their mouths.²⁴ Here, it is undisputed and the BWC footage is clear that while engaged in official contact with the public, by arresting and searching ██████████ clearing the recovered firearm, and

¹⁹ COPA notes that during our initial review of the Taser discharge, Officer Ramkumar’s kick/stomp was not seen by COPA investigators. This failure was a result of the speed of the action and that the action is at the very upper edge of the field of view of Officer Dorsch’s BWC.

²⁰ Law-enforcement-related activities include “traffic stops[,] ... foot ... pursuits[,] ... arrests[,] ... use of force incidents[,] ... seizure of evidence[,] ... searches ... of people[.]” S03-14 III(A)(2)(a);(e)-(h) and (r).

²¹ Conclusion of law-enforcement-activity occurs “when the member clears the assignment; ... leaves the scene of the incident; ... [or] for arrestee transports, when the arrestee: ... is secured in the processing room ...; or custody has been transferred to another Department member ...; or when] the highest-ranking on-scene Bureau of Patrol supervisor has determined that the scene is secured....” S03-14 III(B)(1)(a);(a-d)

²² COPA notes that the failure of the Officers to timely activate their BWCs directly impacted COPA’s ability to fully assess the Officers and ██████████ actions during their interaction.

²³ S11-03-01 IX(B).

²⁴ Section V Rule 55 of the Rules and Regulations of the Chicago Police Department.

completing a VIN check, Officer Dorsch had a cigarette in his mouth while in full uniform, in violation of Rules 2, 3 and 55.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Jairam Ramkumar

i. Complimentary and Disciplinary History

Officer Ramkumar's complimentary history includes one (1) 2004 Crime Reduction Award, one (1) 2009 Crime Reduction Award, one (1) 2019 Crime Reduction Award, four (4) Attendance Recognition Awards, six (6) Complimentary Letters, eight (8) Department Commendations, one (1) Emblem of Recognition – Appearance, two (2) Emblems of Recognition – Physical Fitness, one hundred forty-three (143) Honorable Mentions, one (1) Honorable Mention Ribbon Award, one (1) Life Saving Award, one (1) NATO Summit Service Award, one (1) Presidential Election Deployment Award 2008, one (1) Problem Solving Award, and two (2) Unit Meritorious Performance Award. Officer Ramkumar's disciplinary history includes one Reprimand in November 2019 for Preventable Accident.

ii. Recommended Penalty

The BWC footage is clear that Officer Ramkumar improperly used force when he stomped/kicked a handcuffed compliant [REDACTED] in the head. Additionally, Officer Ramkumar's TRR is clear that he did not document his impermissible use of force. Further, Officer Ramkumar admitted to his late activation and early termination of his BWC. These actions, especially the impermissible use of force, by Officer Ramkumar are unacceptable and blatant violations of Department policy. Additionally, Officer Ramkumar's BWC violations negatively impacted COPA's ability to thoroughly investigate this incident. It is for these reasons that COPA recommends Officer Ramkumar be suspended for a period of 100-days.

b. Officer Brian Dorsch

iii. Complimentary and Disciplinary History

Officer Dorsch's complimentary history includes one (1) 2004 Crime Reduction Award, one (1) 2009 Crime Reduction Award, one (1) 2019 Crime Reduction Award, four (4) Attendance Recognition Awards, five (5) Complimentary Letters, twenty-one (21) Department Commendations, one (1) Deployment Operations Center Award, three hundred twenty (320) Honorable Mentions, three (3) Honorable Mention Ribbon Awards, one (1) Joint Operations Award, one (1) Life Saving Award, one (1) NATO Summit Award, one (1) Presidential Election Deployment Award 2008, two (2) Problem Solving Awards, and one (1) Unit Meritorious Performance Award. Officer Dorsch's disciplinary history includes one Reprimand in November 2019 for Preventable Accident.

iv. Recommended Penalty

The BWC footage is clear that Officer Dorsch was in uniform and holding a cigarette in his mouth while he was in official contact with the public. Additionally, Officer Dorsch activated his BWC late and admitted early termination of his BWC. Officer Dorsch's BWC violations negatively impacted COPA's ability to thoroughly investigate this incident. It is for these reasons that COPA recommends Officer Dorsch be suspended for a period of 2-days.

Approved:



5-31-2022

Angela Hearts-Glass
Deputy Chief Investigator

Date