

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	April 6, 2021
Time of Incident:	10:40 a.m.
Location of Incident:	799 East 91 <sup>st</sup> Street – Admiral Motel
Date of COPA Notification:	April 6, 2021
Time of COPA Notification:	3:24 pm

On April 6, 2021, Officers Wells and Garcia responded to a battery in progress at the Admiral Motel. Upon arrival, they observed ██████ naked in the parking lot grabbing and pulling ██████ by her hair. Upon seeing the officers, ██████ ran off but was quickly stopped when Officer Wells deployed his taser. ██████ was detained and handcuffed by Officer Garcia. ██████ immediately directed profanities and threats of physical harm at Officer Wells. Officer Wells in turn engaged in a verbal altercation with ██████. During the exchange of words, ██████ spat in Officer Wells’ direction. Officer Wells struck ██████ in the head with the taser. ██████ a citizen who observed the events from across the street, objected to Officer Wells’ treatment of ██████ and so, called Officer Wells names and directed profanities at him. Officer Wells then engaged in a verbal altercation with ██████. Additional units responded to the scene. ██████ was placed under arrest and taken by Chicago Fire Department ambulance to Trinity Hospital for treatment. ██████ continued the argument with Officer Wells until Sergeant McGrew responded.

████████ complained to Sergeant McGrew about Officer Wells at the scene. Sergeant McGrew notified Sergeant Iris Houston-Hinkle, the lead sergeant at the scene. Sergeant Houston-Hinkle filed an initiation report with COPA. During the investigation, COPA observed additional policy infractions that were committed by the involved officers and other Department members. An investigation was conducted with sustained findings.

II. INVOLVED PARTIES

Involved Sergeant #1:	David McGrew, Star #2260, Employee ID# ██████, Date of Appointment: October 31, 2005, Sergeant, Unit 006, DOB: ██████, 1980, male, black
Involved Officer #1:	Otis Wells, Star #5385, Employee # ██████, Date of Appointment: April 2, 2007, Police Officer, Unit 066, DOB: ██████, 1967, male, black
Involved Individual #1:	████████, 1980, male, black
Involved Individual #2:	████████ 1998, male, black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Sergeant David McGrew	<p>It is alleged by COPA DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about April 6, 2021, at approximately 10:11 am – 10:45 am, at or near 799 E. 91<sup>st</sup> Street/9118 S. Cottage Grove, Chicago, IL, Sergeant McGrew committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.</li> <li>2. Inattention to duty, in that he failed to properly secure/preserve video evidence from ██████████ regarding misconduct of PO Otis Wells toward ██████████ related to this incident.</li> </ol>	<p>Sustained</p> <p>Unfounded</p>
Officer Otis Wells	<p>It is alleged by COPA DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about April 6, 2021, at approximately 10:11 am – 10:45 am, at or near 799 E. 91<sup>st</sup> Street/9118 S. Cottage Grove, Chicago, IL, Admiral Motel parking lot, Officer Wells committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. Engaged in an unjustified verbal altercation with ██████████</li> <li>2. Directed profanities and words to the effect of, “Shut the fuck,” at ██████████ without justification.</li> <li>3. Directed profanities and words to the effect of, “Put your mother fucking hands behind your back,” and “Don’t you fucking spit on me, you must have lost your fucking mind,” to ██████████</li> <li>4. Struck ██████████ about the head with a taser in your hand, without justification.</li> </ol>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

5. Threatened [REDACTED] with physical harm, without justification.	Sustained
6. Engaged in an unjustified verbal altercation with [REDACTED]	Sustained
7. Directed profanities and words to the effect of, "Mind your fucking business," "Shut the fuck up," at [REDACTED] without justification.	Sustained
8. Threatened [REDACTED] with physical harm, and stated words to the effect of, "I would whoop your mother fucking ass," without justification.	Sustained
9. Verbally abused [REDACTED] with profanities and stated words to the effect of, "Fuck you," "Get your hoe ass out, you don't know what the fuck is going on over here," without justification.	Sustained
10. Failed to wear a face covering or a mask as required by the Department, in violation of Special Order 04-09.	Sustained
11. Failure to activate your Body Worn Camera (BWC) in a timely manner, a violation of Special Order 03-14.	Sustained
12. Rude and unprofessional with your overall behavior during your contact with [REDACTED] during this incident.	Sustained
13. Rude and unprofessional with your overall behavior during your contact with [REDACTED] during this incident.	Sustained
Officer Gabriel Garcia	It is alleged by COPA DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about April 6, 2021, at approximately 10:11 am – 10:45 am, at or near 799 E. 91 <sup>st</sup> Street/9118 S. Cottage Grove, Chicago, IL, Admiral Motel parking lot, Officer Garcia committed misconduct through the following acts or omissions, by:

<p>1. Failed to timely activate your body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Sustained</p>
<p>2. Failed to wear a surgical mask or face covering during your involvement in the arrest of [REDACTED] in violation of Special Order S04-09.</p>	<p>Sustained</p>

**IV. APPLICABLE RULES AND LAWS**

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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 6 - Disobedience of an order or directive, whether written or oral.
3. Rule 8 - Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9 - Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
5. Rule 10 – Inattention to duty.

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General Orders

1. GO01-01, Vision, Mission Statement and Core Values – effective May 21, 2019.
2. GO03-02, - De-Escalation, Response to Resistance, and Use of Force (Effective April 1, 2021 – present).
3. GO03-02-08, Department Review of Use of Force – Field Operations (Effective April 1, 2021 – present).
4. GO 08-01-02 Specific responsibilities regarding allegations of misconduct – effective May 14, 2018.

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Special Orders

1. SO03–14, Body Worn Cameras effective (April 30, 2018- present)
2. SO04-09, Department Response to the Coronavirus Disease 2019 (COVID-19) (Effective January 29, 2021 – present)

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Administrative Messages / Bulletins

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1. Adm. Message dated April 2020
  2. Daily Bulletin – COVID-19 reminder / video - April 1, 2021, and April 5, 2021.
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## V. INVESTIGATION<sup>1</sup>

### a. Interviews

In her telephonic interview to COPA on April 19, 2021,<sup>2</sup> ██████████ a guest at the Admiral Motel on April 6, 2021, stated that she woke up to a commotion coming from across the parking lot on the second floor of the motel. ██████████ stepped outside onto her balcony/hallway area and saw a young couple arguing. The white female (██████████) was yelling for help as the black male (██████████) punched ██████████ about the face and body. ██████████ tried to get away from ██████████ who then choked ██████████ and dragged her back into their room. ██████████ made several attempts to escape, and at one point, a male from another room knocked loudly at the door and yelled, “Police, police!” several times. This action allowed ██████████ to exit the room and go towards the parking lot where she began to pick up her personal belongings that were scattered on the ground. ██████████ took his pants off, exited his room naked, and went to the parking lot to stop ██████████ who was grabbing and pulling ██████████ by the hair when the police arrived on the scene.

██████████ remained on her balcony and watched as Officer Wells ran after ██████████ then tased ██████████ while another officer handcuffed ██████████. ██████████ heard arguing between ██████████ and Officer Wells, and saw ██████████ spit in the direction of Officer Wells. She observed Officer Wells, who was upset, strike ██████████ about the head, but was not sure if Officer Wells struck ██████████ with his hand or an object. ██████████ also saw an unknown male across the street arguing with Officer Wells, and heard Officer Wells telling him, “to mind his fucking business.” ██████████ did not know ██████████ or the male across the street, and did not know if anyone sustained any injuries. She did not have any further knowledge of the events.

In his interview to COPA on October 22, 2021,<sup>3</sup> ██████████ stated that he heard a commotion coming from the motel across the street from his residence and observed two uniformed officers detaining a young black male (██████████) who was naked and possibly intoxicated due to his demeanor toward the officers. ██████████ watched the as the officers handcuffed ██████████ and placed him on his knees, and then heard one of the officers (Wells) exchanging words and profanities with ██████████. ██████████ saw ██████████ spit in Officer Wells’ direction, and then saw Officer Wells’ slap ██████████ about the head/face while still holding a taser in his hand. ██████████ heard Officer Wells state words to the effect of, “Nigger, you know who the fuck you are spitting on?” and struck ██████████ again. ██████████ believed this action to be excessive and called Officer Wells all kinds of names, including “a faggot,” “a big motherfucker,” and “a pussy,”<sup>4</sup> and challenged Officer Wells to fight. ██████████ related multiple units responded to the scene including Sergeant McGrew, who tried to calm

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Att. 68

<sup>3</sup> Att. 106; Att. 109

<sup>4</sup> Att. 109, pg. 7

him down since he was highly upset. Sergeant McGrew listened to him, took his information, and defused the situation.

█████ related that although the second officer (Garcia) did not respond to Officer Wells' comments, he could tell that Officer Garcia did not like what Officer Wells did to ██████ did not personally know ██████ the officers, or the any of guests or employees of the motel who were present at the scene. ██████ did not know if ██████ sustained any injuries, or if any charges were placed against him. ██████ did not have a cellular recorded video of the incident as he previously thought.

In his statement to COPA on April 21, 2021,<sup>5</sup> **Officer Gabriel Garcia** stated he was working with Officer Wells, who was not his regular partner, when they responded to a battery in progress at the Admiral Motel. Upon arrival, he observed ██████ naked and dragging ██████ by the hair. ██████ fled as soon as he and Officer Wells exited their squadrol. Officer Garcia ran after ██████ who stopped running after Officer Wells deployed his taser. Officer Garcia immediately handcuffed ██████ who continued to be combative. ██████ engaged in a verbal altercation with Officer Wells where they directed profanities at each other. ██████ made verbal threats to Officer Wells that he was going to kill him and his family, then spat in Officer Wells' direction. Officer Wells reacted and struck ██████ about the head with the taser. Officer Garcia grabbed ██████ head/face and held it down to prevent ██████ from spitting at Officer Wells a second time.

During his interview, Officer Garcia recounted that based on his training on de-escalation techniques, he would have used other tactics from those used by Officer Wells in dealing with ██████ Officer Garcia explained he would have used distance, a mask or face covering, and would have ignored the comments and threats directed from ██████<sup>6</sup> Officer Garcia did not recall any injury to ██████ but ██████ was taken to the hospital due to being tased. Officer Garcia initially did not activate his BWC or wear a face covering as he exited the squadrol quickly upon seeing the battery in progress. Once ██████ was in handcuffs, Officer Garcia activated his BWC. Once the ambulance arrived, and Officer Garcia realized he was not wearing a mask, he put one on.<sup>7</sup>

In his statement to COPA on October 13, 2021,<sup>8</sup> **Sergeant David McGrew** stated that he responded to assist at the Admiral Motel; he was not acting in his regular capacity in Intelligence and was not assigned to that sector of the district. Sergeant Houston-Hinkle was in charge of the scene. Upon arrival Sergeant McGrew was approached by ██████ who was upset belligerent, and using profanities about the use of force used by Officer Wells towards ██████ told Sergeant McGrew that he video-taped the incident, and ██████ looked through his phone for the video, but could not find it. Sergeant McGrew related that had ██████ been able to retrieve a video of the incident, he would have called out an Evidence Technician to recover it or have had ██████ email it to him. Sergeant McGrew obtained ██████ information and informed him that someone was going to investigate the alleged misconduct.

Sergeant McGrew stated that upon arrival at the Admiral Motel, he thought he had activated his BWC, however he later realized that he unintentionally failed to do so. At the station,

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<sup>5</sup> Att. 50; Att. 110

<sup>6</sup> Att. 110, pg. 43

<sup>7</sup> Att. 110, pgs. 18, 54

<sup>8</sup> Att. 87

Sergeant McGrew reported [REDACTED] complaint about Officer Wells in a “To/From” memo to Sergeant Houston-Hinkle.<sup>9</sup>

In his statement to COPA on October 14, 2021,<sup>10</sup> **Officer Otis Wells** related that upon arrival at the Admiral Hotel, he observed “a young man standing butt naked in the middle of the parking lot slapping a young lady upside the head and then wrap his hand into her hair and try to drag her back towards a room.”<sup>11</sup> [REDACTED] then fled running, so Officer Wells deployed his taser, and [REDACTED] fell to the ground. Officer Garcia immediately detained [REDACTED] who was combative and refused to provide his left arm to be handcuffed. Officer Wells threatened to shock [REDACTED] with the taser as [REDACTED] directed profanities and threats at Officer Wells for tasing him. Officer Wells “arc[ed]” the taser,<sup>12</sup> sending a spark at [REDACTED] who then complied. [REDACTED] continued to spew threats and profanities at Officer Wells, who responded by directing profanities at [REDACTED] then spat at Officer Wells. Officer Wells stated that he reacted by swinging his taser at [REDACTED] head in an effort to redirect [REDACTED] face so [REDACTED] could not spit at him again.<sup>13</sup> However, Officer Wells did not believe his action made contact with [REDACTED].<sup>14</sup> Officer Garcia immediately pushed [REDACTED] down to the ground to prevent [REDACTED] from further spitting at Officer Wells. Officer Wells called for an ambulance and additional units to respond.

Officer Wells continued to engage in a verbal altercation with [REDACTED] when an unknown black male, ([REDACTED] directed profanities and threats of physical harm at Officer Wells from across the street. [REDACTED] called Officer Wells “all types of bitches and pussies,”<sup>15</sup> and wanted to fight Officer Wells. Officer Wells reacted by directing profanities at [REDACTED] including words to the effect of, “You don’t know what’s going on here, mind your fucking business.”<sup>16</sup> Officer Wells explained that he was already upset from his interaction with [REDACTED] and allowed that anger to continue with [REDACTED] instead of using other de-escalating techniques or ignoring [REDACTED].<sup>17</sup> However, Officer Wells explained that he was not a police officer at that moment but a man who was disrespected with words that were not proper.

Officer Wells described [REDACTED] as being angry, agitated, with slurred speech, and he believed that [REDACTED] may have been high or under the influence of drugs since [REDACTED] kept asking for his pills “Xannies,” for “Xanax.”<sup>18</sup> Officer Wells told [REDACTED] that he did not give a “fuck” or a “damn” about his pills and admitted that he allowed [REDACTED] behavior and verbal threats to get to him as he did not properly deescalate the situation. Officer Wells also accepted that he did not properly handle the situation with [REDACTED] who also engaged him in a verbal altercation involving profanities and threats.

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<sup>9</sup> Att. 111, pgs. 10-11

<sup>10</sup> Att. 103, Att. 112

<sup>11</sup> Att. 112, pg. 8

<sup>12</sup> Att. 112, pgs. 45-46

<sup>13</sup> Att. 112, pg. 10

<sup>14</sup> Att. 112, pg. 10

<sup>15</sup> Att. 112 pg. 11

<sup>16</sup> Att. 112 pg. 11

<sup>17</sup> Att. 112 pg. 11

<sup>18</sup> Att. 112 pg. 24

Officer Wells did not know if [REDACTED] suffered any injuries other than being tased.<sup>19</sup> When questioned about the reason for not wearing a mask or face covering, Officer Wells indicated that he did not have time to put it on as he was distracted by the situation at hand with [REDACTED] and [REDACTED]. He further indicated that he thought he had activated his body worn camera on time, but he had not. Officer Wells denied threatening [REDACTED] with physical harm but affirmed the other allegations made against him.

#### b. Digital Evidence

The **Body Worn Camera (BWC)**<sup>20</sup> videos obtained from Officers Wells and Garcia captured their response and contact with [REDACTED] once he was in handcuffs and sitting on the ground. On Officer Garcia's BWC, [REDACTED] can be heard threatening to kill Officer Wells and then spitting in Officer Wells' direction.<sup>21</sup> Officer Wells can be seen as he swung his taser in [REDACTED] direction. [REDACTED] then fell to the left and Officer Wells stated words to the effect of, "Boy, you don't spit on me, you lost your motherfucking mind, you don't fucking spit on me."<sup>22</sup> [REDACTED] continued to direct threats and profanities at Officer Wells who directed threats and profanities back at [REDACTED].<sup>23</sup> Soon thereafter, Officer Wells can be observed engaging in another verbal altercation with another individual. Officer Garcia continued to control [REDACTED] while holding him down on the ground. Additional units and an ambulance responded.

Officer Wells' BWC captured a better view of [REDACTED] actions toward Officer Wells, including when [REDACTED] spat at Officer Wells. The BWC captured Officer Wells stating words to the effect of, "I would bail you out if you spit on my face."<sup>24</sup> Officer Wells' BWC also captured [REDACTED] across the street (wearing a white tank top and red shorts) calling Officer Wells words such as "Bitch ass." Officer Wells then directed his attention to [REDACTED] and stated words to the effect of, "Shut the fuck up, you don't know what's going on here," "Get your Whore ass out of here," and "Bitch, I would whoop your mother fucking ass."<sup>25</sup>

Meanwhile, Officer Garcia can be seen still holding [REDACTED] head and body while additional units respond, including Sergeant Houston-Hinkle. Officer Wells can be heard telling Sergeant Houston-Hinkle words to the effect of, "Yeah, I slapped the shit out of him. I slapped him with the goddamn taser cause he spit on me."<sup>26</sup>

The **BWC videos**<sup>27</sup> from responding officers also captured the events:

- Officer Abron's BWC captured Officer Wells engaging in an exchange of profanities with [REDACTED]

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<sup>19</sup> Att. 112, pg. 28

<sup>20</sup> Att. 14-15

<sup>21</sup> Att. 15 at 1:02

<sup>22</sup> Att. 15 at 1:03

<sup>23</sup> Att. 15 at 1:35

<sup>24</sup>Att. 14 at 2:34-2:50, 3:05

<sup>25</sup> Att. 14 at 2:13, 3:11, 3:13, 3:30, 4: 30

<sup>26</sup> Att. 14 at 9:11

<sup>27</sup> Atts. 16 - 23, 69 -71, 90 – 91

<sup>28</sup> Att. 22 at 2:14



- Officer Bolin’s BWC captured her collecting ██████ personal belongings and Officer Wells stating to her, “That bitch motherfucker is talking shit. Yeah, I slapped him with the taser, he spit on me.”<sup>29</sup>
- Officer Twyman’s BWC captured Sergeant McGrew talking to ██████ about the incident accusing Officer Wells of “beating that boy,” and calling Officer Wells a “bitch.”<sup>30</sup>
- Sergeant Houston-Hinkle’s BWC captured Sergeant McGrew talking to ██████ who was complaining about Officer Wells as ██████ stated, “He beat him while in handcuffs.”<sup>31</sup> Then Officer Wells approached and stated to Sergeant Houston-Hinkle, “Yeah, I slapped the shit out of him. I slapped him with the goddamn taser cause he spat on me.”<sup>32</sup> Officer Wells also told the sergeant that ██████ did not spit on his face but spat on him all over.<sup>33</sup>

The **videos**<sup>34</sup> obtained from the **Admiral Motel** have no audio but show various angles of the motel including the entrance, the parking lot, and the balcony area on the 2<sup>nd</sup> floor where ██████ and ██████ engaged in an altercation. ██████ can also be seen naked in the parking lot grabbing ██████ by the hair and dragging her. The video shows the police arriving, and ██████ taking off running with the officers behind him.

An **Instagram video**<sup>35</sup> taken by one of the patrons of the Admiral Motel documented the events with audio. The video captured ██████ as he grabbed and dragged ██████ by the hair and the arrival of the police. ██████ can be seen fleeing and then stopping when Officer Wells deployed his taser. It further showed ██████ falling to the ground and Officer Garcia handcuffing him. ██████ appeared to be combative, and the video captured Officer Wells giving ██████ instructions to provide his arms or he would be shocked again. The video then shows Officer Wells and ██████ exchanging profanities. ██████ can be seen spitting at Officer Wells, and Officer Wells can be seen striking ██████ in the head with the taser at the same time a sound consistent with the taser making contact with ██████ head can be heard.<sup>36</sup> Officer Wells was also captured engaging in the verbal altercation with ██████ across the street, including profanities and threats of physical harm by both parties.<sup>37</sup>

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<sup>29</sup> Att. 23 at 2:14

<sup>30</sup> Att. 19 at 1:54

<sup>31</sup> Att. 17 at 2:20

<sup>32</sup> Att. 17 at 2:30

<sup>33</sup> Att. 17 at 3:50

<sup>34</sup> Atts. 29–31

<sup>35</sup> Att. 24

<sup>36</sup> Att. 24 at 1:40

<sup>37</sup> Att. 24 at 2:25

### c. Documentary Evidence

The **Initiation Report**<sup>38</sup> authored by Sergeant Iris Houston-Hinkle documented that █████ complained to Sergeant McGrew that he did not agree with the use of force engaged in by Officer Wells toward █████. It further noted that a BWC review revealed that Officer Wells used inappropriate language towards unknown people in addition to a taser deployment.

The **Original Case Report** authored by Officer Kimyenna Abron, and a **Detective Supplementary Report** authored by Detective Milan Stanford,<sup>39</sup> documented that Officers Wells and Garcia responded to a battery in progress at the Admiral Motel where they observed █████ naked in the parking lot pulling █████ by the hair and dragging her back into the hotel room. According to █████ she saw █████ cellular phone and learned that █████ was cheating on her. When she attempted to leave, a verbal and physical altercation ensued where █████ punched █████ on the face. The Supplementary report added that █████ was taken to St. Bernard Hospital for medical treatment, however she left without being treated. █████ was taken to Trinity Hospital where he was seen by Dr. █████ for minor injuries and removal of the two taser prongs. Officer Wells related that the only physical contact during this incident was being spat on by █████ and the saliva landed on his bulletproof vest.

The **Arrest Report**<sup>40</sup> of █████ authored by Officer Gabriel Garcia documented that █████ was arrested for a domestic battery against █████ and battery and simple assault to a police officer. █████ informed the officers that █████ grabbed her by the hair, punched, kicked, and dragged her while on the floor.

The arrest report further reported that █████ made contact with Officer Wells when he intentionally tried spitting in Officer Wells' face, and instead spat on his vest while stating that he was going to kill him, "placing P.O. Wells in a reasonable apprehension of receiving a battery."<sup>41</sup> █████ was taken to Trinity Hospital and treated for taser wounds.

On the first page of Officer Otis Wells' **Tactical Response Report (TRR)**,<sup>42</sup> Officer Wells checked the "other" box under "MEMBER'S RESPONSE," and described that he "STRUCK OFFENDER WITH RIGH" before the text was cut off.<sup>43</sup> Under "RESPONSE WITHOUT WEAPONS," he checked "Other" and explained "USE RIGHT HAND ST" before the text was cut off. He also checked "YES" in response to the question "WAS ANY FORCE USED AGAINST THE SUBJECT WHILE HANDCUFFED OR OTHERWISE IN PHYISCAL RESTRAINTS."<sup>44</sup>

In the narrative portion, in pertinent part, Officer Wells wrote that █████ was placed in a seated position on the ground and when he attempted to spit a second time in the direction of

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<sup>38</sup> Att. 1

<sup>39</sup> Atts. 2, 88

<sup>40</sup> Att. 3

<sup>41</sup> Att. 40, pg. 3

<sup>42</sup> Att. 4, pg. 1

<sup>43</sup> Att. 4, pg. 1

<sup>44</sup> Att. 4, pg. 2

Officer Wells, Officer Wells “ATTEMPT[ED] TO REDIRECT THE OFFENDER’S FACE WITH HIS RIGHT HAND STILL HOLDING THE TASER.”<sup>45</sup>

The narrative section otherwise documented the same account as the arrest and case reports but added that █████ failed to stop running, and Officer Wells deployed his taser striking him on the buttocks and shoulder areas. Officer Wells gave █████ an additional spark using the arc switch after █████ refused to give his left arm to be handcuffed. The TRR documented that █████ failed to follow verbal directions, pulled away, fled, stiffened his body, spit, and attacked without a weapon during a domestic disturbance.

The reviewing supervisor noted that the BWC captured inappropriate language being communicated by Officer Wells to unknown people at the scene.<sup>46</sup> The reporting lieutenant documented his brief conversation with █████ who related that Officer Wells had a bad attitude and tackled him to the ground. █████ could not recall spitting at Officer Wells, or his face being pushed by Officer Wells. █████ did not report any injuries and could not recall the event in detail.<sup>47</sup>

The reporting lieutenant further reported that after viewing the BWCs and all available reports, he determined that Officer Wells delivered an open hand strike to redirect the offender’s head, while still holding the taser in his hand. Officer Wells related to the lieutenant that Officer Wells did not intentionally strike the offender with the taser, or use it as an impact weapon, but that he reacted instinctively to being spit on and moved to redirect the offender’s head in order not to be spit on again.<sup>48</sup>

#### IV. 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; or
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.

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<sup>45</sup> Att. 4, pg. 2

<sup>46</sup> Att. 4, pg. 2

<sup>47</sup> Att. 4, pgs. 3, 4

<sup>48</sup> Att. 4, pgs. 3, 5

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>49</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.<sup>50</sup> Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true."<sup>51</sup>

## VII. ANALYSIS

### a. SERGEANT MCGREW

#### i. Allegation #1 - Failure to Activate Body Worn Camera

Special Order 03-14 for Body Worn Cameras mandates officers to record all law enforcement related encounters: a Department member will activate the system at the beginning of an incident and will record the entire incident.<sup>52</sup> These law-enforcement-related activities include calls for service, use of force incidents, statements made by individuals during an investigation, and any other instance when enforcing the law.<sup>53</sup>

Here, Sergeant McGrew admitted that he failed to activate his BWC when he responded to a battery-in-progress and taser deployment call at the Admiral Motel. While the failure was unintentional, it resulted in critical information and activity that transpired while at the scene not to be recorded. For example, there was no audio of any discussions Sergeant McGrew had with ██████████ who was upset about the use of force used by Officer Wells toward ██████████ COPA finds that allegation #1 – failure to activate BWC in violation of Special Order 03-14, Rules 6, and 10 – is established by a preponderance of the evidence and is thus **Sustained**.

#### ii. Allegation #2 - Inattentive to duty

COPA finds Allegation #2 – that Sergeant McGrew was inattentive to duty when he failed to properly secure/preserve video evidence from ██████████ capturing the misconduct of PO Otis Wells toward ██████████ – is Unfounded. Sergeant McGrew attempted to view and obtain a copy of the video ██████████ alleged to have in his cellular phone, however ██████████ failed to produce such video. Further, during the investigation, ██████████ informed the R/I that he could not locate the video and agreed that he did not provide the video to Sergeant McGrew because he misplaced it.

<sup>49</sup> *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).

<sup>50</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>51</sup> *Id.* at ¶ 28.

<sup>52</sup> Att. 34, SO03-14 (III)(A)(2), Body Worn Cameras (Effective April 30, 2018 - present)

<sup>53</sup> Att. 34, SO03-14 (III)(A)(2)(a-f)

Sergeant McGrew completed a To-From Report indicating his attempts to locate such video and have an evidence technician to retrieve it, but █████ failed to produce the video. Therefore, COPA finds by clear and convincing evidence that allegation #2 is **Unfounded**.

**b. OFFICER OTIS WELLS**

- i. Allegations #1, #2, #3, #5, and #11 - Engaged in a verbal altercation with █████ directed profanities at █████ threatened physical harm to █████ and engaged in rude and unprofessional behavior with █████ all without justification.**

COPA finds allegations #1, #2, #3, #5, and #11 – that Officer Wells engaged in an unjustified verbal altercation with █████ that he directed profanities and words to the effect of, “Shut the fuck up,” “I don’t give a fuck,” “Put your mother fucking hands behind your back,” and “Don’t you fucking spit on me, you must have lost your fucking mind,” at █████ without justification; and that he threatened █████ with physical harm without justification – to be **Sustained**.

General Order 01-01-Vision, Mission Statement and Core Values states that Department members are to conduct themselves in a professional manner, with integrity adhering to moral and ethical principles, dedication and respect when dealing with members of the public. Members are to treat each other and the communities they serve with compassion and dignity.<sup>54</sup> Per General Order 04-01; Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in their interactions with the public.

That Officer Wells engaged in this conduct was established by a preponderance of evidence including video from BWC cameras, motel security cameras, and third-party cellular recordings. Additionally, Officer Wells admitted to most of the conduct, explaining that his unprofessional behavior throughout his interaction with █████ was due to █████ repeated disrespectful comments, profanities and threats of physical harm made toward him and his family. Although █████ and █████ did not cooperate with the investigation, Officer Wells engaged in a verbal altercation with █████ without justification. He failed to use de-escalating tactics or distance himself to ignore or manage █████ verbal language and threats towards him, and instead lost his patience during the arrest. Officer Wells told █████ that he would “hit him again”<sup>55</sup> if he did not stop his actions, and later said to █████ that he would “bail [him] out” if █████ were to spit on his face again.<sup>56</sup> Officer Wells explained that “bail [him] out” meant that once █████ was bailed out, █████ would have to “look over his shoulder,” which Officer Wells admitted he said in “anger at the moment.”<sup>57</sup> Therefore, COPA finds that allegations #1, #2, #3, #5, and #11 are **Sustained**.

- ii. Allegation #4 – Struck █████ about the head while holding a taser without justification.**

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<sup>54</sup> Att. 39, GO01-01(IV)(A)(5), Vision, Mission Statement, and Core Values (Effective May 21, 2019- present)

<sup>55</sup> Att. 24 at 1:35

<sup>56</sup> Att. 14 at 10:20:52; Att. 15 at 10:20:54

<sup>57</sup> Att. 112, pgs. 38-39

According to General Order 03-02 – **Use of Force**; Department members are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—regarding the amount of force that is necessary in a particular situation.<sup>58</sup> Department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>59</sup> The member must assess and decide on the force necessary according to the circumstances and be individually responsible for articulating the specific details that justify their use of force.<sup>60</sup> Additionally, “members *are required* to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time.”(Emphasis added.)<sup>61</sup> Examples of de-escalation techniques include: “providing a warning and exercising persuasion and advice prior to the use of force”; “determining whether the member may be able to stabilize the situation through use of time, distance, or positioning to isolate and contain a subject,” and “requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team trained officers, as necessary and appropriate.”<sup>62</sup> The main consideration in evaluating every use of force is whether the amount of force used by the member was objectively reasonable considering the totality of the circumstances faced by the member on the scene; whether the subject is posing an imminent threat to the member or others.

Here, , although Officer Wells did not believe his action made contact with █████ head,<sup>63</sup> the 3<sup>rd</sup> party video posted to Instagram not only depicted that Officer Well’s actions of swinging his taser at █████ head made contact with █████ head, but the audio captured the point of contact as well with a simultaneous sound consistent with contact being made.<sup>64</sup> Further, while still on scene, Officer Well admitted to Sergeant Houston-Hinkle in an almost boastful way, “Yeah I slapped the shit out of him. I slapped him with the goddam taser ‘cause he spit on me.”<sup>65</sup> Additionally, in his TRR, Officer Wells reported that he struck the offender with his right hand.<sup>66</sup> Accordingly, COPA finds that Officer Wells did make contact with █████ when he struck █████ in the head with his taser.

COPA further finds that the force was objectively unreasonable, unnecessary, and not proportional. First, █████ was not an imminent threat. At the time Officer Wells used the force of hitting █████ in the head with his taser, █████ was handcuffed, on his knees, and being held down and controlled by Officer Garcia. In his TRR, Officer Well admitted that he used the force against the subject while the subject was handcuffed or otherwise in physical restraints.<sup>67</sup>

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<sup>58</sup> Att. 40, GO03-02 (II)(D) De-escalation, Response to Resistance, and Use of Force (Effective April 1, 2021-present)

<sup>59</sup> Att. 40, GO03-02 (III)(B)

<sup>60</sup> Att. 40, GO03-02 (II)(D)(2)

<sup>61</sup> Att. 40, G03-02 III (C)

<sup>62</sup> G03-02 III (B)(4)(a) and (b) Use of Force (effective October 16, 2017, through February 29, 2020)

<sup>63</sup> Att. 112, pgs. 10, 25, 28, 50-53

<sup>64</sup> Att. 24 at 1:40

<sup>65</sup> Att. 14 at 2:30

<sup>66</sup> Att. 4, pg. 1

<sup>67</sup> Att. 4, pg. 1

Second, Officer Wells failed to use the required de-escalation techniques that were feasible at the time, such as time and distance. According to Officer Wells, he “couldn’t leave” Garcia by himself.”<sup>68</sup> But Officer Garcia could have stepped out of spitting distance or stood on the opposite side of where Officer Garcia had [REDACTED] head facing. Further, Officer Wells did not call for additional personnel such as the Crisis Intervention Unit.

Third, instead of considering the totality of the circumstances, Officer Wells simply reacted out of anger at being spit at.<sup>69</sup>

As such, COPA finds that Allegation #4 – that Officer Wells was not justified when he struck [REDACTED] about the head while holding a taser – was established by a preponderance of the evidence and will be **Sustained**.

**iii. Allegations #6, #7, #8, #9, and #12 -- Engaged in a verbal altercation and directed profanities at [REDACTED] without justification.**

COPA finds allegations #6, #7, #8, #9, and #12 – that Officer Wells engaged in an unjustified verbal altercation with [REDACTED] directed profanities and words to the effect of, “Mind your fucking business,” “Shut the fuck up,” “Fuck you,” and “Get your hoe ass out, you don’t know what the fuck is going on over here,” and that he threatened [REDACTED] with physical harm, stating words to the effect of, “I would whoop your mother fucking ass,” all without justification, are Sustained. Although [REDACTED] initiated the verbal altercation with Officer Wells by calling him several names and cursing at Officer Wells, Officer Wells should have maintained a professional behavior and better managed the verbal threats and disrespect that was coming from [REDACTED] was across the street from the Admiral Motel and was not an imminent threat. However, Officer Wells lost his temper, engaged in a second argument, and exchanged the above comments, threats, and profanities with [REDACTED] in front of other civilians. Officer Wells’ actions not only placed him and Officer Garcia in an unsafe environment, but his behavior was rude and unprofessional, and it brought discredit to the Department. Furthermore, Officer Wells’ verbal altercation and conduct was recorded by a civilian who posted the video on social media, further embarrassing and violating the Departments’ efforts to achieve their policies and goals, their vision, mission statement and core values on how to treat and interact with the public. There is a preponderance of evidence that establishes that Officer Wells violated Department policies and directives including Rule 2, 6, 8, and 9, and so COPA finds these allegations to be **Sustained**.

**iv. Allegation #10 – failed to wear a face covering or mask**

COPA finds allegation #10 – that Officer Wells failed to wear a face covering or a mark as required by the Department – is **Sustained**. Department members were required to wear face coverings or masks while interacting with the public, entering city buildings and squad cars, and where six feet of social distance was not possible.<sup>70</sup> The Department has been enforcing and

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<sup>68</sup> Att. 112, pg. 23

<sup>69</sup> Att. 112, pgs. 10, 21

<sup>70</sup> Att. 114, SO04-09(VI)(B) Department Response to the Coronavirus Disease 2019 (COVID-19)(Effective January 29, 2021)

reminding their members to continue to wear a surgical mask or face covering through the COVID-19 pandemic. Numerous reminders were sent out via Daily Bulletins and Administrative Memos which were also read at roll call. Additional reminders of this policy were sent to members through marketing posters, videos, and flyers.<sup>71</sup>

Here, Officer Wells acknowledged that he was not wearing a mask during the incident because “we were in a vehicle by ourselves,” and upon the arrival at the active battery, he did not have time to put one on.<sup>72</sup> He stated that his understanding of the department directive regarding face coverings was that it applied to interaction with the public, but not while in a vehicle with a partner.<sup>73</sup> He also admitted he never put one on even after [REDACTED] was detained.<sup>74</sup> Officers Wells’ failure to wear a face covering or a mask during his interaction with [REDACTED] placed him and others at risk of contracting COVID-19, including Department members and members of the public. Thus, Officer Wells was in violation of Department policy S04-09, Rules 6 and 10. COPA finds a preponderance of the evidence established that allegation #10 must be **Sustained**.

**v. Allegation #11 - failed to timely activate BWC**

COPA finds that allegation #11 - that Officer Wells failed to timely activate his BWC is **Sustained**. As stated above, Department members are required to activate their BWCs upon receiving a “call for service.”<sup>75</sup> Here, Officer Wells stated that they went to the scene in response to an OEMC dispatch of a domestic disturbance at a motel.<sup>76</sup> He also stated that the dispatcher called them back to “step it up” because they were getting more calls about what was going on there.<sup>77</sup> His understanding of the BWC Order was that it was supposed to be activated “when you get the call.”<sup>78</sup> He did not activate it immediately because they were “on the west side of the district,” and thought he turned it on when they turned into the parking lot at the motel.<sup>79</sup>

While it is true that upon his arrival at the scene, he was immediately engaged with a battery in progress, Officer Wells had plenty of time prior to arriving at the Admiral Motel to activate his BWC. This assignment alone should have triggered him to activate his BWC while enroute to the scene. Ultimately, Officer Wells’ failure to timely activate his BWC resulted in missing information, such as his claim that he and Officer Garcia directed orders to [REDACTED] to stop. Accordingly, COPA finds Allegation #11 is supported by a preponderance of the evidence and so is **Sustained**.

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<sup>71</sup> Atts. 37, 38, 113

<sup>72</sup> Att. 112, pgs. 35-37

<sup>73</sup> Att. 112, pgs. 35-36

<sup>74</sup> Att. 112, pg. 37

<sup>75</sup> Att. 115, SO03-14(III)(A)(2)(a) Body Worn Cameras (Effective April 30, 2018 – present)

<sup>76</sup> Att. 35, pg. 12

<sup>77</sup> Att. 35, pg. 12

<sup>78</sup> Att. 35, pgs. 39-40

<sup>79</sup> Att. 35, pgs. 39-40



**c. OFFICER GARCIA****i. Allegation #1 – failed to wear a face covering or mask**

Although Officer Garcia placed a face covering on shortly after [REDACTED] was placed in the ambulance, and remained with the face covering while at the scene, he failed to have it on his face immediately upon arrival or during the arrest of [REDACTED]. For the same reasons as explained above, COPA finds Officer Garcia was in violation of Department policy S04-09, Rules 6 and 10 and, therefore, allegation #2 against Officer Garcia is **Sustained**.

**ii. Allegation #1 - failed to timely activate BWC**

Officer Garcia also failed to activate his BWC in a timely fashion and for the same reasons as explained above, COPA finds allegation #2 against Officer Garcia is **Sustained**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS****a. SERGEANT McGREW****i. Complimentary and Disciplinary History**

- 1. Complimentary:** 2 Crime Reduction Awards (2009, 2019), 1 Annual Bureau Award of Recognition, 4 Attendance Recognition Award, 2 Complimentary Letters, 2 Department Commendations, 2 Deployment Operations Center Awards, 36 Honorable Mentions, 1 NATO Summit Service Award, 1 Other Award, 1 Presidential Election Deployment Award (2008)
- 2. Disciplinary:** None

**ii. Recommended Penalty**

COPA found that Sergeant McGrew's failure to activate his BWC was unintentional, and he arrived at the scene after the main incident had taken place and that this failure was an oversight on his part as he responded to a chaotic incident.

Therefore, **COPA recommends a Reprimand** for this allegation against Sergeant McGrew.

**b. OFFICER WELLS****i. Complimentary and Disciplinary History**

- 1. Complimentary:** 2 Crime Reduction Awards (2009, 2019), 1 Annual Bureau Award of Recognition, 4 Attendance Recognition Award, 3 Complimentary

Letters, 1 Department Commendation, 1 Deployment Operations Center Award, 18 Honorable Mentions, 1 Joint Operations Award, 1 Life Saving Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award (2008), and 1 Problem Solving Award.

## 2. Disciplinary History: None

### ii. Recommended Penalty

COPA found that Officer Wells' actions and behavior throughout this incident were concerning, highly unprofessional, and unbecoming of a member of the Chicago Police Department. In his interview to COPA, Officer Wells admitted that he acted out of anger at being spit at.<sup>80</sup> He admitted his "intentions in that moment were not thought out because of the fact it happened so fast. [He] just didn't feel like being spit on anymore."<sup>81</sup>

Moreover, in his interview with COPA, Officer Wells attempted to minimize his use of force by claiming he was attempting to "redirect" ██████ face and "forgot" that he had the taser in his hand.<sup>82</sup> He further insisted, after being shown his BWC, that he did not believe he made contact with ██████<sup>83</sup> While Officer Wells' BWC did not clearly depict the contact, as stated above, third party video captured both that his striking of ██████ was not merely an attempt to re-direct ██████ face, and that he did make contact with ██████<sup>84</sup> Additionally, Officer Well's statement at the scene – "Yeah, I slapped the shit out of him. I slapped him with the goddamn taser cause he spat on me"<sup>85</sup> – corroborates that he knew at the time that he made contact with ██████

In aggravation, COPA will consider that Officer Wells had been trained in Crisis Intervention for mental health with 40 hours back in 2010 or 2011 and had a refresher course within the past year. But, rather than apply that training to ██████ who was acting extremely erratically, Officer Wells disregarded it because, according to Officer Wells, ██████ "wasn't a mental," ██████ was "on drugs."<sup>86</sup>

Officer Wells has no disciplinary history in his 15 years at the Department which is mitigating. However, it is aggravating that with his 15 years of experience on the street, he had not yet learned how to maintain his decorum and temper. Instead, he considered that at that moment when he was interacting with ██████ in particular, he "wasn't a police. I was a grown man. I was a grown man being called these words [bitches and the n-word] [and] another man should never call another man these words."<sup>87</sup> At the same time that he admitted that his actions "may have been unjustified," he defended them stating, "I'm human just like everybody else. I don't know why we

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<sup>80</sup> Att. 112, pgs. 9, 12, 21, 27

<sup>81</sup> Att. 112, pgs. 25-26

<sup>82</sup> Att. 112, pg. 25

<sup>83</sup> Att. 112, pgs. 10, 25, 28, 52-53

<sup>84</sup> Att. 24 at 1:40

<sup>85</sup> Att. 24 at 2:30

<sup>86</sup> Att. 112, pgs. 40-41, 44

<sup>87</sup> Att. 112, pg. 32

are on this pedestal as we are not human and we can't react the way that everybody else is allowed to react.<sup>88</sup>

Officer Wells' actions negatively impact the reputation, credibility, and public trust in the Department's ability to act justly and without deference to members of the public. Thus, **COPA recommends a 180-day Suspension up to and including Separation, If the CPD elects not to proceed with separation against Officer Wells, COPA further recommends the CPD provides Officer Wells with additional training and resources to assist the officer in managing his anger and in maintain a professional demeanor while acting as a Chicago Police Officer.**

**c. Gabriel Garcia**

**i. Complimentary and Disciplinary History**

**1. Complimentary:** 1 Crime Reduction Award (2019), 1 Annual Bureau Award of Recognition, 1 Department Commendation, 14 Honorable Mentions.

**2. Disciplinary:** 1 Sustained Complaint in 2022— Spar for Tardiness

**ii. Recommended Penalty**

Here, COPA found that Officer Garcia's failure to activate his body worn camera in a timely manner and failure to immediately don a mask or face covering was unintentional. Officer Garcia does not have a disciplinary history which is a strong mitigating factor. Thus, **COPA recommends a Reprimand.**

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<sup>88</sup> Att. 112, pg. 55

Approved:



1/31/2023

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

\_\_\_\_\_  
Date



1/31/2023

\_\_\_\_\_  
Andrea Kersten  
*Chief Administrator*

\_\_\_\_\_  
Date