



Log # 2022-2222

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On June 1, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report² from the Chicago Police Department (CPD) alleging misconduct by CPD members. The Initiation Report detailed that on June 1, 2022, Officers Estefany Garcia and Raul Rosales, Jr. committed misconduct by failing to properly secure ██████████ allowing him to escape from Illinois Masonic Hospital. Additionally, ██████████ alleged that Officer Kristin Bailey tased him without justification.³ Upon review of the evidence, COPA served additional allegations that Officers Bailey and Carrie Costanzo failed to properly secure ██████████ upon transport to the 19th District after his initial arrest.

Following its investigation, COPA reached sustained findings that Officers Garcia and Rosales were inattentive to duty in that they allowed ██████████ to escape. The allegations that Officer Bailey tased ██████████ without justification, and that Officers Costanzo and Bailey failed to properly secure ██████████ upon transport, were determined to be not sustained.

II. SUMMARY OF EVIDENCE⁴

On June 1, 2022, CPD officers arrested ██████████ for reckless conduct following a reported road rage incident involving the display of a firearm.⁵ Officers located ██████████ vehicle and followed him into a parking lot, where they initially detained him. The witness to the alleged road rage incident was then located and brought to the scene, where ██████████ was positively identified as the assailant. Officers arrested ██████████ and transported him to the 19th District, but he was subsequently taken to Illinois Masonic Hospital due to his complaints of chest pains. At the hospital, ██████████ attempted to escape custody but failed, as Officer Bailey deployed a taser at ██████████ and he was re-apprehended.

BWC footage shows ██████████ being placed into the rear seat of CPD Unit #7946, which was driven by Officer Costanzo, upon his initial arrest.⁶ ██████████ was then transported to the 19th District, without being properly secured as required by CPD policy (Uniform and Property U02-

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. 18

³ 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.

⁴ 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, police reports, and officer interviews.

⁵ Att. 1.

⁶ Att. 2 at 08:15.

01).⁷ In Officer Costanzo's statement to COPA, she explained that [REDACTED] was not secured in a seat belt because he was highly agitated and verbally confrontational toward the officers.⁸ The officers felt that it was prudent to get [REDACTED] to the 19th District as soon as possible due to his combative behavior.

Additionally, BWC footage shows that after [REDACTED] arrived at the hospital, he was placed in a room in the emergency department for treatment. As Officer Garcia and [REDACTED] engaged in a conversation, [REDACTED] stood up and began walking out of the hospital while handcuffed in front of his body.⁹ Officers Garcia and Rosales trailed behind [REDACTED] but made no immediate efforts to physically stop him.¹⁰ Neither Officer Rosales nor Officer Garcia, in their respective statements to COPA, provided an adequate explanation for not securing [REDACTED] who simply walked out of the hospital and fled westbound on Wellington Avenue.

Relative to the tasing of [REDACTED] BWC footage shows that [REDACTED] was in custody and handcuffed when he attempted to escape. As [REDACTED] ran down the street, veering in and out of traffic, Officer Bailey discharged her taser at [REDACTED] causing him to fall onto the sidewalk.¹¹ In her statement to COPA, Officer Bailey stated that she gave a command to [REDACTED] to halt prior to tasing him, to which [REDACTED] did not comply.

III. ALLEGATIONS¹²

Officers Carrie Costanzo and Kristin Bailey:

1. Failed to properly secure [REDACTED] [REDACTED]
- Not sustained

Officer Kristin Bailey:

2. Tased [REDACTED] without justification.
- Not sustained

Officer Estefany Garcia and Officer Raul Rosales, Jr.:

1. Allowed [REDACTED] to escape, without justification.
- Sustained, Violation of CPD Rules 2, 3, 5, 6, 10 and G06-01-02¹³

IV. CREDIBILITY ASSESSMENT:

The investigation did not reveal any evidence that caused COPA to question the credibility of the sworn or unsworn members who provided statements.

⁷ See Att. 54, U02-01(IV), Department Vehicles (effective February 28, 2020 to present) (requiring that both the driver and passengers of a motor vehicle being operated upon a public way be secured by safety belts).

⁸ Att. 58, pgs. 14-19; see also Att. 7.

⁹ Att. 5 at 00:00 to 02:00.

¹⁰ Att. 5 at 00:30 to 02:00; Att. 10 at 00:53 to 01:55.

¹¹ Att. 8 at 01:22; Att. 10 at 03:25.

¹² COPA did not serve allegations related to the BWC activations of Officers Rosales, Bailey, Costanzo, and Garcia, as all four officers were previously admonished regarding these violations by Lt. Sherry Alvarez-Pena. See Att. 30, pg. 6.

¹³ Att. 53, G06-01-02, Restraining Arrestees (effective December 8, 2017 to present).

V. ANALYSIS¹⁴

COPA finds Allegation #1 against Officers Costanzo and Bailey, that they failed to properly secure ██████ upon transport, is **not sustained**. CPD directive U02-01 requires “both the driver and passengers of a motor vehicle being operated upon a public way of this state or city be secured by seat safety belts.”¹⁵ However, the policy also acknowledges that the requirement may not apply when there are extenuating circumstances.¹⁶ Here, BWC evidence shows that ██████ was placed into the rear seat of CPD Unit #7946 after his arrest, and Officers Costanzo and Bailey transported him to the 19th District. In Officer Costanzo’s statement to COPA, she related that it was prudent to get ██████ to the 19th District as soon as possible due to his aggressive and combative behavior, which is confirmed by BWC footage.¹⁷ COPA acknowledges the extenuating circumstances posed by ██████ behavior towards the officers. Accordingly, this allegation is not sustained.

COPA finds that Allegation #1 against Officers Garcia and Rosales, that they allowed ██████ to escape from custody, is **sustained**. CPD policy provides that “Department members are responsible for the safety and security of persons in their custody. A person taken into Department custody will be... restrained in such a manner as to prevent escape and to provide for the safety of the public, the person in custody, and the officers involved.”¹⁸ The policy also requires that arrestees be handcuffed with both hands behind the back and palms positioned outward, with the handcuffs double-locked.¹⁹ Here, BWC evidence shows that ██████ was not properly secured and was allowed to escape from the hospital room in which he was being treated. Further, ██████ who had earlier been arrested and was secured by handcuffs in the front, was allowed to walk at will throughout the hospital until he finally encountered an open door and fled. Although Officers García and Rosales followed ██████ at a distance, neither officer made any attempt to physically stop him. In their statements to COPA, both officers admitted that they failed to physically secure ██████ explaining that they attempted to use de-escalation techniques to gain ██████ compliance rather than go hands on with him. Although COPA credits the officers’ efforts to deescalate the situation, their actions were insufficient to stop ██████ escape. Accordingly, this allegation is sustained.

COPA finds that Allegation #2 against Officer Bailey, that she tased ██████ without justification, is **not sustained**. BWC evidence shows that ██████ was in custody and handcuffed when he attempted to escape. Officer Bailey, who was in the area and observed ██████ fleeing in handcuffs, pursued ██████ on foot and tased him, after giving him a command to halt.²⁰

¹⁴ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

¹⁵ Att. 54, U02-01 IV.A.

¹⁶ Att. 54, U02-01 IV.C.

¹⁷ In Officer Bailey’s account to COPA, she did not recall much of ██████ placement into the back of the vehicle. Officer Bailey contended that her partner, Officer Costanzo, placed ██████ in the vehicle, and she had limited contact with ██████

¹⁸ Att. 53, G06-01-02 II.

¹⁹ Att. 53, G06-01-02 V.A.1.

²⁰ The BWC footage is not conclusive as to whether Officer Bailey issued a warning before discharging her taser; however, her TRR reflects that she did issue a warning. Further, in her statement to COPA, Officer Bailey maintained that she issued a warning before she tased ██████

Officers who are faced with an uncooperative arrestee are authorized to use measured and ascending actions of force that correspond to the arrestee's level of resistance.²¹ With some exceptions, CPD policy authorizes the use of tasers against active resistors.²² In this instance, COPA finds that ██████ was an active resistor, and the preponderance of the evidence shows that Officer Bailey's taser deployment complied with CPD policy.

However, COPA cannot exonerate this allegation, as there is not clear and convincing evidence that Officer Bailey's taser use was appropriate under the circumstances. ██████ fled on foot without shoes on and while handcuffed in front of his body. CPD policy provides that, when practicable, officers should avoid using tasers on individuals who are running, who are restrained and may be less able to protect themselves in a fall, and/or who could fall and suffer an impact injury to the head or other area.²³ The evidence does not conclusively show that Officer Bailey considered all these factors before deploying her taser, and she acknowledged that she did not consider the fact that ██████ was at the hospital due to chest pains before she tased him. As a result, COPA finds this allegation is not sustained.

V. DISCIPLINARY RECOMMENDATIONS

a. Officers Estefany Garcia and Raul Rosales, Jr.:

i. Complimentary and Disciplinary Histories²⁴

Officer Garcia has received 6 various awards and has no sustained disciplinary history in the last five years. Officer Rosales has received 10 various awards and has no sustained disciplinary history in the last five years.

ii. Recommended Discipline:

COPA has found that Officers Garcia and Rosales violated Rules 2, 3, 5, 6, and 10 when they allowed ██████ to escape from the hospital while he was in custody. In mitigation, COPA notes that both officers accepted responsibility for misconduct in failing to physically secure ██████. However, their decision not to physically intervene to stop ██████ was an inexcusable violation of CPD policy, which allowed a handcuffed and non-compliant arrestee to run freely down the street. It is for these reasons, combined with the officers' complimentary histories and lack of disciplinary histories, that COPA recommends Officers Garcia and Rosales each receive a **7-day suspension and retraining** on CPD's policy regarding restraining arrestees.

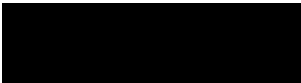
²¹ *Poole v. City of Shreveport*, 691 F.3d 624, 628 (5th Cir. 2012); *Deville v. Marcantel*, 567 F.3d 156, 167 (5th Cir. 2009).

²² Att. 52, G03-02-04: Taser Use Incidents (effective April 15, 2021 to June 28, 2023). An active resistor is "a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest." G03-02-01 IV.B.2, Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).

²³ Att. 52, G03-02-04 II.E.

²⁴ Atts. 55, 56

Approved:



Steffany Hreno
Director of Investigations

1/16/2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	June 1, 2022 / 7:50 p.m. / 4443 North Sheridan Road, Chicago, IL 60640; and 836 West Wellington Avenue, Chicago, IL, 60657.
Date/Time of COPA Notification:	June 2, 2022 / 12:58 a.m.
Involved Officer #1:	Carrie Costanzo, Star #18642, Employee ID# [REDACTED] Date of Appointment: February 23, 2015, Unit of Assignment: 019, Gender: Female, Race: White
Involved Officer #2:	Estefany Garcia, Star #5186, Employee ID# [REDACTED] Date of Appointment: October 29, 2018, Unit of Assignment: 019, Gender: Female, Race: White
Involved Officer #3:	Raul Rosales, Jr., Star #18631, Employee ID# [REDACTED] Date of Appointment: May 16, 2019, Unit of Assignment: 019, Gender: Male, Race: Hispanic
Involved Officer #4:	Kristin Bailey, Star #13645, Employee ID# [REDACTED] Date of Appointment: December 12, 2016, Unit of Assignment: 019, Gender: Female, Race: White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] [REDACTED] 1969, Gender: Male, Race: 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.

Applicable Policies and Laws

- General Order G03-02-04: Taser Use Incidents (effective April 15, 2021 to June 28, 2023)²⁵
- General Order G06-01-02: Restraining Arrestees (effective December 8, 2017 to present)²⁶
- Uniform and Property U02-01: Department Vehicles (effective February 28, 2020 to present)²⁷

²⁵ Att. 52

²⁶ Att. 53

²⁷ Att 54

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.²⁸ 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.”²⁹

²⁸ 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).

²⁹ *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