



Log # 2023-3036

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

COPA received this Taser deployment notification on July 11, 2023, regarding the Taser of ██████████ on the same date. Officers working in the Strategic Decision Support Center (SDSC) viewed Police Operational Device (POD) video and observed an individual (now known to be ██████████) conducting hand to hand drug transactions.² They relayed this information to tactical team officers who went to the location and arrested ██████████ for soliciting narcotics sales, resisting a peace officer, and reckless conduct. COPA served one allegation for the Taser deployment and reached a sustained finding.

II. SUMMARY OF EVIDENCE³

Officers Jorge Rivera and Elias Agredano were on routine patrol in the 2nd District when they stopped near other officers conducting a traffic stop.⁴ Officer Rivera noticed ██████████ sitting in his car, who was not involved with the traffic stop. When ██████████ exited his car, Officer Rivera saw a suspicious bulge in ██████████ front pocket, possibly narcotics, and initiated small talk with ██████████ to get a better look.⁵ That area, specifically the McDonald's at the end of the block, was a known hotspot for drug sales during that time period.⁶ Officer Rivera and ██████████ briefly spoke before they parted ways. Officer Rivera rejoined his partner in the squad car and related to Officer Agredano that he suspected ██████████ had drugs on him and they needed to watch him on the POD cameras if they wanted to confirm it.⁷ Officer Rivera then contacted the SDSC room and informed them of ██████████ location, which was a high narcotics sales area, and that he might have drugs on him.⁸ After Officer Rivera related that information to the SDSC room, he and Officer Agredano waited several blocks away to receive information back from the SDSC room about what they observed on the PODs.⁹ The POD video shows ██████████ reached into his waistband and pulled out a clear plastic

¹Appendix 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 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.

³ 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, POD video, CPD reports, the complainant's statement, and officer interviews.

⁴ Att. 7 at 11:50 (POD video); Att. 46, pgs. 8-9 (transcribed statement PO Rivera).

⁵ Att. 46, pgs. 8-9.

⁶ Att. 1, pg. 3; Att. 44, pg. 26.

⁷ Att. 44, pg. 12.

⁸ Att. 44, pg. 12.

⁹ Att. 44, pgs. 13-14.

baggie with a substance in it three different times.¹⁰ One of those times ██████ handed something from inside the baggie to someone.¹¹ In another instance, ██████ accepted money from someone.¹²

About 20 minutes after Officers Rivera and Agredano spoke to the SDSC room, they were notified by the SDSC room that a person who was conducting what appeared to be hand-to-hand drug transactions in the McDonald's parking lot was seen on POD video.¹³ A description of the individual was provided, which matched ██████. Officers Elias Agredano and Jorge Rivera relocated to the area to investigate.¹⁴ Upon arrival at the McDonald's parking lot, Officers Rivera and Agredano exited their police vehicle and attempted to detain ██████ but he fled on foot.¹⁵ ██████ ran into the street and the officers chased him while giving him commands to stop. Officer Agredano gave a warning that he would use his Taser if ██████ did not stop.¹⁶ Officer Agredano claimed he saw ██████ reach for his front waistband and thought he might be reaching for a weapon, at which point Officer Agredano gave a verbal warning that he was going to deploy his Taser.¹⁷ Officer Agredano then deployed the Taser, which connected with ██████ on his back, and he fell to the ground.¹⁸ Assisting officers handcuffed ██████ and he was taken into custody. An ambulance was called and ██████ was transported to Insight Hospital for removal of the Taser prongs.¹⁹

III. ALLEGATIONS

Officer Elias Agredano:

1. Deployed his Taser at ██████ in violation of G03-02-04.
-- Sustained, Violation of Rules 2, 3, 6, 8 and 9.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Here, COPA finds that ██████ mischaracterized some of his conduct preceding the Taser use in that he obscured the fact he was engaged in suspicious transactions in the McDonald's parking lot before he was stopped.²⁰ However, the aspects relating to his conversation with Officer Rivera

¹⁰ Att. 7 at 40:20, 41:50 and 42:00 (POD video).

¹¹ Att. 7 at 42:00.

¹² Att. 7 at 46:45.

¹³ Att. 1, pg. 3 (Arrest Report); Att. 2, pg. 2 (Original Case Incident Report); Att. 46 (transcribed statement of PO Rivera), pg. 16; Att. 44, pg. 8 (transcribed statement of PO Agredano).

¹⁴ Att. 1, pg. 3; Att. 2, pg. 2; Att. 44, pg. 8.

¹⁵ Att. 1, pg. 3; Att. 2, pg. 2; Att. 46 pg. 17; Att. 44, pg. 8; Att. 10 at 20:04:20 (PO Rivera BWC).

¹⁶ Att. 44, pgs. 14-15; Atts. 9 and 10 at 20:04:22.

¹⁷ Att. 6, pgs. 2 and 5; Att.44, pgs. 14-15, 17 and 21-22.

¹⁸ Att. 10 at 20:04:27.

¹⁹ Att. 1, pg. 3; Att. 2, pg. 2. Att. 10 at 20:10:00.

²⁰ Att. 7 at 40:20, 41:50, 42:00, 46:45.

before the stop and his being Tasered were consistent with the video evidence and Officer Rivera's statement about their conversation.²¹

The officers' statements were largely consistent with one another's and with the video evidence and the police reports in this case. Officer Rivera remembered some details of the incident with greater specificity than Officer Agredano. Specifically, that he told his partner about [REDACTED] before they stopped him and that they contacted the SDSC room so officers could observe [REDACTED] on POD video for possible narcotics transactions. Officer Agredano said in his statement that he believed [REDACTED] may have been reaching for a weapon, which he documented in the arrest report and pointed out where he thought this occurred on his BWC video during his statement.²² Officer Agredano said there was no contact with [REDACTED] before the stop; however, we know his partner had spoken to [REDACTED] and not only said he related this information to Officer Agredano, but they contacted the SDSC room and waited to hear back from them about [REDACTED]

V. ANALYSIS²³

a. Allegation 1 against Officer Elias Agredano – Deployed his Taser at [REDACTED] in violation of G03-02-04.

The Chicago Police Department expects its members to act in a manner to eliminate the need to use force and resolve situations without resorting to force. Department members will only resort to the use of force when required under the circumstances to serve a lawful purpose.²⁴ Force is defined as any physical contact by a CPD member, either directly or through use of equipment, to compel a person's compliance.²⁵ Department members are required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time.²⁶ The use of de-escalation techniques will include continually assessing the situation, considering individualized factors such as:

- a. the person's age, disability, or physical condition (e.g., known, suspected, or perceived behavioral or mental health conditions; intellectual, developmental, psychiatric, or physical disability; vision, hearing, or neurological impairment).
- b. the risk posed by the person.
- c. if the person is restrained, injured, or in crisis.²⁷

Department members will modify the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.²⁸ General Order G03-02-04, Taser Use Incidents, governs the use of Tasers by

²¹ Att. 38, pgs. 8-10 (transcribed statement of [REDACTED])

²² Att. 44, Pg. 22.

²³ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁴ Att. 49, G03-02, §(II)(C), De-Escalation, Response to Resistance, and Use of Force (effective 6-28-23 to present).

²⁵ Att. 49, G03-02, §(III)(A).

²⁶ Att. 49, G03-02, §(II)(D).

²⁷ Att. 49, G03-02, §(II)(D)(1).

²⁸ Att. 49, G03-02, §(II)(D)(2).

Department members. Taser use is an authorized force option when the subject is an active resister and:

- a. there is objectively reasonable belief at the time that the person is armed, the person presents a risk of serious injury to the Department member or others, and other reasonable force options are not readily available or would otherwise be ineffective under the circumstances at the time, or
- b. the person is exhibiting violent and aggressive behavior and there is objectively reasonable belief at the time that the person has committed: (1) a felony offense; or (2) any other offense against a person (e.g., battery, aggravated assault) or that disregards or endangers the bodily safety of others (e.g., reckless discharge of a firearm).²⁹

Tasers will not be used on a person whose only action is flight alone, without any other basis for establishing reasonable articulable suspicion or probable cause. The use of a Taser on a fleeing person is only authorized when in compliance with items “a” and “b” above.³⁰ Additionally, Department members must balance the risks versus the benefits of a Taser discharge, including risk of injury to the subject, likely outcome of the Taser use, and the seriousness of the offense.³¹ The General Order also states that Department members should avoid the use of a Taser on persons who are running or otherwise in motion unless other force options are not readily available or would otherwise be ineffective.³²

In this case, Officer Rivera contacted the SDSC room and requested they watch ██████ whom Officer Rivera had spoken to and suspected of having narcotics. Subsequently, Officers Rivera and Agredano were informed by personnel in the SDSC room that ██████ was seen on POD video conducting hand-to-hand drug transactions. Based on this additional information, they relocated to the McDonald’s parking lot to detain ██████. When they arrived, they attempted to stop ██████ but he ran. With the information the officers already had and his flight from them once they arrived, the officers had probable cause to arrest ██████. Officer Agredano and his partner pursued ██████ on foot to effectuate the arrest.

Officer Agredano claimed to have observed ██████ reach into his waistband while he was running, which led Officer Agredano to believe he might be armed.³³ However, there was no mention of ██████ being armed before this, even as Officer Rivera spoke to ██████ and specified he believed the bulge in ██████ waistband was narcotics, and that he conveyed this information to Officer Agredano. In his interview with COPA, Officer Agredano did not remember the contact his partner had with ██████ before the arrest. He also did not remember that the arrest was a result of their contact with the SDSC room advising them to watch ██████ however, his partner, Officer Rivera, distinctly remembered this. Additionally, neither officer indicated that any information regarding a suspected weapon was conveyed to them from the SDSC room, which had been observing ██████

²⁹ Att. 47, G03-02-04, Taser Use Incidents, §(II)(D)(2) (effective 6-28-23 to present).

³⁰ Att. 47, G03-02-04, §(II)(F)(8).

³¹ Att. 47, G03-02-04, Taser Use Incidents, §(II)(E) (effective 6-28-23 to present).

³² Att. 47, G03-02-04, Taser Use Incidents, §(II)(G) (effective 6-28-23 to present).

³³ Att. 7 at 49:29; Att. 9 at 20:04:28 (PO Agredano BWC).

In his statement to COPA, Officer Agredano specified where on his BWC the point was he believed ██████ was reaching for a weapon, which was immediately after ██████ had stumbled. However, based on the video evidence, it is clear ██████ was not reaching for his waistband nor any part of his body. Officer Agredano said he believed ██████ might be armed, which posed a threat to himself and the public. According to the Taser Use policy, the subject must be at least an active resister *and* “an objectively reasonable belief at the time that the person is armed, the person presents a risk of serious injury to the Department member or others, and other reasonable force options are not readily available or would otherwise be ineffective under the circumstances...”³⁴ Here, there was no objective reason for Officer Agredano to believe ██████ was armed. There had been no concern about this earlier, and officers had been closely watching ██████ on POD video with no reported mention of a suspected weapon, only narcotics. Furthermore, ██████ never in-fact reached for his waistband. Therefore, Officer Agredano’s assertion that ██████ was reaching for something and assuming it was a weapon is not an objectively reasonable belief under the circumstances.

Looking to the other required elements in the Taser use policy, the fact of whether ██████ was armed is decisive. Absent ██████ being armed, there was no risk of serious injury to the officers or others because ██████ was running away. Granted, ██████ was running into the street and potential traffic, but the risk of harm was to ██████ himself. By the time ██████ was Tasered, he was out of the street and on the sidewalk. As far as other reasonable force options to detain ██████ multiple officers and squad cars had responded to assist. Further, Officer Agredano had caught up to ██████ on the sidewalk with his partner nearby. Nonetheless, Officer Agredano made the decision to deploy his Taser to stop ██████ was running when he was Tased, which caused him to freeze and land on the concrete sidewalk. In his statement, Officer Agredano said he considered the fact that ██████ was running, but did not elaborate as to how that consideration informed his decision to use the Taser or whether he was concerned with possible injury to ██████³⁵ Officer Agredano said he tried to de-escalate the situation by threatening to Taser ██████ in the hopes that he would stop fleeing.³⁶ However, it is doubtful that threatening the use of force is a genuine attempt at de-escalation.

Under the second prong when Taser use is authorized, the subject could alternatively be an active resister *and* “the person is exhibiting violent and aggressive behavior and there is objectively reasonable belief at the time that the person has committed: (1) a felony offense or (2) any other offense against a person (e.g., battery, aggravated assault) or that disregards or endangers the bodily safety of others (e.g., reckless discharge of a firearm).” Here, ██████ was not exhibiting violent or aggressive behavior, he was fleeing, and he was not suspected of committing an offense against a person. And absent an objectively reasonable belief that he was armed, he was not endangering the bodily safety of others. Ultimately, ██████ was charged with reckless conduct, resisting or obstructing a peace officer, and soliciting unlawful business. Subsequently, all charges against ██████ were dropped.³⁷

³⁴ Att. 47, G03-02-04, Taser Use Incidents, §(II)(D)(2) (effective 6-28-23 to present).

³⁵ Att. 44, pg. 17.

³⁶ Att. 44, pg. 14.

³⁷ Att. 35, pg. 2 (Cook Co. criminal case disposition).

Under the Taser use policy, the conditions were not met which would allow for Taser deployment in this situation. Although [REDACTED] was an active resister in that he ignored the verbal commands of officers and fled on foot to evade arrest, Officer Agredano's belief that [REDACTED] was armed and reaching for a weapon was not objectively reasonable given the totality of the circumstances and information the officers had available to them at the time. Therefore, COPA finds **Allegation 1** against Officer Agredano is **Sustained**.

VI. DISCIPLINARY RECOMMENDATIONS

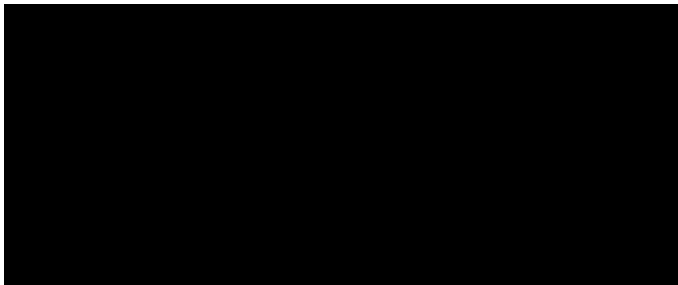
a. Officer Elias Agredano

Officer Elias Agredano has received a total of 49 awards, including 1 Crime Reduction Award and 1 Top Gun Arrest Award. He has no sustained complaints in the last five years.

ii. Recommended Discipline

COPA found that Officer Agredano violated CPD's vision, mission, values, and goals by Taser[REDACTED] without justification. In mitigation, COPA will consider Officer Agredano's complimentary history and that he was forthcoming in his interview with COPA. COPA further appreciates that the circumstances under which the force was used transpired quickly.

In aggravation, COPA will consider that Officer Agredano gave little thought to the potential physical consequences to [REDACTED] before he deployed his Taser. As such, COPA recommends a Reprimand and training.



Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

12-16-24

Date

Appendix A

Case Details

Date/Time/Location of Incident:	July 11, 2023 / 8:06 pm / 3510 S. Indiana Ave.
Date/Time of COPA Notification:	July 11, 2023 / 9:50 pm
Involved Member #1:	Elias Agredano / Star #15210 / Employee ID [REDACTED] / Date of Appointment: August 16, 2019 / 2nd District / White male
Involved Member #2:	Jorge Rivera / Star #18429 / Employee ID [REDACTED] / Date of Appointment: June 17, 2019 / 2nd District / White male
Involved Individual #1:	[REDACTED] / 36 years old / Black male

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 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.

Applicable Policies and Laws

Fourth Amendment to the United States Constitution
 G03-02, De-escalation, Response to Resistance and Use of Force, *effective 6-28-23 to present*
 G03-02-01, Response to Resistance and Force Options, *effective 6-28-23 to present*
 G03-02-04, Taser Use incidents, *effective 6-28-23 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.³⁸ 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.”³⁹

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

³⁸ 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).

³⁹ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

- 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