



Log # 2023-0004468

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On September 23, 2023, the Civilian Office of Police Accountability (COPA) received an initiation report complaint from Lieutenant (LT) Ignacio Hernandez alleging misconduct by members of the Chicago Police Department (CPD).² LT. Hernandez alleged that on September 22, 2023, at approximately 5:05pm, Officers Nicholas Oomens and Kyle Pezan used excessive force on ██████████³ COPA reached a sustained finding regarding Officer Oomens use of force and exonerated findings regarding Officer Pezan's use of force.

II. SUMMARY OF EVIDENCE⁴

On September 22, 2023, at approximately 5:05pm, at or near 1655 S. Avers Ave., officers responded to a service call for multiple people with guns.⁵ Officer Pezan and Oomens arrived as assisting officers following a 10-1 call for more officers. Officer Oomens arrived to find other officer insider arresting ██████████ on the second floor of 1655 S. Avers Ave.⁶ Officer Oomens escorted ██████████ out of the building and conducted a pat down for any additional weapons.⁷ ██████████ then kicked Officer Oomens.⁸ At that point, Officer Oomens, with the assistance of Officer Dylilus Powell, performed an emergency takedown to gain control of ██████████⁹ Officer Oomens continued his search and searched ██████████ bag.¹⁰

Officer Pezan then arrived and aided Officers Oomens and Powell in controlling ██████████ Officer Pezan placed his hand on ██████████ foot, which caused ██████████ to shout, "you are twisting my

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 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 such as BWC footage, police reports, event query's, 911 dispatch call, Police Observation Devices (POD), Evidence Technician (ET) Photos, and officer interviews.

⁵ Att. 19, Event Query

⁶ Att. 11, Oomens BWC at 2:00 to 2:30

⁷ Att. 11, at 3:00 to 3:15

⁸ Att.11, at 4:50 to 4:52

⁹ Att. 11, at 4:55 to 5:05

¹⁰ Att. 11 at 4:57 to 5:45; Att. 9, BWC of Officer Powell at 4:55 to 5:31

leg.”¹¹ Officer Pezan then released the applied pressure on [REDACTED] foot.¹² [REDACTED] was stood up and escorted to the patrol vehicle.¹³

Before getting to the vehicle, [REDACTED] tried to escape but was immediately grabbed and taken to the ground – at which point officers placed restraints on his legs.¹⁴ [REDACTED] was transported to the 10th District lock up facility and placed in a holding area with his hands and feet still restrained.¹⁵ While in lock up, Officer Oomens performed a custodial search of [REDACTED] appeared to move his leg, which led Officer Oomens to grab his right leg and pull – causing [REDACTED] to fall off the bench onto the ground.¹⁶ Officers in the area heard the incident and assisted – separating Officer Oomens and [REDACTED].¹⁷

III. ALLEGATIONS

Officer Nicholas Oomens:

1. Using force against [REDACTED] while he was restrained, without justification
 - Sustained in violation of Rule 2, 3, 5, 6, 8, 9, and 10

Officer Kyle Pezan:

1. Using force on [REDACTED] without justification
 - Exonerated

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.

COPA does not have any credibility concerns about statements given by department members.¹⁸ The statements provided by department members were consistent with the evidence COPA collected. Therefore, COPA did not find any basis to question the credibility of the statements provided to COPA.

¹¹ Att. 10, Officer Pezan BWC, at 1:42 to 1:50

¹² Att. 11 at 5:46 to 5:56; Att. 10, at 1:32 to 1:57

¹³ Att. 10, at 2:05 to 2:15

¹⁴ Att. 10, at 2:20 to 3:45

¹⁵ Att. 2; and Att. 15, 10th District Lock up Facility Video, at 5:07:58

¹⁶ Att. 12, BWC of Officer Abouassi at 1:36 to 1:50

¹⁷ Att. 12, at 2:30 to 4:30

¹⁸ CO-1404239- COPA reached out to [REDACTED] about collecting a statement from [REDACTED] refused to give COPA a statement.

V. ANALYSIS¹⁹

a) Officer Oomens's Use of Force

COPA finds Allegation 1 that Officer Oomens used force against ██████ while he was restrained, without justification, is **Sustained**. Under CPD directive G03-02-01: Response to Resistance and Force Options, Department members use of force must be objectively reasonable, necessary and proportional under the totality of the circumstances, including using the minimum amount of force needed under the circumstances.²⁰ Furthermore, Department members will refrain from using force against a person who is fully restrained and controlled with handcuffs or other restraining devices, unless the member, must immediately act to prevent injury to the Department member, the restrained person, or another person, or must immediately act to prevent escape.²¹

In this case, Officer Oomens pulled ██████ leg, causing him to fall off the bench he was on in lock up, while ██████ hands were handcuffed behind his back and attached to the wall.²² While ██████ did initiate the incident by shifting his leg towards Officer Oomens, likely frustrating the officer, the fact remains that ██████ was fully restrained and attached to the wall behind him.²³ The fact is, Officer Oomens could have caused significant injury to ██████ by pulling him off the bench while he was unable to break his fall and attached to the wall. Furthermore, Officer Oomens's actions are clearly in violation of Department directives, as ██████ (fully restrained) posed no threat to himself nor any officer at the time. Therefore, COPA finds the allegation that Officer Oomens used force against ██████ while he was restrained, without justification, is **Sustained**.

b) Officer Pezan's Use of Force

COPA finds Allegation 1 that Officer Pezan used force against ██████ without justification, is **Exonerated**. CPD members are permitted to use force to overcome resistance.²⁴ When members encounter a citizen who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that citizen is an active resister.²⁵ Members are permitted to respond to active resistance with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; and taser deployment.²⁶

¹⁹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁰ Att. 44, G03-02-01 II(C): Response to Resistance and Force Options (effective 28 June 2023 to present)

²¹ Att. 44, G03-02-01 II(G)

²² Att. 12, at 1:36 to 1:50

²³ Att. 12, at 1:36 to 1:50

²⁴ Att. 44 G03-02-01 generally.

²⁵ Att. 44, G03-02-01 IV(B)(2)

²⁶ Att. 44, G03-02-01 IV(B)(2)(c)

Here, Officer Pezan was within policy when he used minimal force in aiding officers to detain ██████ who had kicked Officer Oomens.²⁷ Simply, when ██████ battered Officer Oomens, he qualified as an active resister, if not an assailant under the Department's Use of Force Model.²⁸ Therefore, Officer Pezan was within policy when he used holding and compliance techniques to help gain control of ██████. Moreover, when ██████ complained that the contact was hurting him, Officer Pezan immediately released any pressure applied to ██████ foot.²⁹

As a result, COPA finds Allegation 1, that Officer Pezan used force without justification, is **Exonerated**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Nicholas Oomens

i. Complimentary and Disciplinary History³⁰

Officer Oomens has received 41 total awards, including 31 honorable mentions, three Department commendations, and three-unit meritorious performance awards. Officer Oomens received three SPARs for incidents in 2023 and 2024, including a BWC violation, court appearance violation, and a preventable accident. As a result, Officer Oomens received two reprimands. Officer Oomens has no record of sustained complaints against him within the last five years.

ii. Recommended Discipline

COPA has found that Officer Oomens has violated Rules 2, 3, 5, 6, 8, 9, and 10 when he used force against ██████ while he was restrained, without justification. In mitigation, COPA has considered Officer Oomens's numerous awards and honors. However, the Department GO in this case is very clear. Under CPD policy, Department members will refrain from using force against a person who is fully restrained and controlled unless the member must act immediately to prevent injury, or escape. Here, ██████ was handcuffed, with his hands behind his back, attached to the wall. At no point was he a threat to Officer Oomens, himself, or others. While Officer Oomens may have been frustrated, there is no carve out in the rule for such an emotion. Therefore, COPA recommends Officer Oomens receive a minimum **five (5) to ten (10) day suspension and retraining** on the Department's use of force policy.

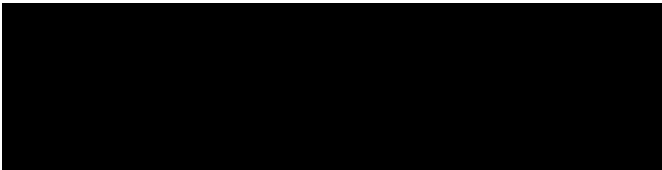
Approved:

²⁷ Att. 10, at 1:42 to 1:50

²⁸ Att. 44, G03-02-01, Response to Resistance and Force Options

²⁹ Att. 10, at 1:32 to 1:57

³⁰ Att. 67



5-29-2025

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	September 22, 2023/ 5:05pm/ 1655 S. Avers Ave, Chicago, IL, 60623 and 3315 W. Ogden Ave, Chicago, IL, 60623
Date/Time of COPA Notification:	September 23, 2023/ 3:35pm
Involved Member #1:	Nicholas Oomens, Star #19218, Employee ID # [REDACTED] Date of Appointment: February 18, 20220, Unit of Assignment: 010, Male, White
Involved Member #2:	Kyle Pezan, Star #7399, Employee ID # [REDACTED] Date of Appointment: August 16, 2017, Unit of Assignment: 010, Male, White
Involved Individual #1:	[REDACTED] Male, Black or African American

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

- G01-02-01: Response to Resistance and Force Options (Effective 28 June 2023 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.³¹ 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.”³²

³¹ 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).

³² *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