

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	August 3, 2017
Time of Incident:	3:30 pm
Location of Incident:	1342 West 14th Place, Chicago, IL 60608
Date of COPA Notification:	August 4, 2017
Time of COPA Notification:	1:15 pm

On August 3, 2017, Chicago Police Officers Joseph Foley and Bradley Loduca conducted a traffic stop on a van containing [REDACTED] and two brothers, [REDACTED] ([REDACTED] and [REDACTED] ([REDACTED] the driver, would not give the officers his driver’s license and insurance and refused to exit the van when ordered. Additional officers arrived, including Officer Luis Saltijeral, who warned [REDACTED] that he would use a Taser if he continued to disobey their orders. Ultimately, Officer Saltijeral deployed a Taser at [REDACTED] chest. Officers removed [REDACTED] from the van via the front passenger door and arrested him. Officers also removed [REDACTED] from the van via the driver’s door. Once out of the van, [REDACTED] pushed Officer Foley and attempted to flee. Officer Foley stopped [REDACTED] and both fell to the ground, where [REDACTED] continued to resist arrest. Officer Saltijeral deployed a Taser at [REDACTED] to regain control of him. The [REDACTED] brothers alleged that Officer Saltijeral was not justified when he used his Taser.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer Luis Saltijeral Star#14972 / Employee ID#[REDACTED] Appointed September 13, 1999 Unit 012 Born [REDACTED], 1966 Male / Hispanic
Subject #1:	[REDACTED] Born [REDACTED], 1998 Male / Black
Subject #2:	[REDACTED] Born [REDACTED], 1996 Male / Black

III. ALLEGATIONS

¹ 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.

Officer	Allegation	Finding
Officer Luis Saltijeral	1. Tased Mr. [REDACTED] without justification, in violation of Rules 6 and 9.	Sustained
	2. Deployed a Taser at Mr. [REDACTED] without justification, in violation of Rules 6 and 9.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.
2. Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. General Order G03-02-02: Force Options, effective January 1, 2016.

V. INVESTIGATION²

a. Interviews³

Civilian Interviews

In a **statement to IRPA⁴** on September 5, 2017, **Complainant [REDACTED]** stated that he was the front seat passenger in a van driven by his brother, [REDACTED] when the van was stopped by Officers Foley and Loduca.⁵ [REDACTED] asked the officers if they needed his license and insurance. The officers ordered the occupants out of the van. [REDACTED] requested a supervisor to the scene and remained seated in the van. Another officer (Officer Saltijeral) arrived on scene, removed his Taser from the holster, aimed it through the partially-opened window, and deployed the Taser at [REDACTED]. The Taser struck [REDACTED] on the chest. After Officer Saltijeral deployed the Taser at [REDACTED] Officer Foley opened the door and removed [REDACTED] from the van via the passenger side of the van. Officer Saltijeral then deployed the Taser at [REDACTED] stated that [REDACTED] was handcuffed and held against a car when Officer Saltijeral deployed the Taser. The officers also removed the rear passenger ([REDACTED]) from the van and handcuffed him. Paramedics treated [REDACTED] and transported him to Mount Sinai Hospital.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ [REDACTED] and [REDACTED] who allegedly video recorded the incident, did not respond to COPA's attempts to contact them for interviews. Lt. Richard Stadnik provided a statement to COPA but was not a witness to the incident under investigation.

⁴ Att. 15.

⁵ In his statement, [REDACTED] went back and forth from describing himself and his brother as the driver. For example, he referred to "the two stop signs that I stopped at." (26:49) [REDACTED] also stated that his brother was the one who received the traffic citations, despite his own Arrest Report indicating that he was the one who received the citations. Att. 15.

In a **statement to COPA**⁶ on November 1, 2017, **Complainant** ██████████ stated that he was sitting in the back seat of a van being driven by his brother, ██████████ when Officers Foley and Loduca stopped the van. ██████████ parked the van and turned off the ignition. The officers approached the parked van and Officer Foley spoke to ██████████ through the partially open driver's window. Officer Foley ordered the occupants to exit the van. Both ██████████ and ██████████ asked why they needed to exit the van and offered to provide a driver's license and proof of insurance. Officer Foley ignored the offers and again ordered the occupants to exit. Several minutes later, ██████████ observed a uniformed officer (Officer Saltijeral) arrive and join Officer Foley on the driver's side of the van. Officer Saltijeral ordered the occupants out of the van but they refused to comply. Officer Saltijeral drew his Taser and deployed it at ██████████ through the partially-opened window. Officer Loduca opened the front passenger door and removed ██████████ and ██████████ from the van. Officer Foley removed ██████████ who had been leaning forward from the back seat, through the front driver's side door. Officer Foley then grabbed ██████████ and Officer Saltijeral deployed a Taser at him. ██████████ was standing at that point and the Taser probes struck him on the chest and left side of his torso. ██████████ denied striking or attempting to flee from Officer Foley. The next thing ██████████ remembers was waking up in a hospital.

In a **statement to IRPA**⁷ on September 7, 2017, **Witness Ms.** ██████████ stated that she was working as the Property Manager of the Loomis Court Apartments (██████████) when she learned of a police-citizen interaction occurring on the street. ██████████ and her co-worker, Ms. ██████████ exited the office and approached 14th Place. ██████████ observed Officers Foley and Loduca standing outside of a burgundy van holding what she believed to be firearms, although she was too far from the van to determine what the officers were holding. ██████████ could clearly see Officer Foley, on the driver's side of the van, but was unable to observe Officer Loduca because he was on the passenger's side. ██████████ heard both officers warning the occupants of the van that they would use Tasers if the people in the van did not open the doors. ██████████ observed that the occupants did not open the doors. Next, ██████████ heard what she believed to be glass breaking and saw someone (██████████) being removed from the front passenger door. ██████████ could not see what happened on the passenger side of the van but heard a buzzing sound and heard bystanders say, "you don't have to tase him like that."⁹ ██████████ observed Officer Foley remove an occupant (██████████) from the driver's door of the van. ██████████ stated that the officer took ██████████ to the ground and deployed a Taser at him twice. It did not appear to ██████████ that ██████████ was resisting the officers; in fact, it appeared that he was opening the door and exiting the van on his own when Officer Foley pulled him from the vehicle and took him to the ground. ██████████ stated that ██████████ was face-down on the ground when the officer deployed the Taser at his back. ██████████ then observed a CFD Ambulance arrive and treat both ██████████ and ██████████

In a **statement to IPRA**¹⁰ on September 8, 2017, **Witness Ms.** ██████████ stated that she was working as the Assistant Property Manager of Loomis Court Apartments when she learned of a police-citizen interaction occurring on 14th Place. ██████████ accompanied ██████████ outside and observed a van stopped with Officers Foley and Loduca ordering the occupants from the van. ██████████ observed the officers holding black objects that she believed to be firearms in their hands. As ██████████ approached the van, she heard what she believed to be a gunshot, but later learned was glass breaking. ██████████ observed officers "snatch" an occupant wearing a black shirt (██████████) from the driver's door of the van. Once the driver

⁶ Att. 45.

⁷ Att. 23.

⁸ ██████████ knows ██████████ and ██████████ as residents of the apartment complex she manages but did not remember their names.

⁹ Att. 23 at 6:40.

¹⁰ Att. 20.

¹¹ ██████████ stated that she knew the driver but could not remember if his name was ██████████ or ██████████. This investigation revealed it to be ██████████

was on the ground, [REDACTED] saw an officer deploy a Taser at him. Due to the amount of commotion outside, [REDACTED] returned to the apartment office after observing this.

CPD Interviews

In a **statement to COPA**¹² on October 31, 2017, **Witness Officer Joseph Foley** stated that he and Officer Loduca stopped a van after it failed to stop at two stop signs. As he approached the van, Officer Foley observed the occupants moving around inside of the passenger compartment. Officer Foley spoke to the driver ([REDACTED] through the partially-open driver's window. Officer Foley repeatedly asked for [REDACTED] driver's license, but [REDACTED] refused to provide it. The back-seat passenger ([REDACTED] leaned forward and offered his own driver's license. Officer Foley ordered [REDACTED] to exit the van, however [REDACTED] refused. Officer Loduca requested additional assistance and a sergeant. Officer Luis Saltijeral arrived and joined Officer Foley at the driver's door of the van. Officers Saltijeral and Foley ordered all the occupants to exit the van; however, none complied. Officer Saltijeral removed his Taser from the holster and advised the occupants of the van that he would deploy it if they did not open the doors. No one complied. Officer Saltijeral counted to three and deployed the Taser through the partially open driver's window, striking [REDACTED] on the chest. Immediately prior to the deployment, [REDACTED] was moving and reaching around the van. As soon as the Taser was deployed, [REDACTED] exited the van and Officer Loduca detained him. Officer Loduca then removed [REDACTED] from the van through the front passenger door and detained him.

[REDACTED] still refused to exit the van. Officer Foley reached into the back seat and extracted him through the front driver's door. Once [REDACTED] was out of the van, Officer Foley informed him that he was under arrest and instructed him to turn around. [REDACTED] pushed Officer Foley and attempted to flee towards the Loomis Court Apartments. Officer Foley grabbed him and they both fell to the ground. Once on the ground, [REDACTED] continued to resist Officer Foley's attempts to handcuff him by wrestling and pushing. Officer Saltijeral deployed his Taser again, striking [REDACTED] [REDACTED] then complied with being taken into custody. A CFD ambulance arrived and transported [REDACTED] and [REDACTED] from the scene.

In a **statement to COPA**¹³ on November 7, 2017, **Witness Officer Bradley Loduca** provided the same account of the incident that Officer Foley provided regarding the start of the incident and Officer Saltijeral's use of the Taser on [REDACTED]. However, Officer Loduca did not see the interaction between [REDACTED] and Officers Saltijeral and Foley.

In **statements to COPA** on December 21, 2017¹⁴ and April 26, 2018,¹⁵ **Accused Officer Luis Saltijeral** stated that he responded to a radio request for assistance from Officers Foley and Loduca, who had conducted a traffic stop at 14th Place and Loomis Street. Upon his arrival, Officer Saltijeral observed that Officer Foley was standing at the driver's window of a stopped van and Officer Loduca was standing on the passenger side. Officer Saltijeral walked to Officer Foley and asked what was occurring. Officer Foley informed Officer Saltijeral that the occupants of the van were refusing to exit and making lots of movements. Officer Saltijeral observed the occupants of the van moving around. He also observed the driver's window of the van to be open approximately six inches. Officer Saltijeral ordered the driver ([REDACTED] to exit the van and said that he had a Taser. He also ordered [REDACTED] to stop moving and asked to see [REDACTED] hands. [REDACTED] responded with profanities and refused to follow orders. Officer Saltijeral gave [REDACTED] to the count of three to exit the van, but [REDACTED] did not respond. By this point, Officer Saltijeral observed a crowd of bystanders from the nearby apartments gathering and becoming verbally

¹² Att. 44.

¹³ Att. 55.

¹⁴ Att. 69.

¹⁵ Att. 83.

aggressive. Officer Saltijeral began to count. After stating “one,” Officer Saltijeral observed [REDACTED] reach towards the floor of the van with his right hand while using his left hand to cover the opened window with a package. Officer Saltijeral grabbed and moved the package. He again ordered [REDACTED] to exit the van, counted to three, said “Taser, Taser, Taser,” and deployed his Taser at [REDACTED]. Officer Saltijeral described [REDACTED] as a passive resister immediately prior to the Taser deployment.

After the Taser deployment, [REDACTED] exited the van through the passenger door. Officer Loduca detained [REDACTED]. The rear driver’s sliding door opened, and [REDACTED] exited. [REDACTED] grabbed Officer Foley, who grabbed [REDACTED] and they both fell to the ground. Once on the ground, [REDACTED] was flailing his legs in attempts to stand and escape from Officer Foley. Officer Saltijeral informed [REDACTED] that he needed to remain on the ground or he too would be subjected to a Taser deployment. [REDACTED] attempted to stand from a seated position. In response, Officer Saltijeral deployed his Taser at [REDACTED]. The officers were then able to take [REDACTED] into custody without further incident. Officer Saltijeral described [REDACTED] as an active resister immediately prior to the Taser deployment. An ambulance arrived to transport [REDACTED] and [REDACTED] to the hospital to have Taser probes removed. Officer Saltijeral did not observe any injuries to either [REDACTED] or [REDACTED]. Officer Saltijeral explained the request for CFD and ultimate transport to the hospital was in accordance with CPD Policy.

When asked about CPD’s policy for the use of a Taser, Officer Saltijeral stated that such use was permitted when a person is “not complying with the officer, being evasive.”¹⁶ Officer Saltijeral was not able to articulate what level of resistance must be present for an officer to use a Taser. He ultimately stated that a Taser is approved when there is an “immediate threat.”¹⁷ He did not elaborate on what kind of threat.

b. Digital Evidence¹⁸

The **OEMC Audio Recordings¹⁹** detail that Officers Loduca and Foley conducted a traffic stop of a van occupied by three males, all of whom were moving around inside the van and refusing to get out. Officers Loduca and Foley requested assistance and a sergeant to the scene. Approximately 79 seconds later, Officer Saltijeral reported that he was on scene and had deployed his Taser. Officer Saltijeral requested additional units on the scene. During each radio transmission from officers on scene, shouting is heard in the background.

ET Photographs²⁰ show two marks from Taser probes on [REDACTED] upper chest – one in the front/center and one on the left side. Additionally, the photographs show what appears to be blood on Jernman’s shirt at the left shoulder.²¹

c. Physical Evidence

CFD Ambulance Records²² detail that CFD Ambulance 34 responded to 1342 W. 14th Place for two individuals who had received Taser discharges. The reports describe [REDACTED] and [REDACTED] as uncooperative and yelling at the officers on the scene. The ambulance immediately transported them to

¹⁶ Att. 69 at 16:46.

¹⁷ Att. 69 at 17:15.

¹⁸ The 012th District did not have body-worn cameras at the time of this incident. The only in-car camera recording was from Sgt. James Vizzini, who did not arrive on the scene until after [REDACTED] and [REDACTED] were in custody.

¹⁹ Atts. 64 & 65.

²⁰ Atts. 56 & 57.

²¹ [REDACTED] refused to allow additional photographs to be taken, therefore the extent of his injury is unknown. Pg. 2 of Att. 37.

²² Atts. 31 & 33.

Mount Sinai Hospital because a large crowd was gathering, which created an unsafe atmosphere on the scene.

Medical Records from Mount Sinai Hospital²³ detail that [REDACTED] and [REDACTED] were treated in the emergency room for a Taser injury. [REDACTED] records indicate that he was Tasered “for being agitated.”²⁴ The records do not detail any other complaints or signs of injury.

d. Documentary Evidence

An **Original Case Incident Report**,²⁵ written by Officer Foley under RD #JA375798, and [REDACTED] and [REDACTED] Arrest Reports²⁶ contain the same account of the incident that the officers provided in their statements to COPA. [REDACTED] was charged with Resisting/Obstructing, Driving/Never Issued License, Operating Motor Vehicle without Insurance, Reckless Conduct, and two counts of Failure to Stop at Stop Sign. [REDACTED] was charged with Reckless Conduct and Resisting/Obstructing.²⁷

Officer Saltijeral’s **Tactical Response Report (“TRR”)** for [REDACTED]²⁸ describes [REDACTED] as a passive resister in that he did not follow verbal direction. Officer Saltijeral’s response was member presence, verbal commands, and Taser (probe discharge). In the Lieutenant or Above Incident Commander Comments section, Lt. Stadnik found that Officer Saltijeral’s actions “did not conform to the Department’s use of force policy.”²⁹

Officer Saltijeral’s **TRR** for [REDACTED] describes [REDACTED] as an active resister in that he pulled away, attempted to flee and was swinging his arms. Officer Saltijeral’s response was member presence, verbal commands, and Taser (probe discharge).

Officer Foley’s **TRR** for [REDACTED] describes [REDACTED] as an active resister in that he pulled away, attempted to flee and flailed his arms. Officer Foley’s response was member presence, verbal commands, escort holds, and takedown/emergency handcuffing.

VI. ANALYSIS

COPA recommends a finding of **Sustained** for the allegation that Officer Saltijeral Tased Mr. [REDACTED] without justification. General Order G03-02-02 IV(B)(1) defines a “passive resister” as “a person who fails to comply (non-movement) with verbal or other direction” and limits a member’s response to presence, verbal control, holding techniques, pain compliance, control instruments, and oleoresin capsicum (OC) spray. The same order permits the use of a Taser on someone who is an active resister or above.

Here, it is undisputed that when Officer Saltijeral deployed his Taser, [REDACTED] was seated in the van refusing to comply with verbal directions to exit. Additionally, Officer Saltijeral’s own TRR lists [REDACTED] as a passive resister. Further, during his statement, Officer Saltijeral classified [REDACTED] as a passive

²³ Att. 35 & 63.

²⁴ Att. 63 at Page 6.

²⁵ Att. 6.

²⁶ Atts. 7 & 8.

²⁷ [REDACTED] was not charged, but he received a citation for possessing 5 grams of cannabis. Att. 25.

²⁸ Att. 4.

²⁹ Lt. Stadnik also completed an Initiation Report related to this incident. Att. 2.

³⁰ Att. 5.

³¹ Att. 43.

resister immediately prior to deploying his Taser. Therefore, based on the evidence, COPA finds that [REDACTED] was a passive resister when Officer Saltijeral deployed his Taser. Thus, Officer Saltijeral’s use of force exceeded the limits of General Order G03-02-02 (B)(1), was improper and violation of Department policy.

COPA recommends a finding of **Unfounded** for the allegation that Officer Saltijeral deployed a Taser at Mr. [REDACTED] without justification. General Order G03-02-02 IV(B)(2) defines an “active resister” as “a person whose actions attempt to create distance between that person and the member’s reach with the intent to avoid physical control and/or defeat the arrest” and permits the use of a Taser to defeat the resistance.

Here, once [REDACTED] was out of the van, he attempted to create distance from Officer Foley by pushing him and attempting to flee on foot. Despite Officer Foley’s success in defeating [REDACTED] attempt to flee, both fell to the ground. Once on the ground, [REDACTED] continued his attempts to create distance from Officer Foley by flailing his legs, pushing, and attempting to stand. During their statements, both Officers Foley and Saltijeral detailed [REDACTED] active resistance on the ground. Additionally, both TRRs for [REDACTED] detail that he was an active resister when Officer Saltijeral deployed his Taser. Further, [REDACTED] statement refutes [REDACTED] claim he was standing when Officer Saltijeral deployed his Taser. Based on the evidence, COPA finds that [REDACTED] was an active resister when Officer Saltijeral deployed his Taser, and therefore was reasonable and proper.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer Luis Saltijeral	1. Tased Mr. [REDACTED] without justification, in violation of Rules 6 and 9.	Sustained
	2. Deployed a Taser at Mr. [REDACTED] without justification, in violation of Rules 6 and 9.	Unfounded

Approved:

[REDACTED]

Mark Javier
Acting Deputy Chief Administrator – Chief Investigator

6/20/18
Date

Appendix A

Assigned Investigative Staff

Squad#:	9
Investigator:	Garrett Schaaf
Supervising Investigator:	Shannon Hayes
Acting Deputy Chief Administrator:	Mark Javier