



Log # 2022-1941

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On May 13, 2022, the Civilian Office of Police Accountability (COPA) received an initiation report from Sergeant (Sgt.) Jose Lule reporting alleged misconduct by a member of the Chicago Police Department (CPD). Sgt. Lule alleged that on May 12, 2022, Police Officer Anissa Gomulka deployed her Taser on ██████████ while he was on an elevated surface.<sup>2</sup> Following its investigation, COPA reached a sustained finding regarding the improper use of a Taser.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On May 12, 2022, at approximately 9:35 pm, uniformed Officer Anissa Gomulka and her partner, Officer Erik Lopez, were dispatched to the Walgreens store at 1051 W Randolph St. in reference to a report of shoplifting and battery. The officers met with Walgreens employee ██████████, who told the officers that he saw a Black male subject (later identified as ██████████ 6'1" tall, wearing a blue hooded sweatshirt, and carrying a black backpack take several bottles of wine and a twelve-pack of Heineken beer and attempt to leave the store without paying. ██████████ said he confronted ██████████ grabbed him, and tried to take back the stolen items, but ██████████ pulled away from him and struck him in the chest.<sup>4</sup> ██████████ said ██████████ exited the store and ran eastbound on Randolph St. Officers Gomulka and Lopez searched the surrounding area and located ██████████ at the Chicago Transit Authority (CTA) Morgan train station at 1000 W Lake St.<sup>5</sup> The officers observed ██████████ going up the stairs to the elevated railroad ("L") platform. Both officers gave him commands to stop, but ██████████ ignored them. Officer Lopez tried to grab ██████████ backpack but lost his grip. Officer Gomulka grabbed ██████████ left upper arm, but ██████████ twisted and pulled away. Once ██████████ reached the "L" platform, he ran away from the officers as they followed him and shouted commands to stop.<sup>6</sup> ██████████ continued to run away from the officers until he came to a turnstile leading to exit stairs. As ██████████ started to enter the turnstile, Officer Gomulka,

<sup>1</sup> Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup> One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>3</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including TASER International, Inc. training material, a Haywood Turnstile case study, body worn camera (BWC) video recordings, audio recordings of 911 calls, CPD reports, Taser data, and CPD member interviews.

<sup>4</sup> Att. 9, BWC Officer Lopez at 4:06.

<sup>5</sup> Att. 5, pg. 2.

<sup>6</sup> Att. 9 at 10:06.

who was within several feet of him, issued a Taser warning and deployed her Taser at him, but the probes did not strike him. █████ continued to exit the turnstile, ran down the stairs, and exited the CTA station.<sup>7</sup> Officers apprehended █████ at 1051 W Randolph St., where █████, who officers had brought over to the location, positively identified him. Officers then placed █████ into custody.

### III. ALLEGATIONS

#### Officer Anissa Gomulka:

1. She discharged a Taser device in violation of CPD General Order G03-02 De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021) and/or CPD General Order G03-02-04 Taser Use Incidents (effective April 15, 2021).
  - Sustained – Violation of Rules 2, 3, 6, and 38.

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

### V. ANALYSIS<sup>8</sup>

COPA finds Allegation # 1 against Officer Gomulka, that she deployed her Taser in violation of CPD directives, is **sustained**. CPD policy requires officers to assess the use of force in a particular situation based on the totality of the circumstances.<sup>9</sup> CPD policy requires officers to consider, before deciding to use a Taser, the seriousness of the offense and the subject's threat level to officers and others, and officers must balance the need and benefits of a Taser discharge, which includes the likely outcome of the Taser use and the accompanying risk of injury to the subject.<sup>10</sup> CPD policy includes a list of circumstances to avoid when deploying a Taser due to increased risk of serious injury or death, including the use of a Taser on a subject who is elevated above the ground, less able to catch themselves and are running, or are otherwise in motion.<sup>11</sup>

In her COPA interview, Officer Gomulka explained that she believed her use of the Taser was reasonable based on the circumstances that were presented to her when █████ was fleeing. Officer Gomulka gave the following reasons for deploying her Taser: (1) She was attempting to stop █████ and "he was pretty tall, pretty fast, probably about six-three, so I didn't feel like I could detain him . . . ;"<sup>12</sup> (2) █████ was an assailant who had committed a felony on the Walgreens employee;<sup>13</sup> and (3) █████ was displaying aggressive behavior and had shown violent tendencies

<sup>7</sup> Att. 8, BWC Officer Gomulka at 10:38.

<sup>8</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

<sup>9</sup> Att. 34, G03-02(II)(D)(1)(2), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 27, 2023).

<sup>10</sup> Att. 33, G-03-02-04(II)(C)(2)(a) to (g), Taser Use Incidents (effective April 15, 2021, to June 27, 2023).

<sup>11</sup> Att. 33, G-03-02-04(II)(E)(1),(4), and (6).

<sup>12</sup> Att. 31, pg. 12, lns. 19 to 22.

<sup>13</sup> Att. 31, pg. 27, lns. 15 to 16.

toward the employee and the officers, and he had “aggressively” pulled away from both her and her partner.<sup>14</sup> Officer Gomulka said, “It showed me that this individual is aggressive; so that justified my use for tasing.”<sup>15</sup>

In considering the reasonableness of the force used by Officer Gomulka and [REDACTED] degree of threat to others, COPA looked to the totality of the circumstances, “including the severity of the crime, whether the individual poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”<sup>16</sup> The BWC recordings showed that while [REDACTED] had pushed the Walgreens employee in the chest, a suspected felony, he did not injure the Walgreen employee.<sup>17</sup> When [REDACTED] encountered the officers on the stairs to the “L” platform, he appeared to try and slip by them without being noticed. Once the officers tried to grab [REDACTED] to stop him, his response was to pull away rather than forcibly push the officers.<sup>18</sup> [REDACTED] did not confront the officers, threaten them, nor injure them. [REDACTED] did not exert any aggressive force other than his efforts to flee. [REDACTED] was not suspected of being armed, nor was any weapon found on him when officers arrested him. [REDACTED] interaction with the officers on the stairs was brief and lasted less than ten seconds. “[W]here the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.”<sup>19</sup>

COPA reviewed the video evidence related to the elevated platform, the surrounding elements, and the safety risks associated with the use of the Taser in that environment. The video showed:

- (1) a full height solid steel turnstile in a compact area on an elevated platform.
- (2) the turnstile led out to a concrete landing.
- (3) the landing abutted two levels of concrete stairs.<sup>20</sup>

COPA also researched if impact with the turnstile could cause injury. A case study report regarding turnstile misuse determined that “any impact between a turnstile and its user has the potential for causing injuries,” including the common occurrence of “head injuries, heel impacts, and other similar minor impacts as a direct result of turnstile misuse.”<sup>21</sup> In her TRR, Officer Gomulka documented that she saw [REDACTED] enter the turnstile, gave a warning, and deployed her Taser.<sup>22</sup> The Taser prongs immobilize a person and could have easily led to [REDACTED] being injured

<sup>14</sup> Att. 31, pg. 27, lns. 19 to 23.

<sup>15</sup> Att. 31, pg. 27, lns. 22 to 24.

<sup>16</sup> See *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>17</sup> Att. 8 at 3:05 to 4:15.

<sup>18</sup> Att. 8 at 10:03 to 10:08.

<sup>19</sup> See *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).

<sup>20</sup> Att. 9 at 10:37.

<sup>21</sup> Att. 36, Drew Schwarz, “Case Study: Safety Sleeves Save the Day, Full Height Safety Sleeves, Full Height Turnstiles,” Hayward Turnstiles, Inc., July 17, 2020, Information <https://www.haywardturnstiles.com/padded-turnstile-safety-sleeve-case-study/>, accessed June 1, 2023.

<sup>22</sup> Att. 5, pg. 5.

while in the turnstile. In her COPA interview, Officer Gomulka admitted, “[T]he location where I tased him [REDACTED] is not the safest place to tase him [*sic*] a person.”<sup>23</sup> She also said that she understood that “it’s very dangerous to use a Taser on a [*sic*] elevated surface because the individual can fall of that surface . . . [and] that it’s dangerous to use it on a CTA platform because that individual can fall into the tracks on the third rail and be killed instantly or fall down the stairs and be hurt . . . .”<sup>24</sup>

When a Taser strikes a person, the electrical impulse overrides their central nervous system, paralyzing the muscles throughout the body.<sup>25</sup> Here, Officer Gomulka observed [REDACTED] on an elevated surface as he entered a turnstile. Officer Gomulka knew that the Taser should generally not be employed against an individual on an elevated surface due to the risks of injury. In her COPA interview, Officer Gomulka admitted that she understood the danger of deploying her Taser on an elevated surface. COPA finds that in light of the risks of injury associated with using a Taser on a person in motion and on an observably elevated platform, along with CPD policy that cautioned against such use, Officer Gomulka’s use of the Taser was unreasonable in relation to the threat that [REDACTED] presented and the surrounding circumstances and therefore not a permissible use of force under CPD policy. Therefore, COPA finds that Officer Gomulka violated CPD policy and Rules 2, 3, 6, and 38.

## **DISCIPLINARY RECOMMENDATION**

### **a. Police Officer Anissa Gomulka**

#### **i. Complimentary and Disciplinary History<sup>26</sup>**

Officer Gomulka has received one Department Commendation and nine Honorable Mentions. She has no sustained complaints on her disciplinary history.

#### **ii. Recommended Discipline**

Here, COPA has found that Officer Gomulka violated Rules 2, 3, 6, and 38 by deploying her Taser in violation of CPD policy. Officer Gomulka had limited experience as a police officer at the time of this incident, having been appointed in October 2020. Officer Gomulka has acknowledged that her actions were dangerous, and she appears to have learned from this incident. The subject was not struck by the Taser prongs and was not injured by Officer Gomulka’s actions. However, the potential for serious injury or death resulting from Officer Gomulka’s misconduct cannot be ignored. Considering these factors, along with Officer Gomulka’s history, COPA recommends a **2-day suspension**.

---

<sup>23</sup> Att. 31, pg. 18, lns. 15-18.

<sup>24</sup> Att. 31, pg. 23, ln. 21 to pg. 24, ln. 3.

<sup>25</sup> See *Draper v. Reynolds*, 369 F.3d 1270, 1273 n.3 (11<sup>th</sup> Cir. 2004).

<sup>26</sup> Att. 39.

Approved:



---

Angela Hearts-Glass  
*Deputy Chief Investigator*

9-20-2023

---

Date

Appendix ACase Details

Date/Time/Location of Incident:	May 12, 2022 / 10:02 pm / 1000 W Lake St., Chicago, IL 60607
Date/Time of COPA Notification:	May 13, 2022 / 12:39 am
Involved Member #1:	Officer Anissa Gomulka, Star #17599, Employee ID # [REDACTED], DOA: October 13, 2020, Unit of Assignment: 012, Female, White
Involved Individual #1:	[REDACTED] Male, Black

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule \_\_:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- General Order G03-02, De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021)
- General Order G03-02-04, Taser Use Incidents (effective April 15, 2021)

## Appendix B

### **Definition of COPA's Findings and Standards of Proof**

For each Allegation, COPA must make one of the following findings:

1. Sustained – where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained – where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>27</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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>28</sup>

---

<sup>27</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it is found to be more probably true than not).

<sup>28</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).

**Appendix C**

**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation