

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 20, 2018
Time of Incident:	1:14 pm
Location of Incident:	4548 N. Kedzie Ave./4650 N. Pulaski Rd.
Date of COPA Notification:	December 20, 2018
Time of COPA Notification:	3:42 pm

On December 20, 2018, at about 12:55 pm, officers responded to a call about an assault at a strip mall at 4548 N. Kedzie Ave. The subject, now known as [REDACTED] was arrested on a signed complaint, searched, and transported to the 17th District for processing. Once he was taken out of the transport vehicle, Mr. [REDACTED] began to struggle with the officers and had to be carried into the police station. He continued to be uncooperative and assaulted two officers. Eventually, officers searched Mr. [REDACTED] again. They removed Mr. [REDACTED] clothing, down to his underwear and recovered suspect narcotics. Additionally, officers lifted Mr. [REDACTED] underwear away from his body, exposing his genitals.

The officers left Mr. [REDACTED] alone in his cell for a short time, and when they returned, he appeared to be unresponsive and possibly unconscious. Fearing an overdose, an ambulance was summoned, and Mr. [REDACTED] was taken to Swedish Covenant Hospital.

COPA served allegations on several involved officers regarding the strip search of Mr. [REDACTED] and use of force. The allegations are sustained in part.

II. INVOLVED PARTIES

Involved Sergeant #1:	Donald Daniels, star # 1512, employee ID# [REDACTED], Date of Appointment December 2, 1991, Sergeant, Unit of Assignment 017, DOB [REDACTED], 1967, Male, White.
Involved Officer #2:	Ivy Maldonado, star # 2501, employee ID# [REDACTED], Date of Appointment November 29, 2004, PO at the time of the incident/Currently a Sergeant, Unit of Assignment 017, DOB [REDACTED], 1980, Female, Hispanic.
Involved Officer #3:	Joshua Pausha, star # 18641, employee ID# [REDACTED], Date of Appointment March 16, 2018, PPO at the time of the incident/Currently a PO, Unit of Assignment 019, DOB [REDACTED], 1994, Male, White.

Involved Officer #4: Guerrero Rivera, star # 15342, employee ID# [REDACTED], Date of Appointment March 16, 2018, PPO at the time of the incident/Currently a PO, Unit of Assignment 009, DOB [REDACTED], 1995, Male, Hispanic.

Involved Officer #5: Anthony Esquivel, star #19017, employee ID# [REDACTED], Date of Appointment February 6, 1995, FTO at time of incident/currently PO assigned as ET, Unit of Assignment 277, DOB [REDACTED], 1965, Male, Hispanic.

Involved Officer #6: Christopher Bratek, star # 8077, employee ID# [REDACTED], Date of Appointment September 24, 2001, PO, Unit of Assignment 124, DOB [REDACTED], 1979, Male, White.

Involved Officer #7: Mauricio Paniagua, star # 18801, employee ID# [REDACTED], Date of Appointment November 29, 2004, PO, Unit of Assignment 124, DOB [REDACTED], 1972, Male, Hispanic.

Involved Officer #8: Richard Kamarchevakul, star # 19216, employee ID# [REDACTED], Date of Appointment November 29, 2004, PO, Unit of Assignment 017, DOB [REDACTED], 1978, Male, Asian/Pacific Islander.

Involved Individual #1: [REDACTED] DOB [REDACTED], 1986, Male, White.

III. ALLEGATIONS¹

Officer	Allegation	Finding
Sergeant Donald Daniels	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd. Sergeant Donald Daniels:</p> <ol style="list-style-type: none"> <li data-bbox="454 1270 950 1396">1. ordered the strip-search of [REDACTED] which was conducted in a manner in violation of CPD policy, State Law and Federal Law. <li data-bbox="454 1438 950 1495">2. participated in the strip-search of [REDACTED] which was 	<p>Sustained</p> <p>Sustained</p>

¹ There was some initial confusion about the address of the incident. All officers confirmed the incidents regarding the below mentioned search took place at 4650 N. Pulaski rather than at 5151 N. Milwaukee Ave.

	<p>conducted in a manner in violation of CPD policy, State Law and Federal Law.</p> <p>3. violated policy when he ordered the strip search of ██████████ in view of others not physically conducting the strip search.</p> <p>4. participated in the strip search of ██████████ in view of others not physically conducting the strip search.</p> <p>5. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than absolutely necessary following a strip search.</p> <p>6. violated policy when he failed to complete a Report of Strip Search (CPD-11.521) in relation to the strip search of ██████████</p> <p>7. violated policy when he failed to provide a copy of the Report of Strip Search (CPD-11.521) to ██████████</p> <p>8. violated policy when he failed to supervise officers who held ██████████ ██████████ face down on the floor, with his head and face pushed up against the corner of a wall, as he was being strip searched.</p> <p>9. violated policy when he failed to supervise officers whose strip-search of ██████████ resulted in an injury to Mr. ██████████ right shoulder.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
Officer Ivy Maldonado	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4548 N. Kedzie Ave. Officer Ivy Maldonado violated policy when she performed a search on ██████████ when male officers were present.</p>	<p>Sustained</p>

<p>PPO Joshua Pausha</p>	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd. Officer Joshua Pausha:</p> <ol style="list-style-type: none"> 1. strip-searched ██████████ in a manner which violated CPD policy, State Law and Federal Law. 2. violated policy when he strip-searched ██████████ in view of others not physically conducting the strip search. 3. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search. 4. violated policy when he recorded the strip search of ██████████ with his Body Worn Camera. 5. violated policy when he removed his Body Worn Camera from his uniform and used it as a free-standing camera during the strip search of ██████████ 	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
<p>PPO Guerrero Rivera</p>	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 5151 N. Milwaukee Ave. Officer Guerrero Rivera:</p> <ol style="list-style-type: none"> 1. strip-searched ██████████ in a manner which violated CPD policy, State Law and Federal Law. 2. violated policy when he failed to report the strip search of ██████████ in the Arrest Report related to this case. 3. violated policy when he exposed ██████████ genitals during a strip search in view of others not physically conducting the strip search. 4. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than 	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

	<p>absolutely necessary, following a strip search.</p> <p>5. violated policy when he recorded the strip search of [REDACTED] with his Body Worn Camera.</p> <p>6. violated policy when he made unnecessary physical contact with [REDACTED] as he pushed and/or struck his head.</p> <p>7. violated policy when he failed to record the head strike to [REDACTED] in his TRR.</p>	<p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
FTO Anthony Esquivel	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Officer Anthony Esquivel:</p> <p>1. strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law.</p> <p>2 violated policy when he strip-searched [REDACTED] in view of others not physically conducting the strip search.</p> <p>3. violated policy when allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search.</p> <p>4. violated policy when he recorded the strip search of [REDACTED] with his Body Worn Camera.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
PO Christopher Bratek	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 5151 N. Milwaukee Ave. Officer Christopher Bratek:</p> <p>1. strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law.</p>	<p>Unfounded</p>

	<p>2. violated policy when he strip-searched ██████████ in view of others not physically conducting the strip search.</p> <p>3. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search.</p>	<p>Unfounded</p> <p>Unfounded</p>
<p>PO Mauricio Paniagua</p>	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd. Officer Mauricio Paniagua:</p> <p>1. strip-searched ██████████ in a manner which violated CPD policy, State Law and Federal Law.</p> <p>2. violated policy when he strip-searched ██████████ in view of others not physically conducting the strip search.</p> <p>3. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
<p>PO Richard Kamarchevakul</p>	<p>It is alleged that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd. Officer Richard Kamarchevakul:</p> <p>1. strip-searched ██████████ in a manner which violated CPD policy, State Law and Federal Law.</p> <p>2. violated policy when he strip-searched ██████████ in view of others not physically conducting the strip search.</p> <p>3. violated policy when he allowed ██████████ to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

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 5-Failure to perform any duty.
3. Rule 6-Disobedience of an order or directive, whether written or oral.
4. Rule 8- Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. G06-01-03 Conducting Strip Searches
2. G03-02-02 Incidents Requiring the Completion of a Tactical Response Report
3. G06-01-02 Restraining Arrestees
4. G03-02 Use of Force
5. G03-02-01 Force Options

Special Orders

1. S03-14 Body Worn Camera

Federal Laws

1. The Fourth Amendment to the Constitution of the United States

State Laws

1. 725 ILCS 5/103-1 Rights on Arrest
2. Section 6 of the Illinois Constitution

V. INVESTIGATION²

a. Interviews

COPA attempted secure a signed affidavit from Mr. ██████████. However, the Assistant Public Defender representing him advised COPA that Mr. ██████████ declined the request for an interview.³ On July 3, 2019, COPA was granted an affidavit override.⁴

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 Att. 27.

⁴ Att. 30.

Sergeant Donald Daniels⁵

Sergeant Donald Daniels was interviewed at COPA on June 16, 2020, before which he was allowed to view body worn camera (BWC) footage.⁶ The initial incident was an arrest that occurred at Wilson and Kedzie, which was the first place Sergeant Daniels came into contact with the individual now known as ██████████ who was later transported to the 17th District. Once the officers and Mr. ██████████ arrived at the police station, he proved to be a combative prisoner that required a large police presence to get him safely into the lock-up. Sergeant Daniels stated he was not involved with any of the physical restraining of Mr. ██████████ and was only a presence there. A custodial search was conducted in the lock-up area.⁷ According to Sergeant Daniels, a custodial search is done to locate any weapons or contraband.

At the time of the search, he was there to assist and supervise to ensure everyone was safe and to give direction.⁸ He and the officers were getting Mr. ██████████ secure and safe so they could finish the processing. Sergeant Daniels asserted he never touched Mr. ██████████⁹ but, he did give direction. After hearing from one officer that Mr. ██████████ had contraband in his pants, he told officers to take his pants off, because Mr. ██████████ wore multiple pairs of pants.¹⁰ Sergeant Daniels also instructed officers to check the “jock area” of Mr. ██████████¹¹ At some point, he told officers to roll Mr. ██████████ over to be sure he was breathing correctly and called an ambulance when it was apparent Mr. ██████████ was in some sort of distress.

Sergeant Daniels maintained they did not conduct a strip search, but performed a custodial search.¹² After the definition of strip search¹³ was read into the record, Sergeant Daniels said Mr. ██████████ had his clothing removed down to his shorts and was not stripped down to his underwear. When asked what the difference was between a custodial search and a strip search, he replied, “he was searched, but he was not strip searched in the lockup.”¹⁴ He also claimed that Mr. ██████████ was never “stripped.”¹⁵ Sergeant Daniels asserted that this was a custodial search, because he had contraband sewn into his pants, which were removed to make the recovery. Sergeant Daniels was then shown a section of Officer Rivera’s BWC footage, which shows Mr. ██████████ genitalia was exposed when Officer Rivera pulled down Mr. ██████████ underwear.¹⁶ This actions was performed as a result of Sergeant Daniel’s direction to, “check his jock area.”¹⁷ Sergeant Daniels stated that he did not recall seeing Mr. ██████████ gentiles exposed,

⁵ Att. 41.

⁶ Att. 41 at 00:52.

⁷ Att. 41 at 09:10.

⁸ Att. 41 at 10:45.

⁹ Att. 41 at 11:55.

¹⁰ Att. 41 at 12:24.

¹¹ Att. 41 at 13:20-13:52.

¹² Att. 41 at 14:14.

¹³ According to G06-01-03, “Conducting Strip Searches,” “Strip Search” means having an arrested person remove or arrange some or all his or her clothing as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person.”

¹⁴ Att. 41 at 18:21.

¹⁵ Att. 14 at 19:40.

¹⁶ Att. 18 near 44:50.

¹⁷ See Daniels BWC 2 at 06:55.

and perceived the garment he wore, which was printed with “Frosted Flakes,” as shorts rather than underwear.¹⁸

With respect to where a strip search should be conducted, Sergeant Daniels explained that they were in a secured area, behind locked doors.¹⁹ When questioned further, he answered that a strip search was to be done in a lockup facility and District 17 was a lock-up facility despite the fact that fingerprinting and photos are taken at District 16.²⁰ The incident in question occurred in District 17, which he considered a lockup facility, because it was behind two secured, steel doors. He felt that what they did was correct at the time of the incident, and necessary to retrieve the contraband. When asked whether the area called “holding” had a different purpose from that of the area called “lockup,” he responded, “Not for us in the 17th District. This is where we bring our people and we call it the lockup.”²¹ Sergeant Daniels was asked if it was necessary to do the search at this location rather than at the 16th District, he responded, “officer safety.”²² He later added, “All custodial searches incident to arrested are conducted in this area while you are processing your prisoner.”²³

When discussing who should be present for the search, Sergeant Daniels stated that a supervisor and members of the same gender should be present. A female officer was present on BWC; however, he did not know where she was. He acknowledged that the holding cell in which the search was performed had a glass wall, which rendered the search visible to others.²⁴

When asked why Mr. ██████ was not re-dressed after the search was completed, Sergeant Daniels responded that there was a very short period of time that had lapsed before the search ended and the ambulance was called.²⁵ Furthermore, Mr. ██████ was wearing leg shackles for officer safety reasons, and there was no immediate need to remove the shackles before Mr. ██████ who appeared to be in distress, was taken to the hospital. It was believed that Mr. ██████ possibly overdosed because he became non-responsive, and possibly passed out.

Sergeant Daniels was asked about the struggle with Mr. ██████ during which he was searched while he was face down on the floor, with his head and face pushed up against the corner of the holding cell.²⁶ He responded that at that time, Mr. ██████ was combative and was already in that position before the search began. He further asserted that there was no choice or possibility to move him to a safer location to do the search. Furthermore, Mr. ██████ was being an assailant at the time, “so they rolled him for their protection, and his protection, to gain control of him and search him.”²⁷ As for the abrasion, Sergeant Daniels said he did not see any physical abuse of Mr. ██████ when he was present and did not believe the officers were too rough.

Lastly, Sergeant Daniels admitted he did not fill out the Report of Strip Search form.

¹⁸ Att. 41 at 24:15.

¹⁹ Att. 41 at 18:45.

²⁰ Att. 41 at 25:35-27:36.

²¹ Att. 41 at 28:19.

²² Att. 41 at 29:29.

²³ Att. 41 at 29:54.

²⁴ Att. 41 at 31:30.

²⁵ Att. 41 at 31:50.

²⁶ Att. 41 at 40:30-42:57.

²⁷ Att. 41 at 42:48.

Officer Ivy Maldonado²⁸

Officer Ivy Maldonado²⁹ was interviewed at COPA on June 16, 2020, before which she was allowed to view body worn camera footage. Officer Maldonado arrived at the scene and viewed male officers search Mr. [REDACTED]. During the search, he kept inferring that the officers were missing something.³⁰ According to Officer Maldonado, he made some reference to his heart, which may have been the location of the item or items allegedly missed. Officer Maldonado was asked why she became involved in the search, and she responded she felt the search the male officers performed was insufficient because Mr. [REDACTED] continued to state they missed something.³¹ Because the officer doing the initial search was a probationary police officer, she took the initiative to perform a more thorough search, and to show him, herself, how it should be done, rather than call on another male officer to perform that task. At some earlier point during the search, a sharpened stick and a bottle were uncovered.

PPO Joshua Pausha³²

Officer Joshua Pausha³³ was interviewed at COPA on June 25, 2020, before which he was allowed to view body worn camera footage. On the date of the incident, PPO Pausha, PPO Rivera, and FTO Esquivel responded to an assault in progress call at a McDonalds. Mr. [REDACTED] threatened a customer with bodily harm and then left the area. Mr. [REDACTED] returned to the scene, confronted two officers, and created some sort of disturbance. Officers handcuffed Mr. [REDACTED] and the victim of the assault identified Mr. [REDACTED] as the assailant and signed a complaint.

Mr. [REDACTED] was placed in a transport vehicle and taken to the 17th District. He then got out of Officer Maldonado's vehicle, stiffened up and dead-weighted onto the ground, wrapped his legs around PPO Pausha's foot to throw him off balance, and placed his head near PPO Pausha's crotch area. After Mr. [REDACTED] began to flail about, additional officers were summoned to assist. Still uncooperative, Mr. [REDACTED] was carried into the 17th District and placed into an unoccupied holding cell in the processing area, out of concern for the safety of the person in the cell across the hall.

The officers exited the holding cell while Mr. [REDACTED] continued to be uncooperative, and then re-entered the holding cell at some point thereafter. Mr. [REDACTED] fought, kicked, bit, and spit at the officers. As Mr. [REDACTED] was searched, PPO Pausha flipped Mr. [REDACTED] over, and held him face down on the floor, as others removed layers of clothing for officer safety. Eventually, he was down to a white shirt and underwear.³⁴ At some point later, PPO Rivera checked Mr. [REDACTED] "jock area and retrieved a book,"³⁵ while PPO Pausha served as security. The officers filled out TRR's and other paperwork and then called an ambulance to take Mr. [REDACTED] to the hospital. The officers did not re-dress Mr. [REDACTED] because it could have meant

²⁸ Att. 42.

²⁹ At the time of the incident, Ivy Maldonado was a Police Officer. At the time of her COPA Interview, she was a Sergeant.

³⁰ Att. 42 at 05:40.

³¹ Att. 42 at 06:43.

³² Att 44 and 43.

³³ On the date of the incident, Officer Joshua Pausha was a Probationary Police Officer.

³⁴ Att. 44 at 22:55.

³⁵ Att. 44 at 25:55.

the officers or him getting hurt again.³⁶ It is likely he would have been combative, as he had been, and would have objected to someone touching him again.

When the subject of strip searches was addressed, PPO Pausha explained that if they did have training on strip searches, it was glanced over.³⁷ He described a strip search as taking off every single layer of clothing, from shirt to pants to socks, exposing bare skin.³⁸ He stated that he probably read G06-01-03 Conducting Strip Searches, but there were a lot of General Orders, and he tried to remember everything. However, he did read it after the allegations were served. He had never, however, witnessed a strip search or talked about strip searches outside the academy.

PPO Pausha believed that at the time of the search, the officers believed it was a custodial search rather than a strip search. Furthermore, he believed they did this particular search in holding rather than lock-up because Mr. [REDACTED] was wearing multiple layers of clothing at the time, and they wanted to ensure he did not have anything that could harm the officers or him.

When asked why his BWC was activated during this search, PPO Pausha responded that it was for evidentiary purposes in case of any future claims. He also explained that is why he took the BWC off and used it as a free-standing camera.³⁹

During this event, there were both a Sergeant and an FTO on scene. They were there to teach, and he did not consider the direction orders, but something more like a general statement.⁴⁰ The requests fell more along the lines of an “informal order,” and none of the requests were directed at him.⁴¹

PPO Guerrero Rivera⁴²

Officer Guerrero Rivera was interviewed at COPA on June 15, 2020, before which he was allowed to view body worn camera footage. When officers first came upon Mr. [REDACTED] at the location where he was arrested, PPO Rivera noticed a heavy smell of alcohol.⁴³ He stated that once the officers and the Mr. [REDACTED] arrived at the 17th District, Mr. [REDACTED] dropped weight and did not respond to officer attempts to pick him up. He then kicked, spat, and attempted to strike at the officers.⁴⁴ Once inside, the officers began a custodial search.⁴⁵ Mr. [REDACTED] who was intoxicated, had a lot of outer garments which possibly concealed things. PPO Rivera also observed a bulge in Mr. [REDACTED] underwear and thought it could possibly be contraband. The bulge, removed by PPO Rivera, turned out to be paper and a notebook. When asked why he pulled down Mr. [REDACTED] underwear to the point his genitalia were exposed, he responded that at the time he observed a bulge, he believed there was more contraband, and felt there was no other way

³⁶ Att. 44 at 30:30.

³⁷ Att. 44 at 38:22.

³⁸ Att. 44 at 37:10.

³⁹ Att. 44 at 51:40.

⁴⁰ Att. 44 at 56:45.

⁴¹ Att. 45 at 00:01.

⁴² Att. 40. On the date of the incident, Officer Guerrero Rivera was a Probationary Police Officer.

⁴³ Att. 40 at 11:50.

⁴⁴ Att. 40 at 07:45.

⁴⁵ Att. 40 at 08:30-09:41.

to retrieve it. PPO Rivera was not sure why Mr. ██████ was not re-clothed. He also stated that at the time, he was not aware his BWC should not have been activated.⁴⁶

During the search, BWC showed PPO Rivera push Mr. ██████ head. PPO Rivera stated that it was a reaction to what he believed to be an attempt to bite him.⁴⁷ It was not included in his TRR or any of the other reports because at the time he drafted them, he did not recall it happened.⁴⁸ This was his first time dealing with this type of person.

PPO Rivera differentiated this search from others he was involved in previously.⁴⁹ This was the first time he performed this type of “custodial search.” During previous searches, which were performed in lock-up, he asked the subject to remove all additional outer clothing but did not do so in this case because Mr. ██████ was uncooperative.⁵⁰

PPO Rivera recalled having some training on strip searches during the academy. He also mentioned that he had never done a search that was similar to the one conducted in this case.⁵¹ During the search, pills had been found on Mr. ██████ person. After the search, Mr. ██████ ceased to respond to officers and appeared to be heavily intoxicated.

FTO Anthony Esquivel⁵²

FTO Anthony Esquivel was interviewed at COPA on June 18, 2020, before which he was allowed to view body worn camera footage. On the date of the incident, FTO Esquivel had two probationary police officers (PPOs) assigned to him, Officers Pausha and Rivera. During the preliminary pat-down, it was determined that Mr. ██████ had items hidden in his clothing in unusual areas.⁵³ Officers confiscated items from the sleeves of the clothing, to include, a large stick and a beer can, and possibly a pocketknife. He was initially cooperative and appeared to be uncertain as to why he was stopped. FTO Esquivel described Mr. ██████ behavior as sudden and unpredictable, making it hard to determine what it was he was experiencing at the time; therefore, he did not know if it was safe to do certain things. He remained combative which affected the safety of both the officers and Mr. Hudzinski.⁵⁴

Once the complaints were signed, PPO Rivera and Officer Maldonado transported Mr. ██████ to the 17th District. Mr. ██████ surprisingly became uncooperative, caused his body to go limp and began to flail.⁵⁵ Officers had to carry him into the building, and once inside, he continued to be uncooperative. Mr. ██████ wore several layers of clothing, some of which needed to be removed before being transported to lock-up at the 16th District, so the officers needed to remove the excess clothing without his cooperation.⁵⁶ The search revealed he had pills in his

⁴⁶ Att. 40 at 34:55-36:13.

⁴⁷ Att. 40 at 31:40.

⁴⁸ Att. 40 at 34:00.

⁴⁹ Att. 40 at 13:40.

⁵⁰ Att. 40 at 15:00.

⁵¹ Att. 40 at 18:10-19:10.

⁵² Att. 43.

⁵³ Att. 43 at 16:45.

⁵⁴ Att. 43 at 35:12.

⁵⁵ Att. 43 at 08:40.

⁵⁶ Att. 43 at 09:50.

possession. The entire search was a struggle, despite attempts to allow Mr. [REDACTED] to calm down.

On the subject of strip searches, FTO Esquivel explained that to him, this was not a strip search. He did not recall ever being involved in a strip search. However, he defined a strip search as removing clothing to inspect the private areas of the person being searched.⁵⁷ They had no intention of examining any of Mr. [REDACTED] private areas, did not witness exposure of any of his private parts, and were only concerned with retrieving any weapons or contraband before he was transferred to lock-up.⁵⁸ This is why the search went beyond only removing clothing other than one pair of pants and one shirt.⁵⁹ FTO Esquivel confirmed that the 17th District was where offenders were taken for processing and paperwork before being transferred to lock-up, and was considered holding. He described the holding cell where Mr. [REDACTED] was searched as ten by fifteen concrete with a concrete bench, possessing toiletries on one end, glass picture windows on one wall, and a steel door with a window in it.⁶⁰ The door to the holding cell was open during the search. At the end of the search, Mr. [REDACTED] was wearing a t-shirt and underwear that said, "Kellogg's."⁶¹ However, FTO Esquivel could not recall what Mr. [REDACTED] was wearing when he was taken to lock-up.

FTO Esquivel did not know when Mr. [REDACTED] clothing was returned to him and stated that it would be the arresting officers' responsibility to do so.⁶² He also reported that his BWC was activated, as required, because Mr. [REDACTED] was uncooperative and becoming violent.⁶³

Officer Christopher Bratek⁶⁴

Officer Christopher Bratek was interviewed at COPA on June 15, 2020, before which he was allowed to view body worn camera footage. Officer Bratek did not have independent recollection of the event. Other officers broadcasted for help, and he responded to the holding cell.⁶⁵ When he arrived in the holding cell, the officers already that were already present were struggling with Mr. [REDACTED] and one of the supervisors asked him to locate leg-irons. Officer Bratek did so but did not recall or see on BWC whether he ever touched Mr. [REDACTED] or applied the leg irons.⁶⁶

Officer Bratek defined a strip search as one where the person being searched is stripped down to his skin.⁶⁷ What he believed was done here was a custodial search, which was done because an arrestee is only allowed one layer of clothing when they go to lock-up, and Mr. [REDACTED] had several layers. This can be dangerous because it may allow an offender to bring in weapons, as they have been known to do in the past. He also mentioned that he was in the holding cell when the outer layers of clothing were removed, but he was not in the holding cell when Mr.

⁵⁷ Att. 43 at 27:51 and 40:04.

⁵⁸ Att. 43 at 16:39, 59:52.

⁵⁹ Att. 43 at 34:30.

⁶⁰ Att. 43 at 20:05.

⁶¹ Att. 43 at 26:30. Also see Esquivel BWC at 05:42.

⁶² Att. 43 at 38:42.

⁶³ Att. 43 at 41:58.

⁶⁴ Att. 38 and 39.

⁶⁵ Att. 38 at 05:55.

⁶⁶ Att. 38 at 06:30.

⁶⁷ Att. 38 at 08:40-09:23.

█ genitals were exposed.⁶⁸ When he was there, it was not a strip search, it was a custodial search.

Although he did not consider the search of Mr. █ a strip search, Officer Bratek had been involved in about five or six in the past.⁶⁹ Officer Bratek and his partner would do the search, with the door closed, then come out. They did the strip searches in the men's washroom at the lock-up facility but was unaware of where they officially should be done. He did not recall being trained on strip searches. He also stated that he was not present when Mr. █ was taken to the hospital and did not know if his clothing had been returned to him.

PO Mauricio Paniagua⁷⁰

Officer Mauricio Paniagua was interviewed at COPA on August 13, 2020, before which he was allowed to view body worn camera footage. Officer Paniagua recalled there being a commotion at the station as he was doing paperwork. He and his teammates attempted to assist. Other than this, and what he viewed on the BWC video, he recalled little of this incident. On the video, he saw that he took off his vest, went in to help, and kept Mr. █ from kicking another officer with his right foot.⁷¹ He was then told to take the sweatpants off Mr. █. At the time, Mr. █ wore several layers of sweatpants and other forms of outerwear. He was also told by Sergeant Daniels to take the socks, but he did not recall what was in his hands. He did consider this an order.⁷² Officer Paniagua was working with Officer Kamarchevakul.⁷³

When asked about his knowledge regarding strip searches, he responded by reciting the definition of a strip search from his own handwritten notes, which were drafted after reviewing the General Order. At the time of the incident, however, he knew a strip search required a supervisor, that it needed to be performed by someone of the same gender, and that it involved the genitals of the person. Furthermore, the search should not be performed in front of persons not involved in the search, and the person should not remain unclothed for longer than is necessary. He explained that the time Mr. █ was left unclothed was necessary to prep him for jail for safety reasons, and he would not have been responsible for re-dressing Mr. █ since it was not his arrest.⁷⁴ He believed he had formal training in the academy but has not had any since. Officer Paniagua did not recall ever being involved in a strip search.

Officer Paniagua stated that instead of seeing an "inspection" of the persons genitals, he saw an "observation." He saw people preparing Mr. █ for lockup, which required only one inner garment and one outer garment. Furthermore he saw a combative person and himself and the other officers showing a lot of restraint.⁷⁵ He further stated, it was an observation of what is contraband or a weapon, before they go into jail. He emphasized that there was a person who stated he had "dope" and a sergeant who said to "get the dope."⁷⁶ This was all about an officer's

⁶⁸ Att. 38 at 17:20.

⁶⁹ Att. 38 at 12:50-14:24.

⁷⁰ Att. 49.

⁷¹ Att. 49 at 06:30.

⁷² Att. 49 at 33:10.

⁷³ Att. 49 at 07:35.

⁷⁴ Att. 49 at 19:50 and 25:30.

⁷⁵ Att. 49 at 16:18.

⁷⁶ Att. 49 at 17:35

ability to arrest someone and not allowing a person to defeat arrest, conceal evidence, or destroy evidence. It was not an inspection.

Mr. ██████ was then described as an assailant because it was reported that he bit an officer.⁷⁷ Officer Paniagua believed that the 17th District was a “lockup facility” and not a holding area. He described this as a pre-processing area, and that the 16th District is where the male lockup is for the 17th District.⁷⁸ He then went on to say that “holding” was not a word they recognized that this location was “pre-processing” where the arrestee stays while officers do paperwork, and they are fingerprinted and photographed in “processing.” These areas together are considered “lockup.”⁷⁹

PO Richard Kamarchevakul⁸⁰

PO Richard Kamarchevakul was interviewed at COPA on July 22, 2020, before which he was allowed to view body worn camera footage. Officer Kamarchevakul was asked by someone to assist with the search of a combative offender. When he arrived at the holding cell where Mr. ██████ was taken, he was lying on the floor. Officer Kamarchevakul helped several other officers remove Mr. ██████ clothing to prepare him for lock-up.⁸¹ This was done to be sure an arrestee did not have a weapon or anything else they could use to hurt themselves or someone else.

Officer Kamarchevakul was asked what he knew about strip searches, specifically, and he responded that he thought, among other things, prior supervisor approval was needed, it was normally performed in a separate holding cell at lock-up, and a form needed to be filled out.⁸² This search, however, was performed in a holding cell with large windows. Arrestees were usually the one who removed any clothing. In this case, the arrestee was combative, kicking and flailing around, and would not comply with verbal direction.⁸³ He was not sure about any prior training regarding strip searches and had not read the policy regarding performing strip searches for years.

Regarding Mr. ██████ state of undress, Officer Kamarchevakul could only assume Mr. ██████ clothing was not returned because he had been combative.⁸⁴ If the clothing was in excess of what is allowed in lock-up, which is one layer of clothing, it would be inventoried.

⁷⁷ Att. 49 at 19:30.

⁷⁸ Att. 49 at 21:40.

⁷⁹ Att. 49 at 23:00.

⁸⁰ Att. 48.

⁸¹ Att. 48 at 10:45.

⁸² Att. 48 at 13:09.

⁸³ Att. 48 at 18:55.

⁸⁴ Att. 48 at 24:11.

b. Digital Evidence**BODY WORN CAMERA⁸⁵**

During the initial call, Sergeant Daniels and Officer Rivera handcuffed Mr. [REDACTED] without incident. At the time he was wearing a pair of grey sweatpants, a black outer jacket, with a grey hooded sweatshirt and a red jacket underneath. When the officers attempted to speak with him and he failed to respond, Officer Maldonado asked Mr. [REDACTED] if he was on something.⁸⁶ Sergeant Daniels and Officers Rivera and Esquivel began to search Mr. [REDACTED] and seized items. During the search, Mr. [REDACTED] directed the officers to something hidden near his heart.⁸⁷ After a short time, Officer Maldonado put on a pair of rubber gloves, asked Mr. [REDACTED] what it was he wanted them to find and began to search Mr. [REDACTED].⁸⁸ Officer Rivera and FTO Esquivel were still present. Officer Maldonado asked Mr. [REDACTED] what they were missing, and he responded, "You're missing everything."⁸⁹

Eventually, the officers placed Mr. [REDACTED] in Officer Maldonado's police vehicle for transport. As they were putting him in the car, Officer Maldonado said he would need to be searched again, as he might have something hidden in his "ass-cheeks."⁹⁰ As the transport officers waited to leave for the station, Officer Maldonado mentioned that Mr. [REDACTED] was already asleep and that she believed he was going to start to fight them when the officers searched him.⁹¹

When they arrived at the police station, the officers took Mr. [REDACTED] out of the back seat of the police vehicle. He began to move as if to struggle. Officer Maldonado asked him what was going on and told him to relax and take a breath.⁹² Mr. [REDACTED] became verbally combative. Additional officers came to assist, and as he was being walked into the police station, Mr. [REDACTED] appeared to sit down on the ground.⁹³ Officers Maldonado, Pausha, and Rivera, along with FTO Esquivel attempted to pick him up, and Mr. [REDACTED] appeared to fight them. Officer Maldonado told him to lay on his belly and relax, as officers turned Mr. [REDACTED] face down.⁹⁴ After Mr. [REDACTED] spit on an officer, four other officers picked Mr. [REDACTED] up, each one holding an arm or a leg, and carried him into the police station. Officer Maldonado mentioned to someone that Mr. [REDACTED] kept hinting that she was missing something during the search, and another male voice said to go get the shackles.⁹⁵

Mr. [REDACTED] was carried into the holding cell with large see-through windows by multiple officers. A group of officers were gathered talking to each other in what appeared to be the processing area of a police station. Officer Bratek, stated, "Okay boys, come on, we're gonna

⁸⁵ Att. 18 (Includes all BWC)

⁸⁶ Att. 18 Maldonado (2) at 07:47.

⁸⁷ Att. 18 Maldonado (2) at 09:40.

⁸⁸ Att. 18 Maldonado (2) at 09:57.

⁸⁹ Att. 18 Maldonado (2) at 10:35.

⁹⁰ Att. 18 Maldonado (2) at 12:14.

⁹¹ Att. 18 Maldonado (2) at 20:09.

⁹² Att. 18 Maldonado (2) at 31:37.

⁹³ Att. 18 Maldonado (2) at 32:30.

⁹⁴ Att. 18 Maldonado (2) at 33:00.

⁹⁵ Att. 18 Maldonado (2) at 35:00.

flog him,” while holding shackles.⁹⁶ After locking their guns in the hallway lock boxes, the officers entered the holding cell. An officer and another man are visible in the holding cell across the hall. This holding cell also had large glass windows that faced the windows of Mr. ██████████ holding cell.

Just before Officer Pausha entered the holding cell where Mr. ██████████ was being held, Sergeant Daniels told Officer Rivera that they were going to take his pants off. Mr. ██████████ was lying face down on the floor. He was wearing what appeared to be a jacket that was partially off. Underneath, he was wearing a red jacket and a white tank top t-shirt. He had on a pair of grey sweatpants with other layers of pants and shorts underneath. He was wearing one shoe and a sock only on the other foot.

About seven officers gathered around Mr. ██████████ as he lay on the floor. One of the officers says, “Get him on his back,” as the officers appear to struggle. Sergeant Daniels, then said to get all the layers off him.⁹⁷ Sergeant Daniels and Officer Rivera walked into the holding cell and immediately grabbed his feet. Neither officer spoke with Mr. ██████████ before they grabbed him, and it appeared Mr. ██████████ was trying to reposition himself onto his back as one of the officers repeatedly said, “kneel on his back.”⁹⁸ The officers pushed Mr. ██████████ back onto his stomach. Mr. ██████████ was positioned face down, with his head and face pushed up against the corner of the wall.⁹⁹ Another officer then laid what appeared to be a plastic bag over the back of Mr. ██████████ head.

Sergeant Daniels told Mr. ██████████ to stop fighting with them, to which he replied, “You’re fucking retarded.”¹⁰⁰ Shortly thereafter, Mr. ██████████ said, “You should just ask, bro, you should just ask, it [ain’t] gotta be this way.”¹⁰¹ FTO Esquivel grabbed Mr. ██████████ near his foot and removed a grey pair of sweatpants.¹⁰² As the group of officers continued to handle Mr. ██████████ one of the officers said, “Those are his underwear.”¹⁰³ Someone then said something to the effect of, he had a “sock sewn in there,” to which someone else replied that it felt like drugs. Shortly thereafter, Officer Paniagua removed a pair of sweatpants.¹⁰⁴ Sergeant Daniels asked the officers tending to Mr. ██████████ if he “had more shorts on,” to which they replied, “yes.” Sergeant Daniels told them to take them off too.¹⁰⁵

Sergeant Daniels asked Mr. ██████████ what he was going to do when they remove his handcuffs to take off his coat and warned that they would taser him if thing went “south.”¹⁰⁶ After several of the officers left the holding cell, Sergeant Daniels asked if anyone had a taser handy, and it appeared as though one of the officers took one into the holding cell and then walked back

⁹⁶ Att. 18 Pausha (2) at 01:00.

⁹⁷ Att. 18 Maldonado (2) at 37:31.

⁹⁸ Att. 18 Pausha (2) at 02:03.

⁹⁹ Att. 18 Pausha (2) at 2:12.

¹⁰⁰ Att. 18 Pausha (2) at 03:03. It should be noted that Officer Pausha’s BWC was not attached to him but was set on something and pointed into the holding cell.

¹⁰¹ Att. 18 Pausha (2) at 03:17.

¹⁰² Att. 18 Esquivel (3) at 00:10.

¹⁰³ Att. 18 Maldonado (2) at 39:46.

¹⁰⁴ Att. 18 Maldonado (2) at 37:30-41:05.

¹⁰⁵ Att. 18 Daniels (2) at 01:25.

¹⁰⁶ Att. 18 Daniels (2) at 03:20.

out. Sergeant Daniels instructed them to taser Mr. [REDACTED] if he swung at them. Officer Maldonado appeared to take hold of the taser and walk to the inside of the holding cell.

Officers continued to remove layers of pants and his jacket until Mr. [REDACTED] wore only a white tank top t-shirt, blue underwear with a “Kellogg’s Frosted Flakes” cartoon printed on them. When the officers exited the holding cell, Mr. [REDACTED] was lying face down on the floor in handcuffs and leg irons, wearing only a white tank top t-shirt and what appeared to be blue underwear.

Shortly thereafter, Sergeant Daniels asked the officers if anyone checked his jock area, and said they would have to check his “nut-sack;” They replied, “No.”¹⁰⁷ Officers returned to the holding cell where Officer Rivera lifted the front of Mr. [REDACTED] underwear, exposing his genitals.¹⁰⁸ Items, including what appeared to be a small paper notebook and a white wad of possibly tissue or paper, were then removed from Mr. [REDACTED] genital area underneath his underwear.

Three male officers, now known to be FTO Esquivel, Officer Pausha and Officer Rivera, attempted to pick Mr. [REDACTED] up off the floor and have him sit on the cement bench. Mr. [REDACTED] promptly went limp and slid off the cement bench back onto the floor once they let go of him. Injuries to the front of Mr. [REDACTED] shoulders, mainly his right one, are visible.¹⁰⁹ All of the CPD personnel left the holding cell while Mr. [REDACTED] continued to lie on the floor in only his underwear.¹¹⁰

Shortly thereafter, Officer Maldonado encountered Sergeant Daniels in the outer hall. She explained that Mr. [REDACTED] fell back to the floor after being sat-up, and Sergeant Daniels responded he needed a couple shots of Narcan to wake him up.¹¹¹ Sergeant Daniels and two other officers went back into the holding cell where Mr. [REDACTED] was being kept.¹¹² He was still lying on the floor face down. When he was turned over, he appeared to be unresponsive but still breathing. One of the officers said, “wake up,” and Officer Maldonado said to give him a sternum rub. Mr. [REDACTED] was now lying on his back, on top of his cuffed hands. A large red mark is visible on the front of his right shoulder and a lighter mark on the left shoulder. Sergeant Daniels radioed for an ambulance and told the dispatcher that Mr. [REDACTED] had possibly overdosed. Based on BWC, Mr. [REDACTED] laid alone in the holding cell for approximately five and a half minutes, until the EMTs arrived. The EMTs left with Mr. [REDACTED] about seven minutes after that.

¹⁰⁷ Att. 18 Daniels (2) at 06:49.

¹⁰⁸ Att. 18 Rivera at 44:52.

¹⁰⁹ Att. 18 Maldonado (1) at 00:10.

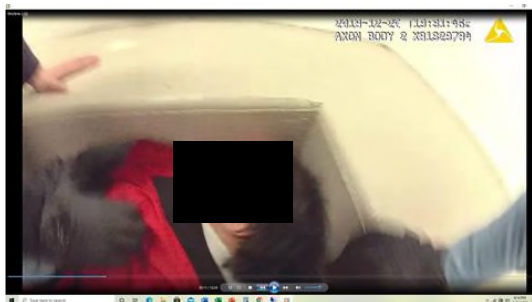
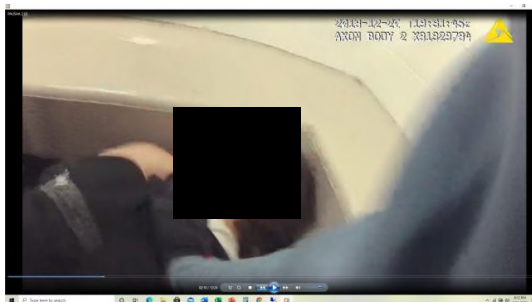
¹¹⁰ Att. 18 Daniels (2) at 07:40-10:47 when camera deactivated.

¹¹¹ Att. 18 Maldonado (1) at 01:50.

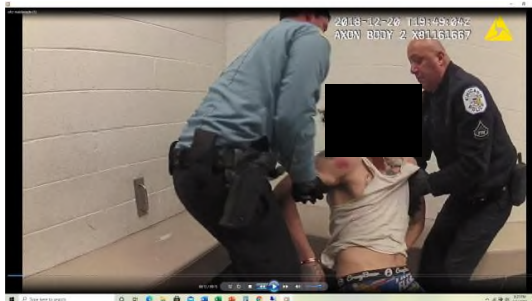
¹¹² Att. 18 Daniels (3) at 00:30-03:47.

PHOTOS

From Officer Pausha BWC-during search



From Officer Maldonado BWC



From FTO Esquivel BWC depicting lack shoulder injury before search



From Officer Pausha BWC depicting shoulder injury after search



c. Documentary Evidence¹¹³

Original Case Incident Report-JB561141¹¹⁴

The Original Case Incident Report JB561141 documents the location as 4650 N. Pulaski Rd. in the Police Facility Processing Room. The victims listed are Officer Guerrero Rivera, and Officer Joshua Pausha. The witnesses listed are FTO Anthony Esquivel and Officer Ivy Maldonado. The narrative reported that CPD officers arrested [REDACTED] on a signed complaint. Mr. [REDACTED] proved to be physically combative. In addition to struggling against the officers that were trying to walk him into the station, he kicked Officer Pausha and bit Officer Rivera. This report also mentioned that Mr. [REDACTED] had a sock sewn into his pants that contained a bag with 16 capsules of tan colored powder suspected to be heroin, comingled with other pills that were described as non-controlled antidepressants. Mr. [REDACTED] and the pills were transported to Swedish Covenant Hospital by ambulance. The report stated that Mr. [REDACTED] sustained abrasions to his right shoulder during the struggle in the processing room.

¹¹³ The Arrest Report and Case Reports for JB561062 document the circumstances surround the arrest of Mr. [REDACTED] Att. 6, 8, 20.

¹¹⁴ Att. 7.

The charges reported were two counts of Aggravated Battery to a Police officer, two counts of Resisting a Peace officer, one count of Simple Assault and one count of Possession of a Controlled Substance.

Ambulance Report¹¹⁵

The Ambulance Report documented that Mr. [REDACTED] was the patient and that the incident was an overdose. It lists the impression as a behavioral, psychiatric disorder. Symptoms included irritability, anger, strange and inexplicable behavior, restlessness, agitation, homicidal ideations.

Upon the EMTs' arrival Mr. [REDACTED] was prone on the floor of his cell. Per CPD, he was very violent and attacked officers. He was fitted with a spit hood and taken to Swedish Covenant Hospital Emergency Room.

Medical Records¹¹⁶

[REDACTED] was admitted into the Swedish Covenant Hospital Emergency Room on December 20, 2018, at 2:24 pm. His diagnosis was listed as Alcohol Abuse with Intoxication, Major Depressive Disorder, Conduct Disorder, Abrasion of Right Shoulder, Abrasion of Left Shoulder, Exposure to other specified factors, and other Long-Term Drug Therapy. The Notes section of the records stated, among other things, that Mr. [REDACTED] arrived in CPD custody after he was arrested for trespassing and assaulting an officer. Patient was belligerent, spitting, and combative in route. The records also stated that Mr. [REDACTED] admitted to drinking and smoking marijuana prior to his arrest and discussed his psychiatric history. A blood alcohol test was performed and resulted in a 0.244 blood alcohol level. Restraints were applied. It was mentioned that Mr. [REDACTED] stated he was in withdrawal from heroin, alcohol, and marijuana. The Crisis/Intake Assessment stated that Mr. [REDACTED] admitted to feeling homicidal toward the police and was administered medication. On December 22, 2018, at 4:50 am, Mr. [REDACTED] was taken via stretcher to Cermak Hospital.

Tactical Response Report-PO Rivera¹¹⁷

On December 20, 2018, at 13:28 pm, Officer Guerrero Rivera used Force Mitigation, including member presence, verbal direction, movement to avoid attack and tactical positioning, in addition to Control Tactics, to include escort holds and applied body weight, in response to [REDACTED] actions. Mr. [REDACTED] failed to follow verbal direction, stiffened into dead weight, pulled away and spit at an officer. In addition, he committed an assault against Officer Rivera as he performed a police function.

In the narrative section of his report, Officer Rivera stated that after he assisted Mr. [REDACTED] out of the transport vehicle, he dropped his body weight, to the ground, and refused to

¹¹⁵ Att. 15.

¹¹⁶ Att. 28.

¹¹⁷ Att. 9.

return to his feet, instead twirling his body, kicking, and spitting. Officers had to carry Mr. [REDACTED] into the police station, where he continued to resist during a search of his person. During the search, Mr. [REDACTED] bit Officer Rivera in the pinky finger of his left hand. However, no mark was left and no penetration of skin or gloves was present. Once Mr. [REDACTED] clothing had been removed, officers observed an abrasion on his shoulder. It was unclear if the injury occurred during the struggle as Mr. [REDACTED] was highly intoxicated, dirty, and disheveled at the time of his arrest.

This report was reviewed by Sergeant Donald Daniels, who was himself involved in the incident. In the reviewing supervisor comment section, he stated that he reviewed BWC footage from several officers and that the event took place in a holding cell, where Mr. [REDACTED] struggled with officers. He described Mr. [REDACTED] as intoxicated on drugs and or alcohol and was not certain when the abrasion on his shoulder occurred. Like Officer Rivera, Sergeant Daniels stated that Mr. [REDACTED] was highly intoxicated, dirty, and disheveled at the time of his arrest. After the struggle, Mr. [REDACTED] appeared to lose consciousness immediately after the struggle and was later taken to the hospital.

Tactical Response Report-PO Pausha¹¹⁸

On December 20, 2018, at 13:28 pm, Officer Joshua Pausha used Force Mitigation, including member presence, verbal direction, movement to avoid attack and tactical positioning, in addition to Control Tactics, to include escort holds and applied body weight, in response to [REDACTED] actions. Mr. [REDACTED] failed to follow verbal direction, stiffened into dead weight, pulled away and engaged in a physical attack with his knee or leg. In addition, he committed an assault against Officer Pausha as he performed a police function in the form of a strike or blunt force.

In the narrative section of his report, Officer Pausha stated that prior to entering the police station, Mr. [REDACTED] became dead weight, began to flail his body, refused to move, and kicked then wrapped his legs around Officer Pausha. Officers carried Mr. [REDACTED] into the station where he was placed in a holding cell. Still combative, Mr. [REDACTED] kicked Officer Pausha's leg several times. Officer Pausha turned Mr. [REDACTED] over onto his chest and applied physical pressure to his person to prevent further attack and allow assisting officers to search for contraband. Once his jacket was removed, Officer Pausha noticed a red abrasion on Mr. [REDACTED] right shoulder. It was unknown if the injury was related to control tactics as Mr. [REDACTED] was highly intoxicated, dirty, and disheveled. Sergeant Daniels' comments are consistent with those made on Officer Rivera's TRR.

VI. 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;

¹¹⁸ Att. 10.

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 complied with 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.

VII. ANALYSIS

According to G06-01-03, "Conducting Strip Searches," " 'Strip Search' means having an arrested person remove or arrange some or all his or her clothing as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person." This General Order, which is consistent with state law 725 ILCS 5/103-01, also stated that all strip searches conducted under this Section shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search. All strip searches are ordinarily conducted in a police lockup facility and require written approval from the appropriate supervisor using the "Report of Strip Search (CPD-11.521), giving a copy to the arrestee. Additionally, Strip Searches are to be reported in the narrative portion of the Arrest Report and on the Watch Incident Log.

Officers removed Mr. [REDACTED] clothing and left him wearing only his underwear. Furthermore, during the search, Mr. [REDACTED] genitalia was exposed on BWC. While officers and Sergeant Daniels claimed that this was a search incident to arrest and/or a custodial search done for the safety of the officers and/or Mr. [REDACTED] this search evolved into a strip search once Mr. [REDACTED] underwear and genitals were exposed, per the definitions provided in both G06-01-03 and 725 ILCS 5/103-1.

Sergeant Donald Daniels

COPA finds **Allegation #1 and 3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels ordered the strip-search of [REDACTED] which was conducted in a manner in violation of CPD policy and State Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the

Illinois Constitution, and ordered the strip search of ██████████ in view of others not physically conducting the strip search are **Sustained**.

At the time of his arrest, Mr. ██████████ wore approximately four pairs of a variety of sweatpants and other sports like clothing on top of his underwear, and what appeared to be two jackets over a tank top style t-shirt. Although Sergeant Daniels did not specifically state that a strip search should be conducted or that it should be conducted in view of others who were not physically conducting the search, he was the ranking member present and directed the removal of clothing while in a holding cell that was directly across from another occupied cell, both of which had large glass windows. Furthermore, Sergeant Daniels directed the involved officers to both remove Mr. ██████████ pants and to “check his jock area.” Officer Paniagua specifically stated that he believed Sergeant Daniels’ directions to remove clothing were orders. COPA recognizes that at the onset of this search, the intention may not have been to conduct a strip search. However, as the search evolved, it became clear that Mr. ██████████ clothing was going to be removed down to his underwear. Furthermore, it was clear that his genitals would be exposed to retrieve items from under his underwear. Sergeant Daniels took no actions to conduct a further search in a more secluded location or to remove others from the area where the search was being conducted. He also took no steps to remove Officer Maldonado, an officer of a different gender, from the area where the search was being conducted. Therefore, these allegations are Sustained.

COPA finds **Allegation #2 and 4**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels participated in the strip-search of ██████████ and participated in the strip search of ██████████ in view of others not physically conducting the strip search which was conducted in a manner in violation of CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, G03-02, G03-02-01, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance of the evidence and is **Sustained**.

During the strip search, officers removed Mr. ██████████ clothing, exposing both his undergarments and his genitals. Although Mr. ██████████ was physically combative as officers attempted to bring Mr. ██████████ into the station, they failed to use any sort of de-escalation techniques prior to approaching him to begin the search, after the lapse of some time, and even though he was quietly lying on the floor in a prone position. When Sergeant Daniels and the other officers entered the holding room, they immediately grabbed Mr. ██████████ feet and/or legs without first either asking him to remove the appropriate clothing, warn him they were going to remove his clothing to search for contraband, or use any other sort of de-escalation technique before resorting to the use of force to remove several layers of pants.

According to G06-01-03, all strip searches are conducted by a member of the same gender, in a secure area, and isolated from the view of others not physically conducting the search. Based on BWC footage and the description Sergeant Daniels provided during his interview, Mr. ██████████ was strip searched in a holding cell in the processing area of the 17th District. The cell had large windows along one wall, and faced another, identical holding room where another prisoner was seated. BWC footage showed the man in the opposite cell looking toward the cell occupied by Mr. ██████████. Furthermore, the door to Mr. ██████████ cell was open during the strip search as

Officer Maldonado, a female, stood in the hallway outside the door, and looked in. Therefore, Allegations 2 and 4 are Sustained.

COPA finds **Allegation #5**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, and G06-01-03, is supported by supported by a preponderance of the evidence and is **Sustained**.

Sergeant Daniels told Mr. [REDACTED] that he would return his clothing once they removed his jackets. However, as mentioned earlier, Mr. [REDACTED] was left and unclothed, in only his underwear, for approximately five minutes before the arrival of EMT's, and for approximately another seven minutes after that. Not only was Mr. [REDACTED] clothing not returned to him as promised, but also there was no attempt made to cover him up in any way. As the supervising member on scene, Sergeant Daniels was responsible for ensuring this occurred. Because no attempt was made to reclothe Mr. [REDACTED] or communicate with him about the subject and because it is more likely than not that he was left unclothed longer than necessary, this allegation is Sustained.

COPA finds **Allegations #6 and 7**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels violated policy when he failed to complete a Report of Strip Search (CPD-11.521) in relation to the strip search of [REDACTED] and failed to provide a copy of the Report of Strip Search (CPD-11.521) to [REDACTED] in violation of Rules 2 and 6, and G06-01-03, is supported by a preponderance of the evidence and is **Sustained**.

G06-01-03 required the approving supervisor complete the Report of Strip Search (CPD 11-521) when a strip search is performed. G06-01-03 required the approving supervisor to provide a copy of the Report of Strip Search (CPD 11-521) to the subject of the search when a strip search is performed. Sergeant Donald Daniels admitted in his interview that he did not fill out a Report of Strip Search. Therefore, these allegations are Sustained.

COPA finds **Allegation #8**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels violated policy when he failed to supervise officers who held [REDACTED] face down on the floor, with his head and face pushed up against the corner of a wall, as he was being strip searched in violation of Rules 2, 6 and 8 and G03-02, is **Not Sustained**.

Rule 8 prohibits physical maltreatment of any person, while on or off duty. Furthermore, policy requires members 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. G03-02 (B-4). Examples of de-escalation include providing a warning and exercising persuasion and advice prior to the use of force and determining whether the member may be able to stabilize the situation through use of time, distance, or positioning to isolate and contain a subject.

Near the very beginning of the search, BWC captured the position of Mr. [REDACTED]¹¹⁹. His face was unnecessarily pushed up against the corner of the wall and a concrete bench as officers conducted the strip search. According to Sergeant Daniels, this occurred because Mr. [REDACTED] just happened to be in that location when the search began, and there was no choice or possibility to move him to a safer location to perform the search. He also stated that Mr. [REDACTED] was being an assailant at the time. A short time later, Mr. [REDACTED] eventually moved an inch or two away from the corner as the search progressed, but he continued to be held face down by the officers.

Although Mr. [REDACTED] was pushed into a corner initially during the search, this lasted a short period of time. Additionally, it is unclear if this positioning caused any harm to Mr. [REDACTED] or caused him any breathing difficulties. Although the lack of de-escalation is concerning, it is unclear if the officers' and Sergeant Daniels' actions rose to the level of misconduct. Thus, there is insufficient evidence to either prove or disprove the allegation as alleged, and this allegation is Not Sustained.

COPA finds **Allegation #9**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., Sergeant Donald Daniels violated policy when he failed to supervise officers whose strip-search of [REDACTED] resulted in an injury to Mr. [REDACTED] right shoulder in violation of Rules 2 and 5 and G03-02, is **Not Sustained**.

Mr. [REDACTED] sustained an abrasion to his right shoulder, as evidenced by BWC footage, police reports and hospital records. BWC confirmed that the injury was sustained at some time during the strip search. However, it is unclear if this injury was caused by the use of excessive force or Mr. [REDACTED] resistance. Therefore, there is insufficient evidence to either prove or disprove the allegations as alleged, and this allegation is Not Sustained.

Officer Ivy Maldonado

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4548 N. Kedzie Ave., Officer Ivy Maldonado violated policy when she performed a search on [REDACTED] when male officers were present in violation of Rules 2 and 6 and G06-01-02, is supported by a preponderance of the evidence and is **Sustained**.

G06-01-02 states that "Custodial searches will be conducted by a member who is the same gender as the arrestee; however, if a member of the same gender is not immediately available and officer or citizen safety is compromised absent the immediate search, members will not endanger themselves or the public to comply with this requirement."

Officer Maldonado stated in her interview with COPA that she did not feel the search done at the original scene was adequate and she took the initiative to show the probationary police officers how it should be done. However, there were no less than four male officers present at the scene, including an FTO and a Sergeant, when Officer Maldonado conducted a search of Mr. [REDACTED]. Sergeant Maldonado made no attempt to enlist their assistance or to verbally give any necessary instruction. Because there were other male officers available to perform the search, this allegation is Sustained.

¹¹⁹ Att. 18 Pausha 2 from beginning.

PPO Joshua Pausha

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Sergeant Daniels.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha violated policy when he strip-searched [REDACTED] in view of others not physically conducting the strip search in violation of Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for Sergeant Daniels.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #5 for Sergeant Daniels.

COPA finds **Allegation #4**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha violated policy when he recorded the strip search of [REDACTED] with his Body Worn Camera in violation of Rules 2 and 6 and S03-14, is supported by a preponderance of the evidence and is **Sustained**.

BWC will not be activated to record in connection with strip searches. S03-14. In this case, the BWC for PPO Pausha captured the strip search of Mr. [REDACTED]. Although it appears that the officers did not initially anticipate the search evolving to a strip search, at the time this became clear, PPO Pausha had an obligation to deactivate his BWC. Therefore, this allegation is Sustained.

COPA finds **Allegation #5**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha violated policy when he removed his Body Worn Camera from his uniform and used it as a free-standing camera during the strip search of [REDACTED] in violation of Rules 2 and 6 and S03-14, is supported by a preponderance of the evidence and is **Sustained**.

Department members will, at the beginning of the tour of duty, securely attach the BWC to the front of the member's person consistent with training. S03-14. In this case, PPO Pausha removed his BWC from his uniform, placed it in a stationary position, and used it to record Mr. [REDACTED] as he was alone in the holding cell, through the time he was found unresponsive and then eventually

picked up by EMT's for transport to the hospital. The camera was in this position for over 21 minutes.¹²⁰ Because policy specifically stated that BWC's are to be securely attached to the member's person, and because there is no provision to use it otherwise, this allegation is Sustained.

PPO Guerrero Rivera

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Sergeant Daniels.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera violated policy when he failed to report the strip search of [REDACTED] in the Arrest Report related to this case in violation of Rules 2 and 6 and G06-01-03, is supported by a preponderance of the evidence and is **Sustained**.

Whenever a request is made to conduct a strip search of an arrestee, the name of the arrestee, a list of specific factors justifying the strip search, and the name of the person approving or disapproving, among other things, will be entered in both the narrative portion of the automated Arrest Report and the Watch Incident Log. G06-01-03.

Because PPO Rivera drafted the report related to Mr. [REDACTED] arrest, and because the required information regarding the strip search was not included in the narrative portion of said report, this allegation is Sustained.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera violated policy when he exposed [REDACTED] genitals during a strip search in view of others not physically conducting the strip search in violation of Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for Sergeant Daniels.

COPA finds **Allegation #4**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Joshua Pausha violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is **Sustained**.

The analysis for this allegation is consistent with Allegation #5 for Sergeant Daniels.

¹²⁰ Att. 18 Pausha 3-entire video.

COPA finds **Allegation #5**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera violated policy when he recorded the strip search of [REDACTED] with his Body Worn Camera in violation of Rules 2 and 5 and S03-14, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for PPO Pausha.

COPA finds **Allegation #6**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera violated policy when he made unnecessary physical contact with [REDACTED] as he pushed and/or struck his head in violation of Rules 2 and 6 and G03-02, is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**.

BWC captured PPO Rivera performed an open-handed strike against Mr. [REDACTED] head while they were in the holding cell. During his interview at COPA, PPO Rivera explained that he struck Mr. [REDACTED] in reaction to what he believed to be an attempt to bite him. It was not included on his TRR because he did not recall the strike when he drafted the report. He also mentioned that this was his first time dealing with this type of person.

An additional review of the BWC in question failed to confirm or deny whether Mr. [REDACTED] attempted to bite PPO Rivera, therefore, this allegation is Not Sustained.

COPA finds **Allegation #7**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PPO Guerrero Rivera violated policy when he failed to record the head strike to [REDACTED] in his TRR in violation of Rules 2 and 6 and G03-02-02, is supported by a preponderance of the evidence and is **Sustained**.

Although it is unclear as to why PPO Rivera used an open-handed strike to the head against Mr. [REDACTED] as was discussed in Allegation #6, there is no dispute that PPO Rivera did perform the strike and failed to include it in his TRR. Therefore, the allegation is Sustained.

FTO Anthony Esquivel

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., FTO Anthony Esquivel strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Sergeant Daniels.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., FTO Anthony Esquivel violated policy when he strip-searched [REDACTED] in view of others not physically conducting the strip search in violation of Rules 2 and 6, and G06-01-03, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for Sergeant Daniels.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., FTO Anthony Esquivel violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, and G06-01-03, is not supported by the evidence and is **Sustained**.

The analysis for this allegation is consistent with Allegation #5 for Sergeant Daniels.

COPA finds **Allegation #4**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., FTO Anthony Esquivel violated policy when he recorded the strip search of [REDACTED] with his Body Worn Camera in violation of Rules 2 and 5 and S03-14, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for PPO Pausha.

PO Christopher Bratek

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Christopher Bratek strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is not supported by the evidence and is **Unfounded**.

Although Officer Bratek was present for the strip search, assisted to secure Mr. [REDACTED] when he shackled his legs, and even offered opinion as to what the officers should do to control Mr. [REDACTED] he never touched Mr. [REDACTED] or his clothing. Therefore, this allegation is Unfounded.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Christopher Bratek violated policy when he exposed [REDACTED] genitals during a strip search in view of others not physically conducting the strip search in violation of Rules 2 and 6, and G06-01-03, is not supported by the evidence and is **Unfounded**.

The analysis for this allegation is consistent with that of Allegation #1 for Officer Bratek.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Christopher Bratek violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, and G06-01-03, is not supported by the evidence and is **Unfounded**.

The analysis for this allegation is consistent with that of Allegation #1 for Officer Bratek.

PO Mauricio Paniagua

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Mauricio Paniagua strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Sergeant Daniels.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Mauricio Paniagua violated policy when he strip-searched [REDACTED] in view of others not physically conducting the strip search in violation of Rules 2 and 6, and G06-01-03, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for Sergeant Daniels.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Mauricio Paniagua violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, and G06-01-03, is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #5 for Sergeant Daniels.

PO Richard Kamarchevakul

COPA finds **Allegation #1**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Richard Kamarchevakul strip-searched [REDACTED] in a manner which violated CPD policy, State Law and Federal Law, namely, Rules 2 and 6, G06-01-03, the Fourth Amendment to the Constitution of the United States and Section 6 of the Illinois Constitution, is supported by a preponderance the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Sergeant Daniels.

COPA finds **Allegation #2**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Richard Kamarchevakul violated policy when he strip-searched [REDACTED] in view of others not physically conducting the strip search in violation of Rules 2 and 6, and G06-01-03, is not supported by the evidence and is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #4 for Sergeant Daniels.

COPA finds **Allegation #3**, that on December 20, 2018, at or about 1:14 PM, at or near 4650 N. Pulaski Rd., PO Richard Kamarchevakul violated policy when he allowed [REDACTED] to remain lying on the floor unclothed, for longer than absolutely necessary, following a strip search in violation of Rules 2 and 6, and G06-01-03, is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #5 for Sergeant Daniels.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

i. Complimentary and Disciplinary Histories

a. Sergeant Donald Daniels

1. **Complimentary:** 1 Crime Reduction Ribbon (2004), 2 Crime Reduction Awards (2009, 2019), 12 Complimentary Letters, 1 Democratic National Convention Award, 9 Department Commendations, 2 Deployment Operations Center Awards, 178 Honorable Mentions, 1 Honorable Mention Ribbon, 1 Joint Operations Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award, 2 Problem Solving Awards, 2 Special Service Awards, 1 Superintendent Award of Valor, 1 Unit Meritorious Performance Award.

2. **Disciplinary:** None

b. Officer Ivy Maldonado

1. **Complimentary:** 2 Crime Reduction Awards (2009, 2019), 3 Complimentary Letters, 5 Department Commendations, 35 Honorable Mentions, 1 Life Saving Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award, 2 Unit Meritorious Performance Awards.

2. **Disciplinary:** None

c. PPO Joshua Pausha

1. **Complimentary:** 1 Crime Reduction Award (2019), 10 Honorable Mentions, 1 Life Saving Award

2. **Disciplinary:** None

d. PPO Guerrero Rivera

1. **Complimentary:** 1 Crime Reduction Award (2019), 3 Honorable Mentions

2. **Disciplinary:** None

e. FTO Anthony Esquivel

1. **Complimentary:** 1 Crime Reduction Ribbon (2004), 2 Crime Reduction Awards (2009, 2019), 3, Attendance Recognition Awards, 4 Complimentary Letters, 1 Democratic National Convention Award, 1 Department Commendation, 6 Emblems of Recognition (Appearance-1, Physical Fitness-5), 24 Honorable Mentions, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award, 1 Unit Meritorious Performance Award.
2. **Disciplinary:** None

f. Officer Mauricio Paniagua

1. **Complimentary:** 2 Crime Reduction Awards (2009, 2019), Attendance Recognition Award, 9 Complimentary Letters, 6 Department Commendations, 81 Honorable Mentions, 1 Honorable Mention Ribbon, 1 Life Saving Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award, 2 Problem Solving Awards, 1 Recognition/Outside Governmental Agency Award
2. **Disciplinary:** None

g. Officer Richard Kamarchevakul

1. **Complimentary:** 2 Crime Reduction Awards (2009, 2019), 2 Annual Bureau Awards of Recognition, 4 Attendance Recognition Awards, 6 Complimentary Letters, 3 Department Commendations, 2 Emblems of Recognition-Physical Fitness, 42 Honorable Mentions, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award, 1 Problem Solving Awards, 1 Recognition/Outside Governmental Agency Award, 1 Superintendent Award of Merit, 1 Unit Meritorious Performance Award.
2. **Disciplinary:** None

ii. Recommended Penalties:

1. **Sergeant Donald Daniels:** Suspension up to 30 days and Strip Search and De-escalation Training

Although Sergeant Daniel has a significant Complimentary History and a lack of Disciplinary History, he failed to accept any responsibility for his actions in this case despite his rank and years in service. In fact, he attempted to distance himself from responsibility by, among other things, stating this was a custodial search rather than a strip search, in contradiction of CPD policy and state law.

2. Officer Ivy Maldonado: 2-day Suspension and Training with respect to Searches

Although Officer Maldonado (now Sergeant) has a significant Complimentary History and a lack of Disciplinary History, she violated policy. COPA recognizes that she was attempting to be thorough and ensure the safety of both the arrestee and officers.

3. PPO Joshua Pausha: Written Reprimand and Training with respect to Searches

PPO Pausha, who has some Complimentary History and no Disciplinary History, was not long out of the Academy when this incident occurred. He was with his FTO and was receiving direction from Sergeant Daniels throughout the strip search of Mr. [REDACTED]. Due to a lack of experience and a lack of proper supervision, his recommended penalties are a Written Reprimand with required re-training on strip searches and the use of BWC.

4. PPO Guerrero Rivera: Written Reprimand and Training with respect to Searches

PPO Rivera, who has some Complementary History and no Disciplinary History, was not long out of the Academy when this incident occurred. He was with his FTO and was receiving direction from Sergeant Daniels throughout the strip search of Mr. [REDACTED]. Furthermore, his reports were reviewed and approved by his superiors. Due to a lack of experience and a lack of proper supervision, his recommended penalties are a Written Reprimand with required re-training on strip searches, report writing and the use of BWC.

5. FTO Anthony Esquivel: Suspension up to 15 days and Strip Search and De-escalation Training

FTO Esquivel is a seasoned officer who was appointed to the department in 1995. Although he had a significant Complimentary History, and no Disciplinary History, he attempted to evade responsibility for the clear violations of CPD policy.

6. Officer Mauricio Paniagua: Suspension up to 15 days and Training with respect to Searches

Officer Paniagua is a seasoned officer who was appointed to the department in 2004. Although he had a significant Complimentary History, and no Disciplinary History, he attempted to evade responsibility for the clear violations of CPD policy.

1. Officer Richard Kamarchevakul: Suspension up to 15 days and Training with respect to Searches

Officer Kamarchevakul is a seasoned officer who was appointed to the department in 2004. He had a significant Complimentary History, no Disciplinary History, and he answered the interviewer’s questions without attempting to avoid responsibility for clear violations of CPD policy.

Approved:



Sharday Jackson
Deputy Chief Investigator

December 29, 2022

Date