



Log # 2022-0004718

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On November 3, 2022, the Civilian Office of Police Accountability (COPA) received an initiation report from the 10th district regarding allegations of misconduct by a member of the Chicago Police Department (CPD).² ██████████ alleged that on November 3, 2022, PO Cody Michaels,³ PO Kyle Pezan, PO Michael Loza, and PO Brian Quirk illegally entered her residence and utilized excessive force during the arrest of her son, ██████████ causing minor scratches to his shoulder.⁴ Upon review of the evidence, COPA served additional allegations that PO Kyle Pezan, PO Michael Loza, and PO Brian Quirk stopped ██████████ without justification and detained ██████████ without justification. Following its investigation, COPA did not reach sustained findings regarding the allegations. Officer Michaels resigned prior to allegations being served. Thus, his allegations are not analyzed here and will be placed in a Close Hold status and evaluated should he return to the Department.

II. SUMMARY OF EVIDENCE⁵

On November 3, 2022, at or about 3:45 p.m., CPD Officers Cody Michaels, Kyle Pezan, Michael Loza, and Brian Quirk were patrolling near the 4100 block of 31st Street near Trevino Sports Bar, traveling eastbound. Officers observed a male subject, later identified as ██████████ riding a bicycle on the westbound sidewalk traveling westbound. Officers stated during COPA recorded statements that they observed a weighted object in the front pocket of his sweatshirt. Officers also noted that ██████████ is a known member of the '2-6 gang.' Their observation prompted them to turn around and attempt to conduct stop of ██████████. At that point, ██████████ attempted to elude officers by swerving into the road and began weaving through traffic. ██████████ then rode into his front yard at ██████████ ██████████, through a black cast iron gate. As ██████████ was stepping off his bike, officers asked him if he had anything on him and began to search him. The search lasted approximately 16 seconds.⁶ The officers did not find or confiscate anything from ██████████ and released him without handcuffing him. Officers let him know he was free to leave, and

¹ 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.

² Att. 1 Initiation Report

³ PO Cody Michaels was present during incident but resigned before allegations were served. See Att. 16 Par Form_PO Cody Michaels.

⁴ 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.

⁵ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, ICC footage, police reports, officer interviews.

⁶ See Body Worn Camera: Att. 10 PO Cody Michaels 0:45, Att. 9 PO Kyle Pezan 0:37, Att. 8 PO Brian Quirk 2:02

he replied, "Get y'all's bitch ass out of here."⁷ He continued to yell at the officers, repeatedly calling them "bitch" and referring to them as "faggots."⁸ As officers walk out of the gate, [REDACTED] pushed the gate, striking PO Pezan in the back. PO Pezan responded by turning around and lightly pushing [REDACTED] away from the gate with his left hand using an open palm. PO [REDACTED] and the other officers told [REDACTED] not to touch or push a gate closed on an officer.

[REDACTED] then yelled for his mother, [REDACTED] through a window at the front of the home. [REDACTED] came out of the house and approached the officers, asking what was happening. At this time, [REDACTED] continued to yell and curse at the officers. As officers attempt to explain to [REDACTED] why [REDACTED] was stopped, [REDACTED] spat directly in the face of PO Cody Michaels.⁹ [REDACTED] then turned and ran into the home, entering the first-floor apartment. Officers immediately pursued [REDACTED] detaining him shortly after in a narrow hallway just past the living room area. [REDACTED] was arrested without any resistance. [REDACTED] began yelling at the officers as the officers were removing items from [REDACTED] pockets. During this time, [REDACTED] said, "This is why you guys are getting shot and killed all the time."¹⁰ [REDACTED] was taken into custody,¹¹ searched, and escorted from the home. During statements given to COPA, officers stated that [REDACTED] stated, "You still didn't find the gun," when escorted from the house. Officers continued to search the area in front of the home, including the yard and areas that [REDACTED] passed, before entering the residence gate. Officers did not recover any weapon or contraband.

POD camera video located at [REDACTED], only depicted images of the patrol vehicle crossing the intersection at or around the time of the incident but did not show [REDACTED] at any point.

III. ALLEGATIONS

PO Kyle Pezan, PO Michael Loza, & PO Brian Quirk:

1. Utilizing excessive force during the arrest of [REDACTED]
 - Not Sustained.
2. Entering a residence at [REDACTED], without justification.
 - Exonerated.
3. Stop [REDACTED] without justification.
 - Not Sustained.
4. Detainment of [REDACTED] without justification.
 - Not Sustained.

IV. CREDIBILITY ASSESSMENT

⁷ See Att. 8 PO Brian Quirk 2:15

⁸ See Att. 8 PO Brian Quirk 3:06

⁹ See Body Worn Cameras: Att. 8 PO Brian Quirk 3:13, Att. 10: PO Cody Michaels BWC 1:57, Att. 9 PO Kyle Pezan 1:49, Att. 7 PO Kyle Pezan

¹⁰ See Att. 8 PO Brian Quirk 4:20

¹¹ Att. 4. Arrest Report [REDACTED] CB: [REDACTED] RD: JF460946

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. ANALYSIS¹²

PO Kyle Pezan, PO Michael Loza, & PO Brian Quirk:

1. Utilizing excessive force during the arrest of ██████████

After a review of all available Body Worn Camera footage, COPA finds that none of the involved officers utilized any excessive force during the arrest of ██████████. The BWC shows no striking of any kind or unnecessary force that was utilized to gain and maintain control of the situation during the arrest of ██████████. Except for initially running from officers, ██████████ gave no resistance while being handcuffed by officers. Officers utilized simple control holds and arrest tactics that fall within the guidelines of General Order G03-02 De-escalation, Response to Resistance, and Use of Force.¹³ For this reason, COPA recommends a finding of, **Not Sustained**.

2. Entering a residence at ██████████ ██████████, without justification.

COPA finds that once ██████████ spat in the face of PO Cody Michaels, Officers believed that ██████████ violated 720 ILCS 5.0/12-3.05-D-4 Aggravated Battery to a Peace Officer¹⁴, thus justifying the short pursuit of ██████████ causing officers to enter the residence at ██████████ ██████████. The BWCs showed ██████████ spit at Officer Michaels and run into his home. COPA further finds that the foot pursuit does not violate CPD General Order: G03-07 Foot Pursuits.¹⁵ For this reason, COPA recommends a finding of, **Exonerated**.

3. Stop of ██████████ without justification, and 4. Detainment of ██████████ without justification.

Upon review of the Investigatory Stop Report¹⁶ and the audio-recorded statements¹⁷ of the accused officers, COPA finds that the allegations regarding the stop and detainment of ██████████ are not sustained. The accused officers were assigned as Tactical Team officers within the 010th district. During audio recorded statements, the accused officers stated that they were additionally tasked with gang violence reduction due to an ongoing internal gang conflict in the area within the '2-6 gang'. Officers also stated that ██████████ was a known 2-6 gang associate. The officers further stated that they observed ██████████ with a firearm. There is no BWC that depicts a weighted object in ██████████ clothing. The available BWC only depicts the stop that occurred in the front yard of the residence.¹⁸ Officers temporarily detained ██████████ for a reasonable amount of time. Officers

¹² For a definition of COPA's findings and standards of proof, see Appendix B.

¹³ See Att. 36 General Order: G03-02 De-escalation, Response to Resistance, and Use of Force

¹⁴ See Att. 39 Aggravated Battery 720 ILCS 5_12-3.05

¹⁵ See Att. 35 General Order: G03-07 Foot Pursuits

¹⁶ See Att. 2 Investigatory Stop Report

¹⁷ See COPA Audio Recorded Statements: Att. 17 PO Michael Loza, Att. 21 PO Brian Quirk, & Att. 26 PO Kyle Pezan.

¹⁸ See Att. 8 PO Brian Quirk 2:02, Att. 9 PO Kyle Pezan 0:35, Att. 10 PO Cody Michaels 0:44

searched the area but did not recover any weapons. The BWC footage shows officers concluding the initial stop and exiting the gated area of the residence. There is insufficient evidence to show whether the officers were justified in stopping and detaining [REDACTED] For this reason, COPA recommends a finding on both allegations of **Not Sustained**.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

October 24, 2023

Date

Appendix ACase Details

Date/Time/Location of Incident:	November 3, 2022/15:45H/ [REDACTED] [REDACTED]
Date/Time of COPA Notification:	November 3, 2022/18:17H
Involved Officer #1:	Cody Michaels, Star #: 18673, Employee #: [REDACTED], Date of Appointment: 1/17/2017, Unit of Assignment: 010, Male, White
Involved Officer #2:	Kyle Pezan, Star #: 7399, Employee #: [REDACTED], Date of Appointment: 8/16/2017, Unit of Assignment: 010, Male, White
Involved Officer #3:	Michael Loza, Star #: 10515, Employee #: [REDACTED], Date of Appointment: 12/14/2012, Unit of Assignment: 010, Male. Hispanic
Involved Officer #4:	Brian Quirk, Star #: 9928, Employee #: [REDACTED], Date of Appointment: 8/16/2017, Unit of Assignment: 010, Male. White
Involved Individual #1:	[REDACTED] Male, Hispanic
Involved Individual #2:	[REDACTED] Female, Hispanic

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, to Present)
- General Order G03-07: Foot Pursuits (August 29, 2022, to Present)
- General Order G10-14: Gang Violence Reduction Strategy (effective February 8, 2019, to Present)

- Special Order S04-13-09: Investigatory Stop System (July 10, 2017 to Present)

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.¹⁹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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.”²⁰

¹⁹ 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).

²⁰ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th 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