



Log # 2021-0003092

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On August 7, 2021, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Lieutenant Terence Forbes reporting potential misconduct by a member of the Chicago Police Department (CPD), Officer Marco Simonetti.² Lieutenant Terence Forbes alleged, via the Initiation Report, that on August 7, 2021, Police Officer Marco Simonetti discharged his taser, striking the subject, who fell and hit his head.³ Upon review of the evidence, COPA served allegations that Field Training Officer, Marco Simonetti, discharged his taser at [REDACTED] without justification. Following its investigation, COPA reached sustained findings regarding the allegations stemming from the taser discharge.

II. SUMMARY OF EVIDENCE⁴

On August 7, 2021, Officer Simonetti responded to a call of a suspicious person in the vicinity of [REDACTED]. The person was described as a white male with long hair, white shoes, and blue pants, going through backyards and garages.⁵ Officer Simonetti arrived on the scene and was flagged down by an unknown civilian. The unknown civilian indicated that the subject was sitting on the porch at approximately [REDACTED].⁶ Officer Simonetti then observed and contacted [REDACTED] who matched the description of the suspicious person.

Per Officer Simonetti's BWC,⁷ [REDACTED] approached Officer Simonetti's marked CPD vehicle and explained that he didn't do anything. Officer Simonetti asked [REDACTED] what he was doing and why he had left his jacket there. [REDACTED] explained that he took his jacket off on his porch because it was hot outside and pointed to a house in the background. Officer Simonetti asked if he lived in

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. No. 18 Initiation Report authored by Lt. Forbes.

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, medical records, Sgt. Jeffrey Aaron's statement to COPA, Lt. Forbes' statement to COPA.

⁵ Att. No. 5 through Attachment No. 10, Event Query Reports.

⁶ Att. No. 34, Tactical Response Report completed by Ofc. Simonetti and Att. No. 15, Officer Simonetti's BWC timestamp 1:22 a civilian can be observed conversing with Ofc. Simonetti through the passenger window of his CPD squad vehicle.

⁷ Att. No. 15, Ofc. Simonetti's BWC, the following description of the interaction between Ofc. Simonetti and [REDACTED] was summarized from the BWC timestamp 2:00 – 2:40.

the house, which ██████ said he did. Officer Simonetti asked ██████ if he had a key or an ID on him, and ██████ responded that he did not. ██████ reached into his pockets and took out his belongings, which Officer Simonetti took and placed on the hood of his squad vehicle. ██████ appeared nervous and attempted to back away from Officer Simonetti. Officer Simonetti then grabbed ██████ by the arm and wrist. ██████ asked why he was being arrested, and Officer Simonetti said he was not arresting him. ██████ then fled on foot away from Officer Simonetti. Officer Simonetti initiated a brief foot pursuit, drew his taser, and ordered ██████ to “Get on the ground.”

██████ stopped in the ██████ walkway and bent over the brick walkway while complying with Simonetti’s orders. Officer Simonetti said, “One last warning,” and discharged his taser toward ██████. The taser prongs struck ██████. His body momentarily froze as he was bent over, and he fell onto the brick walkway, striking his face against the ground. The two taser prongs struck ██████ in the right forehead and the left bicep.⁸

Immediately following the discharge of the taser, ██████ rolled onto his back and was bleeding profusely from his nose. Officer Simonetti then moved ██████ onto his left side and could be heard stating over the radio, “Squad, I had to tase him.”⁹ ██████ then began convulsing. Officer Simonetti then rolled ██████ onto his back and could be heard saying over the radio, “Give me an ambulance squad, give me an ambulance.”¹⁰ Upon Officer Simonetti rolling ██████ onto his back, a large quantity of blood could be observed on the brick walkway. While on his back, ██████ continued convulsing for a few moments and appeared to have trouble breathing. The medical records noted ██████ suffered from a comminuted nasal bone fracture.¹¹ Sgt. Jeffrey Aaron was the responding Sergeant on the scene. Lt. Forbes did not respond to the scene but reviewed the Tactical Response Report submitted by Officer Simonetti and the BWC footage from the scene. ██████ was transported via ambulance to Loyola Hospital in Maywood, IL, for treatment.

According to Lt. Forbes, Officer Simonetti informed him he accidentally discharged his taser while attempting to arc the taser for compliance.¹² COPA is aware of the discrepancy in reporting from Officer Simonetti’s initial report to OEMC when he said, “Squad, I had to tase him,”¹³ and Officer Simonetti’s TRR, which stated not verbatim, that he accidentally discharged his taser while attempting to “spark” his taser to gain compliance.¹⁴ COPA could not clarify the discrepancy due to Officer Simonetti not providing a statement.¹⁵

⁸ Att. No. 25, medical records of ██████ treated 08/07/2021, obtained from Loyola Medical Center (Page 3).

⁹ Att. No. 15. Officer Simonetti’s BWC footage timestamp 3:08.

¹⁰ Att. 15, Officer Simonetti’s BWC video. Timestamp: 3:15.

¹¹ Att. No. 25, Medical records of ██████ treated 08/07/2021, obtained from Loyola Medical Center (Page 11).

¹² Att. 34 and 38, Tactical Response Report authored by Simonetti, reviewed by Lt. Forbes on Page 7. And Lt. Forbes’ statement to COPA timestamp 7:30.

¹³ Att. No. 15. Officer Simonetti’s BWC footage timestamp 3:08.

¹⁴ Att. 34, Officer Simonetti’s Tactical Response Report.

¹⁵ Officer Simonetti invoked his Fifth Amendment rights and refused to provide a statement. He subsequently resigned on January 15, 2023.

COPA interviewed Sgt. Jeffrey Aaron and Lieutenant Terence Forbes¹⁶ about the incident. Officer Simonetti told Lt. Forbes at the District Station that after the taser was discharged, Officer Simonetti informed him that he drew his taser and attempted to gain compliance through verbal direction and spark¹⁷ the taser, and it was accidentally discharged.¹⁸ Per Officer Simonetti's TRR, Lt. Forbes marked the box next to not in compliance with department policy and directives.¹⁹ In his statement with COPA about the reasoning for the Tactical Response Report being marked as not in compliance, Lt. Forbes explained, "The situation Officer Simonetti was involved with the discharging of a taser is not an authorized use of force for that."²⁰

III. ALLEGATIONS

Officer Marco Simonetti:

1. Discharging your taser at or in the direction of [REDACTED] without justification.
 - Sustained, Violation of Rules 2, 3, 5, 10, and 38.
2. Discharging your taser probes in an unauthorized manner of use by targeting the head of [REDACTED]
 - Sustained, Violations of Rules 2, 3, 5, and 38.

IV. CREDIBILITY ASSESSMENT

Officer Simonetti, under the advice of counsel, invoked his 5th Amendment right not to incriminate himself and did not give a statement to COPA regarding the incident.²¹ COPA notes the discrepancies in Officer Simonetti's reporting but cannot confirm whether the discrepancy was a purposeful act.

V. ANALYSIS²²

COPA finds Allegation #1 against Officer Simonetti, that he discharged his taser probes at or in the direction of [REDACTED] without justification, and Allegation #2 that he discharged his

¹⁶ Att. No. 36 and 37, Sgt Aaron's statement to COPA, and Att. 38, Lt. Forbes' statement to COPA.

¹⁷ In Lt. Forbes' statement to COPA, Forbes used the term "Spark" and "Sparking" when referring to the taser arc. Forbes described the action by stating non verbatim, pressing the button on the side of the taser with the non-trigger hand to create a "spark" at the front of the device to spark, usually in order to gain compliance from the subject timestamp approximately 8:05.

¹⁸ Att. 38, Lt. Forbes' statement to COPA, timestamp 7:28 to 7:40.

¹⁹ Att. 34, Officer Simonetti's TRR, page 3 completed by Lt. Forbes.

²⁰ Att. No. 38, Lt. Forbes' statement to COPA, timestamp 9:58.

²¹ Att. No. 44, Email received by COPA from Attorney [REDACTED]

²² For a definition of COPA's findings and standards of proof, see Appendix B.

taser in an unauthorized manner of use, by targeting the head of ██████████ are both **Sustained**. Under CPD policy, members may only use force that is objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person.²³ When a CPD member encounters a person who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that person is classified as an active resister.²⁴ CPD members may respond to active resistance with police presence, verbal directions, holding and compliance techniques, control instruments, stunning, takedowns, OC spray, Tasers, and canine use. However, direct mechanical techniques, including punching and kicking, are not authorized force options against active resisters.²⁵

In this case, ██████████ was an active resister during the initial stop and attempted to evade Officer Simonetti on foot. Per the Tactical Response Report authored by Officer Simonetti²⁶, Officer Simonetti was responding to a call of a suspicious person. Upon arrival, Officer Simonetti spoke with a witness who pointed out the suspicious person (██████████ sitting on a porch at approximately ██████████. ██████████ gave Officer Simonetti sufficient reason to pursue ██████████ and attempt to detain him. After a brief pursuit, ██████████ complies with Officer Simonetti's orders to stop. When Officer Simonetti deploys his taser, ██████████ is clearly seen bending over the brick walkway to get on the ground, as Officer Simonetti had ordered him to. When Officer Simonetti discharged his taser, ██████████ was complying with his orders, making him a cooperative subject and no longer an active resister.

Per the CPD Force Options Model,²⁷ when a subject is cooperative, officers are only justified in using members' presence and communication efforts. Department members are authorized to use a taser only for the purpose of gaining control of and restraining the following subjects: active resisters and assailants.²⁸ Due to the positioning of ██████████ at the time Officer Simonetti deployed his taser, ██████████ fell face-first onto the brick walkway beneath him, causing significant injury. ██████████ could be observed bleeding from his face and began convulsing while on the ground. The taser leads were removed from ██████████ right forehead and left bicep.²⁹ According to Department Rules and Regulations, a department member who is discharging a taser device will: aim for subject's back below the neck area. When frontal shots are necessary, aim for lower center mass (below chest or area of the heart) and legs.³⁰ Due to ██████████ crouched position, the targetable area for Officer Simonetti was significantly reduced. However, as previously stated, due to

²³ Att. No. 48, G03-02-01(II)(C), Force Options (effective October 15, 2017 to February 28, 2020).

²⁴ Att. No. 48, G03-02-01 IV(B)(2).

²⁵ Att. No. 48, G03-02-01 IV(B)(2). Direct mechanical techniques are only authorized force options against assailants, whom CPD defines as individuals who use or threaten the use of force which is likely to cause physical injury. *See* G03-02-01 IV(C).

²⁶ Att. No. 34, Tactical Response Report authored by Simonetti.

²⁷ Att. No. 46, CPD Force Options Model.

²⁸ Att. No. 47, G03-02-04, Taser Use Incidents

²⁹ Att. No. 25, medical records of ██████████ treated 08/07/2021, obtained from Loyola Medical Center (Page 3).

³⁰ Att. No. 47, General Order G03-02-04, Taser Use Incidents.

██████████ status as cooperative, no use of a Taser was justified under Department policy. Therefore, Allegations # 1 and #2 are **Sustained** against Officer Simonetti.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Marco Simonetti

i. Complimentary and Disciplinary History³¹

Officer Simonetti has received 119 awards and three Summary Punishment Action Requests (SPARs). One SPAR resulted in no discipline. Two SPARs were for preventable accidents, one resulting in a reprimand and the other resulting in a one-day suspension.

ii. Recommended Discipline

Here, COPA has found that Officer Simonetti violated Rules 2, 3, 5, 10, and 38 by using unjustified force against ██████████ by discharging his taser and striking ██████████. Simonetti offered no explanation to COPA for the Use of Force but stated in his Tactical Response Report and to superior officers that it was accidental. Simonetti also relayed over the radio immediately after the discharge of his taser that “Squad, I had to tase him.”³² COPA can conclude at the time of the discharge, the use of force was not justified. When Officer Simonetti discharged his taser, ██████████ was a cooperative subject; therefore, Officer Simonetti would not have been justified in the use of a taser. Officer Simonetti has since been arrested and charged criminally for the incident by the Cook County State’s Attorney’s Office. Officer Simonetti’s arrest and the media attention it caused brought significant discredit to CPD and the City of Chicago. Despite the lack of disciplinary history, his misconduct during this incident mandates severe consequences. However, due to his recent resignation from the Department, COPA cannot recommend disciplinary action, as he is no longer a Department member. Thus, COPA’s disciplinary decision will be made if he shall return to the Department.

Approved:

██████████

Garday Jackson
Deputy Chief Administrator – Chief Investigator

June 29, 2023

Date

██████████

Andrea Kersten
Chief Administrator

June 29, 2023

Date

³¹ Att. No. 45, Simonetti’s complimentary and disciplinary history.

³² Att. No. 15, Simonetti’s BWC

Appendix A

Case Details

Date/Time/Location of Incident:	August 7, 2021/ 11:04 AM/ [REDACTED] [REDACTED]
Date/Time of COPA Notification:	August 7, 2023/12:52 PM
Involved Member #1:	Marco Simonetti, star # 9531, employee ID# [REDACTED], Date of Appointment: 08-01-1994, Unit of Assignment 016, Male, Caucasian
Involved Individual #1:	[REDACTED] Male, Caucasian

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

- G03-02-01: Force Options (effective October 15, 2017 to February 28, 2020).
- G03-02-04: Taser Use Incidents (Effective April 15).

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.³³ 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.”³⁴

³³ 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).

³⁴ *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