

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 21, 2017
Time of Incident:	8:50 PM
Location of Incident:	5730 S. Hermitage Ave.
Date of COPA Notification:	October 23, 2017
Time of COPA Notification:	9:25 AM

On October 22, 2017, Sergeant Mark Potuka filed an Initiation Report under Log# 1087210¹ in response to his review of the Tactical Response Report (“TRR”) and of Body Worn Camera (“BWC”) footage submitted by Officer Jeremy Rice and Officer Michael Hughes. Sergeant Potuka determined that the search performed by Officer Rice and Officer Hughes was improper because during the arrest Officer Rice and Officer Hughes pulled down the underwear of subject [REDACTED] exposing his genitals and his buttocks, in violation of Chicago Police Department policy, State Statutes and Federal Law.

The Initiation Report was forwarded to COPA on or about October 23, 2017, at which time a case file was opened. During the investigation it was determined that Officer Rice and Officer Hughes not only conducted an improper strip-search, but Officer Rice also verbally abused Mr. [REDACTED] during the arrest when he stated, “Shoot em, shoot em, you wanna play, you’re dead,” and, “He push up he be a dead man today.”² In addition, it was suspected that Officer Rice used excessive force when he deployed his Taser at [REDACTED] who was running at the time, in violation of Chicago Police Department policy; specifically, G03-02-04.

It is worth noting that because Sergeant Potuka reviewed the BWC footage of Officer Rice, these violations came to light, thus providing the opportunity to make any corrections or adjustments necessary to prevent future violations.

Mr. [REDACTED] did not cooperate with the COPA investigation.³

¹ Attachment 2

² This statement was originally thought to be, “Push up you’ll be a dead man today”, however, review of the statement confirmed the statement made by Officer Rice was “He push up he be a dead man today.”

³ Attachments 21, 23, and 28 are letters sent to Mr. [REDACTED] all of which were returned. Attachment 22 is a search done to locate additional addresses for Mr. [REDACTED]

II. INVOLVED PARTIES

Involved Officer #1:	Jeremy Rice, #15844, EE ID# [REDACTED], Police Officer; Appointed October 26, 2015; Unit 007; DOB [REDACTED], 1988; Male, Black.
Involved Officer #2:	Michael Hughes, #2957, EE ID# [REDACTED], Police Officer, Appointed February 29, 2016; Unit 007; DOB [REDACTED] 1986, Male, White.
Involved Individual #1:	[REDACTED] DOB [REDACTED] 1989, Black.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Jeremy Rice	1. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to obtain written approval from an appropriate supervisor before performing a strip search of [REDACTED] in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	2. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to prepare a report of the strip search of [REDACTED] to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	3. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice improperly strip-searched [REDACTED] when he pulled down [REDACTED] underwear exposing his buttocks and genitals in an open, outside area, in plain view of others, in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United	SUSTAINED

	<p>States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).</p> <p>4. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave. Officer Jeremy Rice verbally abused [REDACTED] when he said "shoot em, shoot em, you wanna play, you're dead" and then "He push up he be a dead man today", in violation of Rules 6 and 8.</p> <p>5. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice used excessive force when he attempted to Taser [REDACTED] during a foot chase in violation of Rules 6 and 8 and G03-02-04.</p>	<p>SUSTAINED</p> <p>NOT SUSTAINED</p>
<p>Officer Michael Hughes</p>	<p>1. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to obtain written approval from an appropriate supervisor before performing a strip search of [REDACTED] in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).</p> <p>2. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to prepare a report of the strip search of [REDACTED] to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).</p> <p>3. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes improperly strip-searched [REDACTED] when he pulled down [REDACTED] underwear exposing his buttocks and genitals in an open, outside area, in plain view of others, in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

 IV. APPLICABLE RULES AND LAWS

 Rules

1. **Rule 6:** prohibits, "Disobedience of an order or directive, whether written or oral.
COMMENT: This Rule prohibits disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior."
 2. **Rule 8:** prohibits, "Disrespect to or maltreatment of any person, while on or off duty."
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 General Orders

1. **G06-01-03 Conducting Strip Searches:** states, "Rights on arrest:
 - (c) No person arrested for a traffic, regulatory or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon or controlled substance.
 - (d) "Strip search" means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person.
 - (e) 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.
 - (f) Every peace officer or employee of a police department conducting a strip search shall:
 - (1) Obtain the written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search in accordance with this Section.
 - (2) Prepare a report of the strip search. The report shall include the written authorization required by paragraph (1) of this subsection (f), the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search. A copy of the report shall be provided to the person subject to the search."

2. **G03-02-04 Taser Use Incidents:** states, "When practicable, Department members should avoid the use of a Taser on subjects who: 6. Are running or are otherwise in motion."

3. Rules and Regulations of the Chicago Police-I(B)(5): A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive, unwarranted or unjustified he,

and the Department, are criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of a member, on or off duty, does reflect directly upon the Department, a member must at all times conduct himself in a manner which does not bring discredit to himself, the Department or the city.

Federal Laws

1. **Fourth Amendment of the United States Constitution, and Section 6 of the Illinois Constitution** states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

State Laws

1. **Section 6 of the Illinois Constitution**, states, "The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized."

2. **725 ILCS 5/103-1 (d)-(f)**, states,

"(c) No person arrested for a traffic, regulatory or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon or controlled substance.

(d) "Strip search" means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person.

(e) 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.

(f) Every peace officer or employee of a police department conducting a strip search shall:

(1) Obtain the written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search in accordance with this Section.

(2) Prepare a report of the strip search. The report shall include the written authorization required by paragraph (1) of this subsection (f), the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search. A copy of the report shall be provided to the person subject to the search."

V. INVESTIGATION⁴

a. Interviews

Police Officer Jeremy Rice⁵

Officer Rice was interviewed at COPA on March 23, 2018, at which time he was allowed to view relevant portions of his own BWC footage as well as that of Officer Hughes. Officer Rice stated that while at the Police Academy he was trained on strip searches and read the general orders on how to conduct a strip search and is up-to-date on reading any new or updated Orders. He also stated that strip searches were to be conducted in a secure location, not visible to others.

Officer Rice stated that he also received training on how and when to use a Taser. He explained that a Taser should be used when someone could be a potential harm to himself or his partner, and that the officer is supposed to notify the person to be tasered before it is done. Officer Rice provided some examples of when a Taser should not be used: if the person is not a threat, is pregnant, is jumping fence, or is on some type of high platform.

Officer Rice went on to say that on the evening in question, he and his partner patrolled a high crime area where there had been shootings reported during the week. When they got to 57th and Paulina, they observed three men standing on the dark street corner. One of the men, later identified as Mr. ██████ was seen holding a bulge in his waistband. According to Officer Rice, this gave them the reasonable suspicion needed to conduct an investigation. Officer Rice drove the police vehicle and Officer Hughes initiated a street stop. When Officer Hughes instructed Mr. ██████ to show him his hands and to come over, Mr. ██████ fled.

During a foot chase, Mr. ██████ ran into a fenced area and became trapped. Mr. ██████ then ran back toward Officer Rice who discharged his taser.⁶ Mr. ██████ was still running and was very close to Officer Rice when he discharged the Taser; and Officer Rice believed at the time that Mr. ██████ had a gun because he was still holding his waistband. However, the Taser probes failed to hit Mr. ██████ body because of the thick clothing he was wearing; nonetheless Mr. ██████ fell to the ground.⁷

Officer Hughes soon arrived and as both officers tried to handcuff Mr. ██████ Officer Rice said, "Shoot em, shoot em, you wanna play, you're dead," then "He push up he be a dead man today." Neither Officer Rice nor Officer Hughes held a Taser or their weapons at the time. Officer Rice characterized these statements as being verbal commands that Mr. ██████ could relate to. Officer Rice said he believed Mr. ██████ had a gun and that that was the only way he could get him to understand. Officer Rice explained that he grew up in the streets, knew street language, and at the time was afraid for his life.

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

⁵ Attachments 37 and 38.

⁶ Part 2 of Rice audio interview at 17:40.

⁷ Video footage suggests that Mr. ██████ may have already been on the ground when Officer Rice discharged his taser.

After the officers handcuffed Mr. [REDACTED] he told the officers that there was something in his waistband. After Officer Rice reviewed the video again, he heard that Mr. [REDACTED] also said he had two bags of crack.⁸ When Officer Rice was asked what he was looking for when he pulled down Mr. [REDACTED] underwear, he said that he was looking for what Mr. [REDACTED] said was “there”, referring to the two bags of crack; *and* he was looking for a weapon as well.⁹ When Officer Rice was asked if you have to pull someone’s pants down to find a gun, Officer Rice replied that there are small ones, too. However, when Officer Rice was asked if Mr. [REDACTED] could get to a weapon once he was handcuffed, he said no.

Officer Rice said that pulling down Mr. [REDACTED] underwear was not intended to be a strip search, but that he was simply trying to recover the evidence or contraband that Mr. [REDACTED] was referring to. He also stated that he did not take “a quick peek” into Mr. [REDACTED] underwear until Mr. [REDACTED] told him that something was there. Officer Rice went on to say that when Mr. [REDACTED] told him something was in his waistband, it was a form of consent to search his underwear.

Officer Rice conceded that they did not find anything in Mr. [REDACTED] pockets or underwear.¹⁰

Police Officer Michael Hughes¹¹

Officer Hughes was interviewed at COPA on March 29, 2018, at which time he was allowed to view relevant portions of his BWC footage, as well as that of Officer Rice. The area near 57th and Paulina was familiar to Officer Hughes, who knew that this was a high crime area with a number of recent arrests and reports of shots fired.

Officer Hughes stated that he received classroom training in performing strip searches at the Police Academy. He was taught that a strip search had to be done inside a police station, and that a Lieutenant or above was needed to conduct a strip search. Officer Hughes stated that during his training, he was not given the General Order regarding strip searches, nor did he read the General Order regarding strip searches. Officer Hughes claimed that he was not required to read this General Order unless and until he was going to perform this search on somebody.¹²

On the night in question when they approached 57th and Paulina, Officer Hughes and Officer Rice saw three individuals standing on the corner, one of whom had baggy pants with the waistband at waist level. Officer Hughes said that he could see something in his waistband that

⁸ Mr. [REDACTED] later said he swallowed the two bags of crack. The comment is documented on Officer Hughes’ BWC video at 01:11.

⁹ At 55:28, part 2, when asked when he was searching after Mr. [REDACTED] was already handcuffed, was he searching in his pants for a weapon or was he searching in his pants for evidence or contraband. Officer Rice replied that he was looking in his pants for a weapon, but he did not look into his underwear until Mr. [REDACTED] said he had something there which made it about contraband.

¹⁰ There was a bottle of Hennessy found in Mr. [REDACTED] jacket pocket, but no weapon or drugs.

¹¹ Attachment 40.

¹² COPA requested and received training records for Officer Hughes which confirmed that the officer was trained on Strip Searches while in the Academy and was given written materials that outline the requirements for a Strip Search consistent with G06-01-03.

represented a weapon¹³, which gave the officers reasonable suspicion that Mr. █████ possessed a gun or contraband. The bulge was on his front, right side. When Officer Hughes began to approach Mr. █████ to conduct a field interview, Mr. █████ saw the vehicle pulling up to him and broke away from the other two men. When Officer Hughes opened his car door, Mr. █████ fled. Both Officer Hughes and Officer Rice gave chase through several backyards until they reached the one at 5730 S. Hermitage.

When Officer Hughes got to the backyard, Officer Rice had already arrived and had deployed his Taser. Mr. █████ was laying on the ground while Officer Rice attempted to put handcuffs on him. Officer Hughes immediately began to assist him. Mr. █████ would not give Officer Hughes his hand, which was under him at his waistband. Officer Hughes did not know what Mr. █████ concealed under him. Both officers were sure he had a gun. After Mr. █████ was handcuffed, one of the officers asked Mr. █████ where it was at, referring to the pistol. Mr. █████ replied it was in his pants, and then stated that he had two bags of crack. The officers did not believe him, so they checked the waistline of his underwear for a firearm. Mr. █████ then said he swallowed the crack. An ambulance was eventually called by a supervisor.

Officer Hughes stated that when Mr. █████ said, "It's in my pants", he believed Mr. █████ was referring to a gun. He also believed that a firearm could be concealed in someone's underwear. Officer Hughes stated that Mr. █████ directed him to lift up the waistband of his underwear which, according to Officer Hughes, gave him permission to search Mr. █████ in this manner. Officer Hughes stated that the type of search he was performing on Mr. █████ while in the backyard, was a custodial search and not a strip search. However, Officer Hughes also stated that you do not remove clothing during a custodial search.

Officer Hughes admitted that he did not call a supervisor to request permission to remove the underwear of Mr. █████ and he did not file a report. Officer Hughes also admitted that he did not include in a report that he requested permission to do a strip search, or that he conducted a strip search of Mr. █████

When Officer Hughes patted down the pockets of Mr. █████ jackets and jeans, Officer Hughes retrieved a bottle of liquor out of his jacket pocket and threw it on the ground. Officer Hughes said he did not make any conclusions regarding the bottle, and that he still believed Mr. █████ had a weapon on him because he did not believe Mr. █████ would run as fast as he did for a fifth of Hennessey. No drugs and no gun were found.

b. Digital Evidence

OEMC Transmissions (18:38-23:07)¹⁴

Beat 726: "Radio Call, 726¹⁵, we're running."

¹³ Officer Hughes stated later that it had been a warm night and that Mr. █████ had a heavy jacket on, another indicator that Mr. █████ may have had a weapon.

¹⁴ Attachment 27.

¹⁵ Officers Rice and Hughes were assigned Beat 726 at time of incident.

Dispatch: "Where at?"
 Beat 726: "57 and Hermitage, male, black, red jacket, dreads, 57th and Hermitage."
 Beat 726: "In custody, taser deployed."
 Unk: "Where is he, I don't see him."
 Dispatch: "726, they're looking for you, where you at?"
 Dispatch: "GPS a little south of 5721 S. Hermitage, 726, they're looking for ya, where you at?"
 Dispatch: "If you find him let me know."
 Beat 34: "Car not on Hermitage."
 Unk: "Check the alley between Hermitage and Paulina."
 Beat 726: "Will give you an address, 5721 S. Hermitage in the alley."
 Beat 726: "Backyard 5730 S. Hermitage."
 Dispatch: "Do you need an ambulance for the guy?"
 Beat 726: "We'll let you know in a minute."¹⁶

Body Worn Camera-Officer Jeremy Rice¹⁷

The video began with Officer Rice running and continued with Officer Rice running down the side of a house back to a large backyard. Near what appeared to be a fence, underneath a streetlight, there was a faint figure of a second person moving to from the left to the right side of the frame. Then, what appeared to be a Taser in Officer Rice's hand became visible, and then there was the sound of a Taser deployment. It appeared that Mr. ██████ had likely fallen to the ground before Officer Rice deployed the Taser.¹⁸ Soon after, another officer, identified as Officer Hughes, entered the scene and the two officers struggled to place handcuffs on Mr. ██████. Officer Rice said, "He push up, he be a dead man today," as he used both of his hands to handcuff Mr. ██████. At the same time, Officer Hughes attempted to push Mr. ██████ head toward the ground. Officer Rice then said, "Shoot em, shoot em, you wanna play, you're dead."¹⁹

Officer Hughes then asked Mr. ██████ "Where's it at, motherfucker."²⁰ Mr. ██████ replied, "It's in my pants." Officer Rice then put his hand down into the crotch area inside of Mr. ██████ jeans, which were already down around his thighs, and briefly felt around.²¹ Officer Rice asked, "Where is it?" Mr. ██████ replied, "I have two bags of crack", or something to that effect. Officer Hughes looked in Mr. ██████ jeans, and then shined his flashlight at Mr. ██████ underwear as he pulled the underwear down exposing Mr. ██████ genitals.²² When one of the officers asked, "Where?" Mr. ██████ replied, "Right there, inside my boxers."²³ Officer Rice turned Mr. ██████ over onto his stomach and pulled Mr. ██████ underwear down, fully exposing his buttocks.²⁴ Officer Rice turned Mr. ██████ back over onto his back and pulled the front of his underwear down again, fully exposing his genitals.²⁵ Then, Officer Hughes pulled up Mr. ██████ underwear briefly, exposing Mr. ██████ again. Mr. ██████ kept saying something was "right there" in his boxers, but when officers looked, they found nothing.

¹⁶ 726 never asked dispatch for the ambulance, but one was called through other channels.

¹⁷ Attachment 34

¹⁸ The Taser did not make contact with Mr. ██████ but only got caught up in his clothing.

¹⁹ At 01:05

²⁰ At 01:39

²¹ Neither of the officers pulled down Mr. ██████ jeans. They were already below Mr. ██████ buttocks while the officers attempted to handcuff him.

²² At 01:52

²³ At 01:56

²⁴ At 02:04

²⁵ At 02:13

Officer Hughes said, "He dumped that pistol somewhere", and Officer Rice got up and started shining his flashlight around in the weeds and grass. Another unidentified officer appeared in the alley behind the backyard, and Officer Hughes told him he was looking for the pistol. Officer Rice continued to search with his flashlight in the grass and weeds, and then picked up a bottle containing a brownish yellow liquid.²⁶ Officer Rice continued to search for a weapon along of the path of the foot-chase.²⁷

Officer Rice spoke with another unidentified officer and said that Mr. [REDACTED] first said the crack was in his ass.²⁸ That officer then told another officer, who he called "Howard or Howie", to "go through him again real good." By this time Mr. [REDACTED] was sitting in a police transport vehicle. Officer Rice then walked over to the vehicle and told Mr. [REDACTED] "You know you're done, right? You done. We're just letting you know you're done. I guarantee you're done." Officer Rice walked away and then walked back over to Mr. [REDACTED] and asked, "First you said the crack was in your ass, right. You said that you lying motherfucker..." Another male voice responded, "He said he swallowed it." Officer Rice then continued to look for the weapon.²⁹

Body Worn Camera-Officer Michael Hughes³⁰

The video began with Mr. [REDACTED] already on the ground. At 00:16 Officer Hughes pulled a bottle of brownish yellow liquid out of Mr. [REDACTED] coat pocket.³¹ Then, right after Officer Rice pulled down Mr. [REDACTED] underwear exposing his genitals, Officer Hughes pulled up the waistband of Mr. [REDACTED] underwear and looked inside. Shortly after, Mr. [REDACTED] said, "I swallowed it", to which Officer Hughes replied, "Throw that shit up."

According to the video Officer Hughes suggested they continue to search for the weapon "before his boys pick it up."³² While doing so, Officer Hughes came upon a man sitting on his front stairs and asked where the other two men went, and the man replied that they ran down the street and gave Officer Hughes a direction.³³ Officer Hughes continued to look for the weapon in that direction. Officer Hughes suggested to another officer that Mr. [REDACTED] two friends picked up the weapon.

At around 12:50 Officer Rice told an officer in a white shirt that Mr. [REDACTED] "told me it was in his ass when I caught him back here, now he's saying he swallowed it, I don't think he had no drugs, but he could have some on him."³⁴

c. Documentary Evidence

Original Case Incident Report³⁵

On October 21, 2018 at or near 5700 S. Hermitage, Officers Rice and Hughes observed three individuals standing at the aforementioned location and noticed Mr. [REDACTED] with a bulge sticking out of his waistband. Mr. [REDACTED] held his waistband which gave the officers reasonable

²⁶ At 05:46

²⁷ Officer Rice walked back toward the front of the house until he reached the street.

²⁸ Investigator could not find any place on the video where Mr. [REDACTED] said the crack was in his ass.

²⁹ Mr. [REDACTED] was taken to St. Bernard's hospital and released.

³⁰ Attachment 34

³¹ This was later identified to be a fifth of Hennessey.

³² At 01:34

³³ At 06:45

³⁴ At 12:50

³⁵ Attachment 8

belief that he concealed a weapon. Officer Hughes initiated a street stop, gave verbal commands to cease all movement and show his hands. Mr. █████ fled and held his waistband as the officers gave chase. Officer Rice deployed his Taser, which did not connect due to the layer of clothing worn by Mr. █████ and Mr. █████ fell to the ground. Mr. █████ resisted arrest by pulling his arms away and reaching for his waistband, giving Officer Rice reasonable belief that he was reaching for a weapon. The officers placed subject into custody and a protective pat-down was conducted. Subject then informed the officers that he had something in his underwear, and then a custodial search was conducted. Mr. █████ then informed the officers that he swallowed two dub bags of crack cocaine. Mr. █████ was transported to St. Bernard Hospital where he was treated and released. Mr. █████ was then transported to 007th District for processing, and it was found he had \$279 on his person.

Arrest Report³⁶

Mr. █████ was released without charging. He was initially arrested for Reckless Conduct and Resisting or Obstructing a Police Officer. The narrative documented that the arresting officers observed three black males standing on the corner at approximately 5758 S. Paulina; one man wore a red winter jacket with what appeared to be a bulge in his pocket near his waistband. When officers began to exit the vehicle to investigate the offender began to flee on foot holding his right side.

After a foot chase, Officer Rice deployed his Taser and the subject fell to the ground. While the officers attempted to handcuff Mr. █████ he resisted, ignored verbal commands. Mr. █████ kept reaching for his waistband, giving both officers reason to believe he was reaching for a weapon. Mr. █████ kept stating, "it's in my underwear", but no weapon or contraband was found. The officers pulled a bottle of Hennessy out of Mr. █████ jacket pocket where they observed the bulge prior to the chase.

Once the offender was in custody he related to the officers that he had swallowed "Two Dubs of Crack." Mr. █████ was taken to St. Bernard's Hospital and was released.

Investigatory Stop Report³⁷

Investigatory Stop Report #ISR000357433 was created in relation to the original stop at 5758 S. Paulina St. The report stated that █████ D. █████ Jr. was stopped on October 21, 2017 at 8:48 PM because officers observed a suspicious bulge. The report stated that a protective pat down was conducted, without consent; and that a search beyond a protective pat down was conducted of the person and his effects, both without consent. No contraband was found on Mr. █████

The narrative documented that the officers observed a black male wearing a red winter jacket and blue jeans, with a bulge in his jacket. It also stated Mr. █████ was holding his waistband. The officers had reasonable suspicion the subject was concealing a weapon and exited their vehicle to further investigate. Once the officers exited the vehicle, Mr. █████ immediately began to flee

³⁶ Attachment 7

³⁷ Attachment 18

on foot. The officers gave chase and eventually placed Mr. [REDACTED] into custody where a custodial search was conducted. Mr. [REDACTED] had a bottle of Hennessey in his jacket where the officers had observed a bulge earlier.

TRR-Officer Rice³⁸

Officer Rice completed a TRR that stated Mr. [REDACTED] did not follow verbal direction, stiffened, pulled away and fled. The response against Mr. [REDACTED] included emergency handcuffing, open hand strike, and response with a Taser.

The narrative section written by Officer Rice stated, in summary, that he deployed his taser and Mr. [REDACTED] fell to the ground. It also stated that the taser probes did not make contact with Mr. [REDACTED]. Mr. [REDACTED] resisted arrest and reached for his waistband leading the officers to believe he might have a weapon.

The Reviewing Supervisor Comment Section stated that Sergeant Mark Pokuta responded to the scene where Mr. [REDACTED] expressed that he swallowed narcotics. Sergeant Pokuta contacted the Chicago Fire Department for medical assistance and the subject was transported to the hospital for treatment. Sergeant Pokuta reviewed the officers' BWC video which showed Officer Rice pursue Mr. [REDACTED] into the backyard at 5730 S. Hermitage where he deployed his taser at Mr. [REDACTED] who then fell to the ground. Officer Rice attempted to handcuff Mr. [REDACTED] who continuously pulled his arms away and secured them under his body. Officer Rice was then joined by his partner, Officer Hughes, who restrained the subject's head in an effort to control his movements. Mr. [REDACTED] was then handcuffed behind his back at which point all force ceased. Sergeant Poluta stated that he observed an improper search.

TRR-Officer Hughes³⁹

Officer Hughes completed a TRR that stated Mr. [REDACTED] did not follow verbal direction, stiffened, pulled away, fled, and that there was an imminent threat of battery. Control tactics included emergency handcuffing and "other".

The narrative section stated that Officer Hughes, after he observed Mr. [REDACTED] on the ground, assisted his partner to put Mr. [REDACTED] in custody. Officer Hughes used force to push Mr. [REDACTED] face into the ground in order to gain compliance and to gain control of the arm Mr. [REDACTED] was not willing to give. Mr. [REDACTED] also kept reaching for his waistband. Once compliance was gained all force ceased and Mr. [REDACTED] was placed into custody.

The Reviewing Supervisor Comments section was consistent with that of Officer Rice's TRR.

Taser Deployment Data Sheet-Officer Rice⁴⁰

The Taser Deployment Data Sheet stated that Taser Serial # [REDACTED] was armed at 20:49:04 on October 21, 2017, and that one Cartridge was Deployed at 20:49:06.

³⁸ Attachment 16

³⁹ Attachment 17

⁴⁰ Attachment 19

VI. ANALYSIS

The burden of proof COPA must satisfy to support the findings for the allegations discussed below is preponderance of the evidence.

COPA finds that BWC firmly established that Officer Rice and Officer Hughes conducted a strip search of Mr. ██████ in violation of Chicago Police Department policy and state law. Despite the officers' denials that their actions constituted a strip search, the evidence undoubtedly documented them removing Mr. ██████ underwear to reveal his genitals and buttocks. These actions were undisputedly a strip search as defined by G0-01-03 and 725 ILCS 5/103-1(d-h).

Police Officer Jeremy Rice

COPA recommends the findings for **Allegation #1**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to obtain written approval from an appropriate supervisor before performing a strip search of ██████ in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

General Order, G0-01-03 Section II, D, 7⁴¹ is clear in that it requires that permission must be sought and obtained before a strip search can be done.

In this case, the evidence established that Officer Rice did not request permission to do a Strip Search when he arrested Mr. ██████. The BWC footage recorded by Officer Rice showed that neither Officer Rice nor Officer Hughes ever stopped to obtain the required permission before pulling down Mr. ██████ underwear, exposing his buttocks and his genitals.

COPA recommends the findings for **Allegation #2**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to prepare a report of the strip search of ██████ to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search, in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

General Order, G0-01-03 Section II, D, 5, is clear in that it requires all strip searches be memorialized in some sort of police report.

In this case, there was no documentation in the Arrest Report, Original Case Incident Report, or in any other additional report that the strip search was done.

COPA recommends the finding for **Allegation #3**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice improperly strip-searched ██████ when he pulled down ██████ underwear exposing his buttocks and genitals in an open, outside area, in plain view of others, in violation of Rules 6 and 8, G06-01-03, the

⁴¹ This General Order is consistent with 725 ILCS 5/103-1(d-h)

Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

General Order, G0-01-03 Section II, D, 3 is clear in that "All Strip Searches will be conducted by a member of the same gender, in a secure area, and isolated from the view of others." Section II, D, 5 states, "Strip searches will ordinarily be conducted in a police lockup and include prior written approval of the station supervisor using the Report of Strip Search."

In this case, Officer Rice argued in his interview that the search performed on Mr. [REDACTED] was not a strip search. However, based on the definition of strip search as published in the aforementioned Chicago Police Department General Order, once Officer Rice removed Mr. [REDACTED] underwear and exposed his buttocks and genitals to search for a weapon and other contraband, it was by definition a strip search. Officer Rice performed the strip search of Mr. [REDACTED] in an open area, rather than in a police lockup, where others could have or may have witnessed the search. The BWC footage recorded by Officer Rice showed that the strip search was conducted in what was either a large backyard or a vacant lot behind what Officer Rice described as an abandoned house, which was in violation of the General Order and Illinois Statute.

Officer Rice also argued that he believed Mr. [REDACTED] gave him permission to check his underwear when he replied, "Right there, inside my boxers" after being asked where the drugs and or the gun were.

Even though it is true Mr. [REDACTED] said, "Right there, inside my boxers," Mr. [REDACTED] was merely giving officers directions to what he believed the officers to be looking for; two "dub bags" of crack cocaine. Furthermore, at no time did Mr. [REDACTED] agree to the removal of his underwear; and at no time did Officer Rice ask permission to do so. However, even if Mr. [REDACTED] did give permission for the strip search, there is no mechanism in either G06-01-03 or 725 ILCS 5/103-1(d-h) that would suggest an officer can be granted permission by an arrestee to do a strip search; nor is an officer, in any other way, permitted to do such a search in violation of law and policy. Additionally, the Investigatory Stop Report documented that search beyond a protective pat down was conducted *without* Mr. [REDACTED] consent.

Lastly, Officer Rice argued that because he feared that Mr. [REDACTED] was lying atop a weapon, the search they conducted was allowable. Officer Rice stated in his interview with COPA that he believed that there were guns small enough to be concealed in someone's underwear. If this were true, a protective pat-down of the area in which the officer believed the gun to be would have been sufficient to locate it. Furthermore, a gun large enough to produce a bulge in someone's waistband, which was large enough to arouse the suspicion of a police officer who was at least several feet away and in the dark, would reasonably be too large to successfully conceal in someone's underwear.

The evidence clearly established that Officer Rice conducted a strip search of Mr. [REDACTED] out in the open and without legal justification, in violation of both state law and Chicago Police Department policy.

COPA recommends the finding for **Allegation #4**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice verbally abused ██████████ when he said "Shoot em, shoot em, you wanna play, you're dead" and then "He push up he be a dead man today" in violation of Rules 6 and 8, be **SUSTAINED**.

In addition to Rules 6 and 8, the Rules and Regulations of the Chicago Police Department-I(B)(5) also states, "A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive, unwarranted or unjustified, he and the Department are criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of a member, on or off duty, does reflect directly upon the Department, a member must at all times conduct himself in a manner which does not bring discredit to himself, the Department or the city."

In this case, Officer Rice made the statements, "He push up he be a dead man today," and shortly thereafter said, "Shoot em, shoot em, you wanna play, you're dead."⁴² At the time Officer Rice made the statements, he and Officer Hughes were in the process of handcuffing Mr. ██████████ who appeared to be resisting. Neither Officer Rice nor Officer Hughes had a gun in their hand or a Taser in their hand when the statements to Mr. ██████████ were made. Therefore, it is reasonable to view the statements as empty threats and attempts at intimidation.

Officer Rice stated in his COPA interview that he grew up in the streets and that this was the only way to get Mr. ██████████ to understand. However, the problem with this attitude is that it telegraphed a belief that if Mr. ██████████ did not comply with Officer Rice's orders, or if he behaved in a certain way, he would be shot and possibly killed. This particular language was abusive because it was used not to warn Mr. ██████████ but to threaten and intimidate him.

A short time later, Officer Rice displayed an intent to threaten and intimidate Mr. ██████████ yet again. BWC footage showed Officer Rice walk over to the transport vehicle Mr. ██████████ was in and say to him, "You know you're done, right? You done. We're just letting you know you're done. I guarantee you're done." Based on video footage, Mr. ██████████ did nothing to provoke Officer Rice, and appeared confused by Officer Rice's behavior.

The video footage clearly documented that Officer Rice spoke to Mr. ██████████ in an abusive manner, in violation of Chicago Police Department policy.

COPA recommends the finding for **Allegation #5**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice used excessive force when he attempted to Taser ██████████ during a foot chase in violation of Rules 6 and 8 and G03-02-04, be **NOT SUSTAINED**.

According to General Order G03-02-04 Taser Use Incidents, "Department members should consider the seriousness of the offense and whether Taser deployment is immediately necessary. When practicable, Department members should avoid the use of a taser on subjects who: 6. Are running or are otherwise in motion."

⁴² Hereinafter referred to as "the statements."

Officer Rice stated during his interview with COPA that Mr. [REDACTED] was running when he deployed his taser. However, the BWC footage recorded by Officer Rice made it appear as though Officer Rice was running toward Mr. [REDACTED] who was already lying on the ground when Officer Rice deployed his taser. Unfortunately, the sound on the video did not begin until after the Taser had been deployed, so any comments, orders, or statements Officer Rice may have made during this time, which may have helped to clarify the situation at hand, cannot be heard.

The issue is whether Mr. [REDACTED] was a Passive Resistor or an Active Resistor when Officer Rice deployed his Taser. If he was a Passive Resistor, Taser deployment would have been inappropriate and an excessive use of force. If Mr. [REDACTED] was an Active Resistor at the time, Taser deployment *may* have been appropriate. However, because the quality of the video makes it difficult to be certain where Mr. [REDACTED] was when the Taser was deployed; and because the audio in the BWC video does not begin until just after the taser was deployed, it is impossible to determine whether or not Officer Rice's actions were within Chicago Police Department guidelines.

Police Officer Michael Hughes

COPA recommends the findings for **Allegation #1**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to obtain written approval from an appropriate supervisor before performing a strip search of [REDACTED] in violation of Rule 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

The law and analysis for Officer Hughes regarding this allegation is consistent with that of Allegation #1 for Officer Rice. Like Officer Rice, Officer Hughes did not obtain written approval from an appropriate supervisor before conducting the strip search of [REDACTED]

Allegation #2, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to prepare a report of the strip search of [REDACTED] to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search, in violation of Rule 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

The law and analysis for Officer Hughes regarding this allegation is consistent with that of Allegation #2 for Officer Rice. Like Officer Rice, Officer Hughes did not report the strip search, in the arrest report or in any other report, after conducting the strip search of [REDACTED]

COPA recommends the finding for **Allegation #3**, that on October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes improperly strip-searched [REDACTED] when he pulled down [REDACTED] underwear exposing his buttocks and genitals in an open, outside area, in plain view of others, in violation of Rule 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h), be **SUSTAINED**.

General Order, G0-01-03 Section II, D, 3 is clear in that “All Strip Searches will be conducted by a member of the same gender, in a secure area, and isolated from the view of others.” Section II, D, 5 states, “Strip searches will ordinarily be conducted in a police lockup and include prior written approval of the station supervisor using the Report of Strip Search.”

In this case, Officer Hughes argued in his interview that the search performed on Mr. [REDACTED] was not a strip search. However, based on the definition of strip search as published in the aforementioned Chicago Police Department General Order, once Officer Hughes removed Mr. [REDACTED] underwear and exposed his genitals to search for a weapon and other contraband, it was by definition a strip search. Officer Hughes performed the strip search of Mr. [REDACTED] in an open area, rather than in a police lockup, where others did or could have witnessed the search. The BWC footage recorded by Officer Hughes showed that the strip search was conducted in what was either a large backyard or a vacant lot, which was also in violation of the General Order.

Officer Hughes also argued that he believed Mr. [REDACTED] gave him permission for the search when he directed him to check his underwear. Officer Hughes stated that when Mr. [REDACTED] said, “it’s in my pants”, he believed Mr. [REDACTED] was referring to a gun. He also believed that a firearm could be concealed in someone’s underwear. Officer Hughes stated that the type of search he was performing on Mr. [REDACTED] while in the back yard, was a custodial search; but then contradicted himself when he stated that you do not remove clothing during a custodial search. However, Officer Hughes said he felt the search was proper, in this case, because Mr. [REDACTED] directed him to his underwear waistband.

Based on BWC video, at no time did Mr. [REDACTED] say it was ok to remove his underwear; and at no time did Officer Hughes ask permission to do so. However, even if Mr. [REDACTED] did give permission for the strip search, there is no mechanism in either G06-01-03 or 725 ILCS 5/103-1(d-h) that would suggest an officer can be granted permission by an arrestee to do a strip search; nor is an officer, in any other way, permitted to do such a search in violation of law and policy. Additionally, the Investigatory Stop Report documented that search beyond a protective pat down was conducted without Mr. [REDACTED] consent.

Like Officer Rice, Officer Hughes stated that he believed that there were guns small enough to be concealed in someone’s underwear. If this were true, a protective pat-down of the area in which the officer believed the gun to be would have been sufficient to locate it. Furthermore, a gun large enough to produce a bulge in someone’s waistband, which was large enough to arouse the suspicion of a police officer who was at least several feet away and in the dark, would reasonably be too large to conceal in someone’s underwear.

Because BWC footage confirmed Officer Hughes conducted a strip search of Mr. [REDACTED] out in the open and without legal justification, Officer Hughes, without question, violated both state law and Chicago Police Department policy.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**a. Officer Jeremy Rice****i. Complimentary and Disciplinary History**

1. Complimentary: 23 Honorable Mentions, 1 Life Saving Award

2. Disciplinary: Preventable Accident

ii. Recommended Penalty, by Allegation**1. Allegation No. 1: 1 Day Suspension**

Officer Rice's denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; he was required to obtain written approval before conducting a strip search.

2. Allegation No. 2 3 Day Suspension

Officer Rice's denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; he was required to report the strip search in detail.

3. Allegation No. 3 25 Day Suspension

Officer Rice's denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; the strip search was in violation of law and policy.

4. Allegation No. 4 5 Day Suspension

Officer Rice's language towards Mr. [REDACTED] was verbally abusive.

b. Officer Michael Hughes**i. Complimentary and Disciplinary History**

1. Complimentary: 1 Superintendent's Honorable Mention, 1 Military Service Award, 1 Department Commendation, 21 Honorable Mentions, 2 Complimentary Letter, and 1 Life Saving Award

2. Disciplinary: Preventable Accident

ii. Recommended Penalty, by Allegation**1. Allegation No. 1: 1 Day Suspension**

Officer Hughes' denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; he was required to obtain written approval before conducting a strip search.

2. Allegation No. 2 3 Day Suspension

Officer Hughes' denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; he was required to report the strip search in detail.

3. Allegation No. 3 25 Day Suspension

Officer Hughes' denial that the search of Mr. [REDACTED] was a strip search was unpersuasive and he was required to adhere to strip search law and policy; the strip search was in violation of law and policy.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer Jeremy Rice	1. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to obtain written approval from an appropriate supervisor before performing a strip search of ██████████ in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	2. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice failed to prepare a report of the strip search of ██████████ to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	3. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice improperly strip-searched ██████████ when he pulled down ██████████ underwear exposing his buttocks and genitals in an open, outside area, in plain view of others, in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	4. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave. Officer Jeremy Rice verbally abused ██████████ when he said "shoot em, shoot em, you wanna play, you're dead" and then "He push up he be a dead man today", in violation of Rules 6 and 8.	SUSTAINED
	5. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Jeremy Rice used excessive force when he attempted to	NOT SUSTAINED

Taser [REDACTED] during a foot chase in violation of Rules 6 and 8 and G03-02-04.

Officer Michael Hughes	1. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to obtain written approval from an appropriate supervisor before performing a strip search of [REDACTED] in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	2. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes failed to prepare a report of the strip search of [REDACTED] to include the written authorization, the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED
	3. On October 21, 2017 at approximately 8:50 PM, at or near 5730 S. Hermitage Ave., Officer Michael Hughes improperly strip-searched [REDACTED] when he pulled down [REDACTED] underwear exposing his genitals in an open, outside area, in plain view of others, in violation of Rules 6 and 8, G06-01-03, the Fourth Amendment of the United States Constitution, Section 6 of the Illinois Constitution and 725 ILCS 5/103-1(d-h).	SUSTAINED

Approved

[REDACTED]

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

9/28/18

Appendix A

Assigned Investigative Staff

Squad#:	2
Investigator:	Frances Lee, #68
Supervising Investigator:	Sherry Daun
Deputy Chief Administrator:	Andrea Kersten