



Log # 2022-3847

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

### I. EXECUTIVE SUMMARY

On September 8, 2022, the Civilian Office of Police Accountability (COPA) was notified of a fatal motor vehicle pursuit that occurred on July 21, 2022.<sup>2</sup> COPA learned that Officers Michal Rakoczy and Scott White were on patrol when they observed a motorist in a Volkswagen commit a traffic violation. Officers Rakoczy and White activated their squad car's emergency lights, made a U-turn, and began to follow the Volkswagen. The Volkswagen traveled at a high rate of speed and crossed into the opposite lane of traffic. Due to the Volkswagen's reckless driving, Officers Rakoczy and White deactivated their squad car's emergency lights but continued driving. Moments later, the officers discovered that the Volkswagen had been involved in a multi-vehicle collision. A rear passenger in the Volkswagen, [REDACTED] was pronounced dead on scene. The driver and front passenger, [REDACTED] and [REDACTED] respectively, were transported with injuries to St. Francis Hospital.

Upon review of the evidence, COPA served allegations that Officers Rakoczy and White failed to activate their Body Worn Cameras (BWC) in a timely manner, initiated a motor vehicle pursuit without justification, failed to notify the Office of Emergency Management and Communications (OEMC) of a motor vehicle pursuit, and failed to remain at the location, upon termination of a pursuit, until directed by a supervisor. Following its investigation, COPA reached sustained findings regarding the allegations of failure to activate BWCs in a timely manner, and not sustained findings regarding the pursuit-related allegations.

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

On July 21, 2022, at approximately 11:46 pm, Officers Michal Rakoczy and Scott White were on routine patrol in the 20<sup>th</sup> District in an unmarked police SUV. The officers were stationary

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<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> Pursuant to § 2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents where a person dies as a result of police actions, such as during attempts to apprehend a suspect. COPA is also required to conduct investigations for all "officer-involved" deaths under the Police and Community Relations Improvement Act. "Officer-involved death," as defined in that statute, "includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend." 50 Illinois Compiled Statutes 727/. Therefore, COPA determined it would be the primary administrative 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 BWC footage, third-party video, police reports, and officer interviews.

at a red light, facing southbound on Broadway at Foster Avenue (5200 North) when Officer Rakoczy observed a black vehicle,<sup>4</sup> traveling north on Broadway, disregard a red traffic light at Foster Ave.<sup>5</sup> According to Officer Rakoczy, the black vehicle failed to yield and nearly crashed into oncoming traffic.<sup>6</sup> The black vehicle passed the officers at such a high rate of speed that the officers could not determine the vehicle's make, model, or license plates.<sup>7</sup> The officers activated their vehicle's emergency equipment and made a U-turn onto northbound Broadway to initiate a traffic stop of the vehicle, later identified as a Volkswagen.<sup>8</sup> The driver of the Volkswagen, now identified as ██████ drove northbound on Broadway at a high rate of speed, crossing the center traffic lane into oncoming traffic.<sup>9</sup> Officer Rakoczy stated that he immediately lost sight of the vehicle.<sup>10</sup> The officers stated they sped up to ascertain the vehicle's direction for public safety, and they reached a speed of 75 miles per hour at approximately 5453 N Broadway.<sup>11</sup> Unable to locate the vehicle, the officers deactivated their squad car's emergency equipment but continued traveling northbound on Broadway.<sup>12</sup> Officer Rakoczy maintained a constant speed but slowed down when he reached Catalpa Avenue (5500 North) and Broadway.<sup>13</sup> As the officers approached Bryn Mawr Avenue (5600 North), they observed smoke or dust and commotion roughly one block away at the intersection of Hollywood Avenue (5700 North) and Broadway.<sup>14</sup> Officer Rakoczy reactivated the squad car's emergency lights, drove to the location, and observed a damaged black Toyota Rav4 in the intersection.<sup>15</sup> ██████ had entered the intersection against a red light, struck the Rav4, and then struck multiple parked cars.<sup>16</sup> The officers exited their vehicle and activated their BWCs. Pedestrians pointed north on Broadway, toward ██████ vehicle.<sup>17</sup> Officers Rakoczy and White walked further north on Broadway and observed ██████ and his two passengers, ██████ and ██████ in the Volkswagen with obvious signs of injury.<sup>18</sup>

The officers notified OEMC of the crash and requested ambulances to the scene. As Officer Rakoczy checked on an occupant in another vehicle, he observed Officer White struggling with ██████ who attempted to flee. Sergeant (Sgt.) Charles Lamberty arrived, and he helped Officers Rakoczy and White place ██████ into custody.<sup>19</sup> ██████ and ██████ were transported by

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<sup>4</sup> Officer White did not observe the traffic violation, but Officer Rakoczy told him about it.

<sup>5</sup> Att. 45; Att. 93 at 00:43 to 00:56.

<sup>6</sup> Att. 77, pg. 32, lns. 15 to 17.

<sup>7</sup> Att. 45.

<sup>8</sup> Att. 93 at 00:49; Att. 89 at 0:36.

<sup>9</sup> Att. 91 at 11:46:40.

<sup>10</sup> Att. 77, pg. 13, lns. 6 to 9; Att. 45.

<sup>11</sup> Atts. 22 and 45.

<sup>12</sup> Att. 1; Att. 77, pg. 13, lns. 8 to 22; Att. 89 at 0:54; Att. 95 at 00:04 to 00:19; Att. 96 at 00:02 to 00:22.

<sup>13</sup> Att. 77, pg. 30, ln. 22 to pg. 31, ln. 11; Att. 73, pg. 61, lns. 3 to 8.

<sup>14</sup> Att. 77, pg. 14, lns. 1 to 3; Att. 97 at 2:06 to 2:40. The sound of the crash is audible at 2:14, but there is no view of that location.

<sup>15</sup> Att. 73, pg. 28, ln. 23 to pg. 29, ln. 21; Att. 3.

<sup>16</sup> Atts. 98 and 99; Att. 102 at 2:10 to 2:26.

<sup>17</sup> Att. 73, pg. 34, lns. 6 to 15; Att. 77, pg. 52, lns. 20 to 23.

<sup>18</sup> Efforts to interview ██████ and ██████ were unsuccessful. See Case Management System (CMS) notes, and Atts. 58, 59, 64.

<sup>19</sup> Att. 73, pg. 43, ln. 20 to pg. 44, ln. 5; Atts. 31, 32 and 33.

ambulance to St. Francis Hospital.<sup>20</sup> [REDACTED] was subsequently charged with Aggravated Driving Under the Influence Involving Death,<sup>21</sup> Reckless Homicide, two counts of Criminal Damage to Property, and Resisting/Obstructing a Peace Officer. He was also cited for driving the wrong way on a divided highway, driving 21 – 25 miles per hour above the speed limit, failure to reduce speed, and failure to yield on a left turn.<sup>22</sup>

Officers Rakoczy and White said they did not notify OEMC of a motor vehicle pursuit because the incident was not a pursuit.<sup>23</sup> The officers had no vehicle description to provide to OEMC and they were never close enough to initiate a traffic stop. Based on [REDACTED] driving, the officers did not believe [REDACTED] saw them make a U-turn.<sup>24</sup> Given the officers' perspective that this was not a pursuit, they lost sight of the vehicle, were never close enough to initiate a traffic stop, and had no description of the vehicle at the time, they felt there was no obligation to notify OEMC.<sup>25</sup> In the same vein, the officers said they had no obligation to remain at the location or termination point because they did not deem this a pursuit.<sup>26</sup> The officers' lieutenant, Fredrick Ulleweit, reviewed the relevant video and agreed that this was not a pursuit; however, the Major Accident Investigations Unit (MAIU), the primary investigators, directed the officers to classify the incident as a pursuit in the event of future litigation.<sup>27</sup> The Traffic Pursuit Report notes that the pursuit began at 5200 N Broadway and ended at 5500 N Broadway, lasting from 11:46 – 11:47 pm.<sup>28</sup> Traffic Control Specialists determined that the Volkswagen covered the distance from Foster and Broadway to Hollywood and Broadway in thirty-seven seconds—putting the Volkswagen's speed at a minimum of 62 miles per hour.<sup>29</sup>

According to Officers Rakoczy and White, they did not activate their BWCs sooner because they were not engaged in a pursuit and never had visual on the car to conduct a traffic stop. Sgt. Lamberty admonished the officers for failure to timely activate their BWCs.<sup>30</sup> Additionally, Sgt. Lamberty documented in his Supervisor's Management Log that he reviewed Special Order S03-14 with Officers White and Rakoczy regarding their responsibility to activate their BWC at the beginning of any law enforcement activity or investigation.<sup>31</sup>

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<sup>20</sup> Atts. 1 and 69.

<sup>21</sup> Medical records document that [REDACTED] was intoxicated at the time of the crash, with a blood alcohol level of 164 mg/dl, which converts to a blood alcohol level of .1389. Att. 81, pg. 23.

<sup>22</sup> Atts. 1, 86.

<sup>23</sup> Att. 73, pg. 53, lns. 1 to 22; Att. 77, pg. 15, lns. 16 to 20.

<sup>24</sup> Att. 73, pg. 27, ln. 21 to pg. 28, ln. 7.

<sup>25</sup> Att. 73, pg. 30, lns. 2 to 18; Att. 77, pg. 19, ln. 20 to pg. 20, ln. 4.

<sup>26</sup> Att. 77, pg. 56, lns. 3 to 6.

<sup>27</sup> Att. 77, pg. 15, ln. 16 to pg. 16, ln. 4; Att. 73, pg. 53, ln. 1 to pg. 54, ln. 11.

<sup>28</sup> The officers were instructed to designate 5500 N Broadway as the pursuit termination point to complete the Traffic Pursuit Report, which is the location where GPS data shows that the squad car slowed from 70 to 30 miles per hour. Att. 73, pg. 73, lns. 7 to 15.

<sup>29</sup> Att. 10, pgs. 4 to 5.

<sup>30</sup> Att. 73, pg. 47, ln. 15 to pg. 48, ln. 8; Att. 77, pg. 53, lns. 2 to 22.

<sup>31</sup> Att. 71, pg. 3.

### III. ALLEGATIONS

#### **Officers Michal Rakoczy and Scott White:**

1. Failing to activate his Body Worn Camera in a timely manner, in violation of S03-14.
  - Sustained, Violation of Rules 2, 3, 5, 6, and 10.
2. Initiating a motor vehicle pursuit without justification, in violation of G03-03-01.V.A.1.
  - Not Sustained
3. Failing to notify the Office of Emergency Management and Communications (OEMC) of a motor vehicle pursuit, in violation of G03-03-01.VIII.A.1.
  - Not Sustained
4. Failing to remain at the location, upon termination of a pursuit, until directed by a supervisor, in violation of G03-03-01.XI.1.
  - Not Sustained

### IV. CREDIBILITY ASSESSMENT

COPA's investigation did not reveal evidence calling into question the credibility of any individuals who provided statements regarding the incident.

### V. ANALYSIS<sup>32</sup>

#### **1. Officers Rakoczy and White failed to timely activate their BWC**

Department policy requires members to electronically record all law-enforcement-related encounters on BWC.<sup>33</sup> These encounters include, but are not limited to: (1) vehicle pursuits; (2) traffic stops; (3) investigatory stops; (4) high risk situations; (5) emergency driving situations; (7) "emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene;" and "any other instance when enforcing the law."<sup>34</sup> Recording law-enforcement-related encounters is mandatory: members must activate their BWCs at the beginning of an incident and record the entire incident for all law-enforcement-related activities.<sup>35</sup> If circumstances prevent members from activating their BWC at the beginning of an incident, they must activate their BWCs as soon as practical.<sup>36</sup>

In this case, the officers observed a traffic violation, made a U-turn, and activated their vehicle's emergency lights. At this point, the officers engaged in an emergency driving situation and were actively looking for the vehicle to initiate a traffic stop. This was a law-enforcement-related activity, and they were required to activate their BWCs. Accordingly, COPA finds by a

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<sup>32</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

<sup>33</sup> Att. 101, S03-14, Body Worn Cameras (Effective April 30, 2018, to December 29, 2023).

<sup>34</sup> Att. 101, S03-14 III.A.2.

<sup>35</sup> Att. 101, S03-14 III.A.1.,2, B.1.

<sup>36</sup> Att. 101, S03-14 III.A.2.

preponderance of evidence that Officers Rakoczy and White violated CPD policy and Rules 2, 3, 5, 6, and 10, and **Allegation #1** against each officer is **Sustained**.<sup>37</sup>

## 2. Initiating a motor vehicle pursuit without justification, in violation of G03-03-01.V.A.1.

COPA finds that the evidence in this case is insufficient to sustain the allegation that the officers initiated a motor vehicle pursuit in violation of CPD policy.

CPD policy defines a motor vehicle pursuit as

[a]n active attempt by a sworn member operating an authorized emergency vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction, increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.<sup>38</sup>

Policy further provides that members are prohibited from engaging in a motor vehicle pursuit when the most serious offense wanted is a traffic offense.<sup>39</sup>

In this case, the officers' patrol vehicle was stopped at a red light when the officers observed the black vehicle run the red light going the opposite direction. Officer Rakoczy made a U-turn, activated his lights, and sped up to approximately 75 miles per hour, with the intent to make a traffic stop. The officers told COPA that they could not see the vehicle and could not provide a vehicle description.<sup>40</sup> Given the short timeframe involved and the apparent confusion as to which vehicle had committed a traffic offense, it appears the officers did not have time to determine what vehicle to apprehend or provide a signal to the vehicle to stop. COPA therefore does not have sufficient evidence to show that the officers did not merely seek to initiate a traffic stop rather than a motor vehicle pursuit. Accordingly, **Allegation #2** against each officer is **Not Sustained**.<sup>41</sup>

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<sup>37</sup> Sgt. Lamberty verbally reprimanded Officers Rakoczy and White for failing to timely activate their BWC and documented it in his Supervisor's Management Log. However, COPA has authority to investigate this matter and recommend appropriate discipline. *See* G08-01-02.IV.A.6; M.C.C. 2-78-120(l).

<sup>38</sup> Att. 100, G03-03-01, Glossary Terms: Emergency Vehicle Operations – Eluding and Pursuing (effective August 15, 2020).

<sup>39</sup> Att. 100, G03-01-01.V.A.

<sup>40</sup> *See* Att. 45. The officers also told COPA that they did not believe they were involved in a pursuit. Their subjective belief is not relevant to the analysis. That said, COPA believes it is possible an officer under similar circumstances would believe they were simply seeking to initiate a traffic stop rather than a motor vehicle pursuit.

<sup>41</sup> COPA does not find the evidence clear and convincing that the officers did not engage in a pursuit because, among other things, (1) CPD's traffic unit ordered the officers to treat the incident as a pursuit and (2) the speed and manner of the officers' driving is suggestive of a pursuit.

**3. Failing to notify the Office of Emergency Management and Communications (OEMC) of a motor vehicle pursuit, in violation of G03-03-01.VIII.A.1.**

CPD policy requires that officers engaged in a pursuit immediately notify OEMC and provide relevant information.<sup>42</sup> Because it is more likely than not that the officers were not involved in a pursuit, COPA finds that **Allegation #3** against each officer is **Not Sustained**.

**4. Failing to remain at the location, upon termination of a pursuit, until directed by a supervisor, in violation of G03-03-01.XI.1.**

CPD policy requires that officers involved in a pursuit remain at the location upon termination of a pursuit if safe.<sup>43</sup> Because it is more likely than not that the officers were not involved in a motor vehicle pursuit, COPA cannot determine that the officers were required to remain at the location upon termination of a pursuit. Therefore, **Allegation #4** against each officer is **Not Sustained**.

**VI. DISCIPLINARY RECOMMENDATION**

**a. Officer Michal Rakoczy**

**i. Complimentary and Disciplinary History<sup>44</sup>**

Officer Rakoczy has received one Department Commendation, the Traffic Stop of the Month Award, one complimentary letter, the 2019 Crime Reduction Award, and twenty-one Honorable Mentions. Officer Rakoczy has no sustained complaint registers within the past five years, but he was suspended for one day through the summary punishment process in November 2023 for failing to have current Illinois license plates and/or a City of Chicago vehicle sticker on his personal vehicle.

**ii. Recommended Discipline**

COPA has found that Officer Rakoczy violated CPD policy and Rules 2, 3, 5, 6, and 10 by failing to activate his BWC in a timely manner. BWC recordings are important tools used to document police interactions with members of the community, and failure to capture the entirety of an encounter, as defined by CPD policy, tends to undermine public confidence in CPD. Here, Officer Rakoczy did activate his BWC before exiting his vehicle, and his failure to activate his BWC sooner likely stemmed from his misunderstanding of when, per policy, a law-enforcement related activity begins. Based on this information, and considering Officer Rakoczy's complimentary and disciplinary history, COPA recommends a **reprimand**.

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<sup>42</sup> Att. 100, G03-01-01.VIII.A.1.

<sup>43</sup> Att. 100, G03-01-01.XI.1.

<sup>44</sup> Att. 106, pgs. 4 to 6.

**b. Officer Scott White**

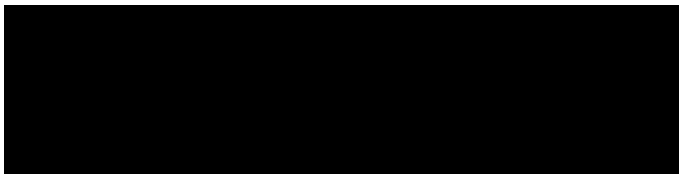
**i. Complimentary and Disciplinary History<sup>45</sup>**

Officer White has received two Life Saving Awards, one Department Commendation, a Superintendent’s Honorable Mention, the Traffic Stop of the Month Award, nine complimentary letters, fifty-three Honorable Mentions, and twelve other awards and commendations. Officer White has not been disciplined within the past five years.

**ii. Recommended Discipline**

COPA has found that Officer White violated CPD policy and Rules 2, 3, 5, 6, and 10 by failing to activate his BWC in a timely manner. BWC recordings are important tools used to document police interactions with members of the community, and failure to capture the entirety of an encounter, as defined by CPD policy, tends to undermine public confidence in CPD. Here, Officer White did activate his BWC before exiting his vehicle, and his failure to activate his BWC sooner likely stemmed from his misunderstanding of when, per policy, a law-enforcement related activity begins. Based on this information, and considering Officer White’s complimentary and disciplinary history, COPA recommends a **reprimand**.

Approved:



2-28-2024

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

<sup>45</sup> Att. 106, pgs. 1 to 3.

Appendix A**Case Details**

Date/Time/Location of Incident:	July 21, 2022 / 11:48 pm / 5718 N Broadway
Date/Time of COPA Notification:	September 8, 2022/ 3:06 pm
Involved Officer #1:	Michal Rakoczy, Star #15183, Employee ID # [REDACTED], Date of Appointment: March 16, 2018, Unit 020, Male, White
Involved Officer #2:	Scott White, Star #19645, Employee ID # [REDACTED], Date of Appointment: October 29, 2007, Unit 020, Male, White
Involved Individual #1:	[REDACTED] Male, White
Involved Individual #2:	[REDACTED] Jr., Male, Hispanic
Involved Individual #3:	[REDACTED] Male, Asian

**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**

- Special Order S03-14: Body Worn Cameras (effective April 30, 2018, to December 29, 2023).
- General Order G03-03-01: Emergency Vehicle Operations – Eluding and Pursuing (effective August 15, 2020, 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.<sup>46</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>47</sup>

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<sup>46</sup> See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

<sup>47</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