



Log # 2023-1374

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

### I. EXECUTIVE SUMMARY

On March 31, 2023, the Civilian Office of Police Accountability (COPA) received an initiation report from Chicago Police Department (CPD) Lieutenant Nicholas Vasselli reporting alleged misconduct by a member of CPD. Lieutenant Vasselli alleged that on March 31, 2023, Officer Emilio De Leon pulled a handcuffed arrestee, ██████████ from a squad car and pushed her to the ground.<sup>2</sup> Upon review of the evidence, COPA served allegations that Officer De Leon failed to use de-escalation techniques, forcefully threw ██████████ to the ground without justification, failed to immediately request medical aid for ██████████ failed to investigate a domestic disturbance incident, and failed to timely activate his body worn camera (BWC). COPA also served allegations on multiple CPD members who witnessed the incident and failed to intervene to stop it. Although ██████████ declined to cooperate with the investigation, COPA interviewed seven CPD members, including four who were eyewitnesses to the incident. Following its investigation, COPA reached sustained findings regarding the excessive force and failure to intervene allegations, as well as several operational violations.

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

On March 31, 2023, Officer De Leon and his partner, Officer David Alvarez, were on patrol in the 018<sup>th</sup> District when they were flagged down by ██████████ and her boyfriend. The couple, who appeared to be intoxicated, were engaged in a verbal dispute over a credit card.<sup>4</sup> ██████████ and her boyfriend stood outside the squad car while Officers De Leon and Alvarez remained inside the vehicle. While speaking with the officers, ██████████ shoved her purse through the vehicle's open window, striking Officer De Leon in the face.<sup>5</sup> After being struck with the purse, Officer De Leon exited the squad car. He detained and handcuffed ██████████ then placed her into the rear of the squad car because he was going to arrest her for battering him with the purse and public intoxication. As Officer De Leon attempted to fasten ██████████ seatbelt, she became belligerent, screamed profanities, and spat in Officer De Leon's face.<sup>6</sup> Officers De Leon and Alvarez then transported ██████████ to the 018<sup>th</sup> District for processing.

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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> 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.

<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, POD footage, CPD reports, and CPD interviews.

<sup>4</sup> Att. 2; Att. 4; Att. 55, pg. 7, ln. 10 to pg. 8, ln. 2; Att. 56, pg. 7, lns. 6 to 23.

<sup>5</sup> Att. 6 at 1:43; Att. 55, pg. 8, lns. 4 to 6, pg. 37, lns. 12 to 13; Att. 56, pg. 8, lns. 1 to 14.

<sup>6</sup> Att. 6 at 4:06; Att. 55, pg. 8, ln. 4 to pg. 9, ln. 5.

At the 018<sup>th</sup> District, Officer De Leon pulled the squad car into the sally port, where he and his partner were joined by Field Training Officer (FTO) Peterson Pohl, Probationary Police Officer (PPO) Psyenne Kallenborn, Officer Juan Carlos Santamaria, and Officer Mark Gentile.

██████████ who remained seated in the squad car in the sally port, continued to cry and yell. Officer Gentile partially opened the door to the squad car and began to speak with ██████████ and after a while, ██████████ appeared to calm down somewhat.<sup>7</sup> Officer De Leon then approached the squad car, opened the door fully, shined his flashlight in ██████████ face, and began loudly giving her orders to cooperate and to not spit.<sup>8</sup> The above listed officers gathered in the sally port near Officer De Leon. ██████████ responded to Officer De Leon's orders by asking, "What are you going to do?"<sup>9</sup> ██████████ then spat toward Officer De Leon's face, and Officer De Leon reacted by grabbing ██████████ pulling her from the squad car, and forcefully throwing her to the ground.<sup>10</sup> ██████████ who was handcuffed behind her back, struck the cement floor face first. (See Figure 1.) Officer De Leon immediately lifted ██████████ from the ground and dragged her into the lockup/processing area as the other officers followed.<sup>11</sup> None of the officers in the sally port attempted to intervene or separate Officer De Leon from ██████████ nor did they make any remarks about the officer's use of force. Approximately one minute later, as ██████████ continued to yell profanities at the officers, Officer De Leon stated, "I'm done with her," and he removed himself from the situation.<sup>12</sup>



**Figure 1:** Screenshot from Officer De Leon's BWC showing the officer throw ██████████ to the ground while she was handcuffed behind her back.

<sup>7</sup> Att. 11 at 2:35.

<sup>8</sup> Att. 6 at 10:00.

<sup>9</sup> Att. 6 at 10:07.

<sup>10</sup> Att. 6 at 10:10.

<sup>11</sup> Att. 6 at 10:16; Att. 7 at 8:58 to 9:15.

<sup>12</sup> Att. 6 at 11:14; Att. 55, pg. 36, lns. 18 to 20.

**III. ALLEGATIONS<sup>13</sup>****Officer Emilio De Leon:**

1. Failing to use de-escalation techniques in violation of General Order G03-02.
  - Sustained, Violation of Rules 2, 3, 6, 8, and 9.
2. Forcefully throwing ██████████ to the ground without justification.
  - Sustained, Violation of Rules 2, 3, 6, 8, and 9.
3. Failing to immediately request appropriate medical aid for ██████████
  - Not Sustained.
4. Failing to investigate a domestic disturbance incident.
  - Not Sustained.
5. Failing to timely activate his body worn camera.
  - Sustained, Violation of Rules 2, 3, 5, 6, and 10.

**Officer Juan Carlos Santamaria:**

1. Failing to intervene when Officer Emilio De Leon forcefully threw ██████████ to the ground without justification.
  - Sustained, Violation of Rules 2, 3, 5, 6, 8, and 10.
2. Failing to immediately request appropriate medical aid for ██████████
  - Not sustained.

**Officer Mark Gentile:**

1. Failing to intervene when Officer Emilio De Leon forcefully threw ██████████ to the ground without justification.
  - Sustained, Violation of Rules 2, 3, 5, 6, 8, and 10.
2. Failing to immediately request appropriate medical aid for ██████████
  - Not Sustained.
3. Failing to secure his firearm before entering detention facility in violation of S06-01-02.
  - Sustained, Violation of Rules 2, 3, 5, 6, and 10.
4. Making one or more false, incomplete, inaccurate and/or misleading statements relating to the manner in which Officer De Leon removed ██████████ from the squad car in the sallyport of the 018<sup>th</sup> District in his Witness Statement to the Commander after the incident.
  - Not Sustained.

**PPO Psyenne Kallenborn:**

1. Failing to intervene when Officer Emilio De Leon forcefully threw ██████████ to the ground without justification.
  - Sustained, Violation of Rules 2, 3, 5, 6, 8, and 10.
2. Failing to immediately request appropriate medical aid for ██████████
  - Not Sustained.

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<sup>13</sup> Att. 71. Officer Pohl resigned from CPD effective May 5, 2023, before he was served with allegations in this case. As a result, his allegations will be held in a Close Hold status, to be addressed in the event Officer Pohl returns to employment with CPD.

**Officer David Alvarez:**

1. Failing to activate his body worn camera.
  - Not sustained.
2. Failing to investigate a domestic disturbance incident.
  - Not Sustained.

**IV. CREDIBILITY ASSESSMENT**

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals (sworn or unsworn) who provided statements.

**V. ANALYSIS<sup>14</sup>****a. Officer De Leon failed to use de-escalation techniques.**

COPA finds Allegation 1 against Officer De Leon, that he failed to use de-escalation techniques in violation of General Order G03-02, is **sustained**. CPD policy requires its members to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a CPD member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time.<sup>15</sup> In this situation, Officer De Leon could have utilized de-escalation techniques including, but not limited to, allowing Officer Gentile to continue speaking with ██████ allowing another officer in the sally port to speak with and escort ██████ or using a tone of voice that may have elicited compliance from ██████ When Officer De Leon was asked what he would have done differently, he told COPA, “I would have had another officer come in and have a female on scene.”<sup>16</sup> Both of these options were available to Officer De Leon; Officer Gentile was already speaking to ██████ and had proven effective in calming her down, and PPO Kallenborn was also present in the sally port. In fact, Officer De Leon told COPA that he had requested a female officer meet him at the 018<sup>th</sup> District because ██████ was combative and uncooperative.<sup>17</sup>

When Officer De Leon opened the door of the squad car in the sally port, ██████ appeared to be relatively calm.<sup>18</sup> Instead of speaking to ██████ in a calm voice and asking her to exit the squad car, Officer De Leon spoke in a confrontational manner that appeared to escalate the situation and cause ██████ to become belligerent with Officer De Leon. In addition, Officer De Leon shined his flashlight directly into ██████ face. Officer De Leon told COPA that he shined the light in ██████ face because he hoped the bright light would make her turn away and deter

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

<sup>15</sup> Att. 69, G03-02(III)(C), De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 27, 2023).

<sup>16</sup> Att. 55, pg. 42, Ins. 9 to 14.

<sup>17</sup> Att 55, pg. 9, Ins. 16 to 18.

<sup>18</sup> Att. 6 at 10:00.

her from spitting at him again.<sup>19</sup> However, Officer De Leon's action appears to have further agitated ██████ and led to her renewed belligerence and noncompliance.

CPD policy requires its members to use principles of force mitigation to ensure effective police-public encounters. Some of these concepts include adjusting verbal communication or other communication techniques, and allowing a different member to initiate verbal communications.<sup>20</sup> De-escalation techniques also include determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject.<sup>21</sup> In this situation, ██████ was both isolated and contained, as she was handcuffed behind her back and positioned in the rear of the squad car. Officer De Leon could have used time as a tactic, and waited for ██████ to calm down before asking her to exit the vehicle. He could also have allowed Officer Gentile to escort ██████ as there appeared to be a rapport between Officer Gentile and ██████ that assisted in calming ██████. In fact, Officer De Leon told COPA, "In better judgement, I probably would have just given more time to let her sit there or have another officer get her out."<sup>22</sup>

For these reasons, COPA finds that Officer De Leon failed to use any of the de-escalation techniques available to him, and his conduct unnecessarily escalated the situation. Accordingly, Allegation 1 is sustained in violation of CPD policy and Rules 2, 3, 6, 8, and 9.

**b. Officer De Leon forcefully threw ██████ to the ground without justification.**

COPA finds Allegation 2 against Officer De Leon, that he forcefully threw ██████ to the ground without justification, is **sustained**. CPD's Rules of Conduct establish a list of acts which are expressly prohibited for all members, including Rule 8, which states that members may not disrespect or maltreat any person, and Rule 9, which prohibits members from engaging in any unjustified verbal or physical altercation with any person.<sup>23</sup> Additionally, CPD policy provides that "Department members' use of force must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person, under the totality of the circumstances."<sup>24</sup> In this case, Officer De Leon's action of throwing ██████ to the ground because she spat at him was not objectively reasonable, necessary, or proportional. Rather, it was excessive, disrespectful, and demonstrated the officer's maltreatment of ██████. The BWC video and other evidence shows that there was no discernible law enforcement purpose for Officer De Leon to throw ██████ to the cement floor, face first, while she was handcuffed behind her back.

Further, CPD policy prohibits its members from engaging in any form of retaliation against any CPD member or member of the public.<sup>25</sup> Retaliation is defined as "any conduct, action, or

<sup>19</sup> Att. 55, pg. 24, Ins. 16 to 17.

<sup>20</sup> Att. 72, G03-02-01(III)(A), Response to Resistance and Force options (effective April 15, 2021 to June 27, 2023).

<sup>21</sup> Att. 72, G03-02-01(III).

<sup>22</sup> Att. 55, pg. 14, Ins. 11 to 15.

<sup>23</sup> Att. 58, CPD Rules 8 and 9.

<sup>24</sup> Att. 72, G03-02-01(II)(C); *see also* Att. 69, G03-02(II)(D).

<sup>25</sup> Att. 81, G08-05(I)(A), Prohibition of Retaliation (effective December 30, 2020 to August 21, 2023), *see also* G03-02(VI)(B).

inaction of a damaging, intimidating, or threatening nature, or any interference, intimidation, coercion, or other adverse action taken against any individual designed to serve as retribution that is intended to punish, cause harm or emotional stress, or improperly influence the individual's actions.”<sup>26</sup> Officer De Leon told COPA that his action of throwing ██████ to the ground was not retaliatory, and was merely a reaction to her spitting at him. However, the video of the incident undermines the officer’s claim; it captures Officer De Leon’s anger and frustration at ██████ as well as his sudden forceful action of throwing ██████ to the ground immediately after she spat at him a second time.

For these reasons, COPA finds the preponderance of the evidence shows that Officer De Leon forcefully threw ██████ to the ground without justification. Accordingly, Allegation 2 against Officer De Leon is sustained in violation of CPD policy and Rules 2, 3, 6, 8, and 9.

**c. Officers Santamaria, Gentile, and Kallenborn failed to intervene when Officer De Leon forcefully threw ██████ to the ground.**

COPA finds Allegation 1 against Officers Santamaria, Gentile, and Kallenborn, that they failed to intervene when Officer De Leon forcefully threw ██████ to the ground without justification, is **sustained**. CPD policy states that a “member who directly observes a use of force and identifies the force as excessive or otherwise in violation of this directive will, except in extraordinary circumstances, act to intervene on the person’s behalf. Such action may include, but is not limited to, verbally or physically intervening to try to stop the violation.”<sup>27</sup>

COPA recognizes that Officer De Leon’s action in throwing ██████ to the ground happened so quickly that no officer could have intervened to stop it. However, after that, any one of the officers could have acted to separate Officer De Leon and ██████ and escorted ██████ into the lockup/processing area themselves. Officers Santamaria, Gentile, and Kallenborn all told COPA that they witnessed Officer De Leon’s use of force, recognized it was excessive, and were in a state of shock.<sup>28</sup> Despite this, none of them intervened to take control of ██████ even after Officer De Leon picked her up from the ground and began dragging her inside. All three officers continued to allow Officer De Leon to maintain control of ██████ in fact, it was not until Officer De Leon realized he needed to separate himself from ██████ that he voluntarily removed himself from the situation.<sup>29</sup>

For these reasons, COPA finds that Officers Santamaria, Gentile, and Kallenborn failed to intervene in Officer De Leon’s use of excessive force, in violation of CPD policy and Rules 2, 3, 5, 6, 8, and 10. Accordingly, Allegation 1 against all three officers is sustained.

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<sup>26</sup> Att. 81, G08-05(III)(F).

<sup>27</sup> Att. 69, G03-02(VII)(A)(1).

<sup>28</sup> Att. 5; Att. 46, pgs. 20 to 21, 31 to 33; Att. 47, pgs. 16 to 18, 26 to 28; Att. 49, pgs. 21 to 26, 31.

<sup>29</sup> Att. 55, pg. 36, lns. 18 to 20.

**d. There is insufficient evidence that the officers violated CPD policy when they failed to immediately request medical aid for ██████**

COPA finds the allegation that Officers De Leon, Santamaria, Gentile, and Kallenborn failed to immediately request appropriate medical aid for ██████ is **not sustained**. CPD policy dictates that, once the scene is safe and as soon as practical, CPD members will immediately request appropriate medical aid whenever a person is injured, complains of injury, or requests medical attention.<sup>30</sup> This includes contacting emergency medical services (EMS) and may include providing appropriate medical care, consistent with the member's training, to any individual who has visible injuries, complains of being injured, or requests medical attention.<sup>31</sup>

In this case, Officers De Leon, Santamaria, and Gentile all denied that they observed any injuries to ██████ and there is no evidence that ██████ complained of any injuries or requested medical assistance at any point during the incident. Additionally, although PPO Kallenborn observed a bump or bruise on ██████ right cheek, it was not until they were in the processing/lockup area, and PPO Kallenborn immediately went with her partner to report the incident to her supervisor.<sup>32</sup> For these reasons, COPA finds there is insufficient evidence that the officers' failure to request medical aid for ██████ constituted a violation of CPD policy. Accordingly, Allegation 2 against Officers Santamaria, Gentile, and Kallenborn, and Allegation 3 against Officer De Leon, are not sustained.

**e. Officers De Leon and Alvarez were not required to investigate the verbal dispute between ██████ and her boyfriend as a domestic disturbance incident.**

COPA finds the allegation that Officers De Leon and Alvarez failed to investigate a domestic disturbance incident is **not sustained**. The CPD policy entitled "Domestic Incidents" contains detailed requirements for the investigation of situations involving domestic violence.<sup>33</sup> Here, the officers believed that ██████ and her boyfriend were engaged in a verbal argument over a credit card, and they had no knowledge of any allegations of domestic violence.<sup>34</sup> In his statement to COPA, Officer De Leon maintained that the parties did not indicate that their argument was physical, and he did not see any signs of physical injury on either ██████ or her boyfriend.<sup>35</sup> Officer De Leon further stated that the part of his report that classified this as a domestic incident was marked in error.<sup>36</sup> Similarly, Officer Alvarez told COPA that there were no allegations of battery, and "we were unaware that it was a domestic. We thought it was a hand-waver."<sup>37</sup> The officers' accounts are corroborated by the BWC footage, which does not capture ██████ or her boyfriend make any allegations of a physical altercation. Instead, the evidence suggests this was merely a

<sup>30</sup> Att. 69, G03-02 (V)(A)(1).

<sup>31</sup> Att. 69, G03-02 (V)(A)(2).

<sup>32</sup> Att. 49, pg. 26, ln. 10 to pg. 27, ln. 21.

<sup>33</sup> Att. 61; G04-04(I), Domestic Incidents (effective December 28, 2012 to present); Att. 67, S04-04(I), Domestic Incidents (effective December 28, 2012 to present).

<sup>34</sup> Att. 55, pg. 15, lns. 11 to 14; Att. 56, pg. 27, ln. 24 to pg. 28, ln. 2.

<sup>35</sup> Att. 55, pg. 15, lns. 11 to 15.

<sup>36</sup> Att. 55, pg. 20, ln. 21 to pg. 21, ln. 24.

<sup>37</sup> Att. 56, pg. 27, ln. 5 to pg. 28, ln. 13.

disagreement between two parties who happened to be in a relationship. Absent any violence allegations, the officers were not required to determine which party was “right.” Accordingly, COPA finds that Allegation 4 against Officer De Leon, and Allegation 2 against Officer Alvarez, that they failed to investigate a domestic disturbance incident, are not sustained.

**f. Officers De Leon and Alvarez did not timely activate their BWCs.**

CPD policy requires its members to activate their BWCs at the beginning of an incident and record the entire incident for all law-enforcement-related activities.<sup>38</sup> Here, Officer De Leon agreed that he was engaged in a law-enforcement-related activity when [REDACTED] and her boyfriend flagged down the squad car and advised the officers of their dispute.<sup>39</sup> However, the evidence shows that Officer De Leon did not activate his BWC until he exited the squad car and attempted to handcuff [REDACTED].<sup>40</sup> During his COPA statement, Officer De Leon admitted that, in hindsight, he should have activated his camera earlier.<sup>41</sup> Accordingly, COPA finds that Allegation 5 against Officer De Leon is **sustained** in violation of CPD policy and Rules 2, 3, 5, 6, and 10.

However, the facts are different with respect to Officer Alvarez. Officer Alvarez’s BWC was not activated during the initial incident when [REDACTED] and her boyfriend flagged down the squad car. Officer Alvarez stated that he attempted to activate his BWC when he exited the vehicle, but it would not activate. He told COPA that he experienced technical difficulties with his BWC that night, and he reported the issue to Sergeant Peter Pietrusiewicz. COPA obtained the repair ticket dated March 31, 2023, at 2:17 am, indicating that Officer Alvarez’s BWC (Serial Number X6039AAME) was replaced.<sup>42</sup> Accordingly, Allegation 1 against Officer Alvarez, that he failed to timely activate his BWC, is **not sustained**.

**g. Officer Gentile failed to properly secure his firearm before entering the detention facility.**

COPA finds Allegation 3 against Officer Gentile, that he failed to secure his firearm before entering the detention facility in violation of S06-01-02,<sup>43</sup> is **sustained**. CPD policy states that all sworn CPD members will “secure their firearms in a gun locker before entering a processing area if the processing area and detention facility are adjoining.”<sup>44</sup> Additionally, the door at the 018<sup>th</sup> District, which Officer Gentile walked through to enter the detention facility, contains a sign stating that no firearms are allowed in the processing area or lockup.<sup>45</sup> Despite this, Officer Gentile failed to secure his weapon prior to entering the processing area.<sup>46</sup> Officer Gentile told COPA that

<sup>38</sup> Att. 68, S03-14(III)(A), Body Worn Cameras (effective April 30, 2018 to present).

<sup>39</sup> Att. 55, pg. 37, ln. 20 to pg. 38, ln. 3.

<sup>40</sup> Att. 6 at 1:59.

<sup>41</sup> Att. 55, pg. 38, lns. 4 to 5.

<sup>42</sup> Att. 54, Ticket #102010.

<sup>43</sup> Att. 70, S06-01-02, Detention Facilities General Procedures and Responsibilities (effective January 28, 2022 to present).

<sup>44</sup> Att. 70, S06-01-02(III)(A)(1).

<sup>45</sup> Att. 29.

<sup>46</sup> Att. 13 at 2:40 to 2:55.



this was the first time he had entered the processing/lockup area through this doorway, and he was unfamiliar with the area.<sup>47</sup> In the past, he had taken arrestees into lockup through the side door, and he had secured his firearm in the lock boxes near that entrance. Officer Gentile said he was focused on ██████ and did not pay attention to the location of the lock boxes in this situation.<sup>48</sup>

Because it is undisputed that Officer Gentile violated CPD policy by failing to secure his weapon before entering the processing area, COPA finds that Allegation 3 is sustained in violation of CPD Rules 2, 3, 5, 6, and 10.

**h. There is insufficient evidence that Officer Gentile made a false statement relating to the manner in which Officer De Leon removed ██████ from the squad car.**

COPA finds Allegation 4 against Officer Gentile, that he made a false, incomplete, inaccurate and/or misleading statement relating to the manner in which Officer De Leon removed ██████ from the squad car, is **not sustained**. Following the incident, Officer Gentile drafted a To/From Report to the Commander of the 018<sup>th</sup> District that memorialized his observations of the incident. In that report, Officer Gentile wrote that Officer De Leon “grabbed the handcuffed offender [█████] and pulled her to the ground from the marked patrol vehicle.”<sup>49</sup> However, when Officer Gentile first explained the incident to COPA, he stated that after ██████ spat at Officer DeLeon, Officer De Leon “grabbed her and threw her out of the vehicle.”<sup>50</sup> Officer Gentile told COPA that he did not use the word “threw” in his written report because it could have been misinterpreted by the reader, as it “sounds like a baseball... like you’re throwing something.”<sup>51</sup> Because Officer Gentile freely told COPA that Officer De Leon threw ██████ to the ground, and because Officer Gentile explained that he was trying to use a choice of words that accurately described the incident, COPA finds there is insufficient evidence that he made a false, incomplete, inaccurate and/or misleading statement in his To/From Report relating to the manner in which Officer De Leon removed ██████ from the squad car. For these reasons, COPA finds that Allegation 4 against Officer Gentile is not sustained.

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. Officer Emilio De Leon**

#### **i. Complimentary and Disciplinary History<sup>52</sup>**

Officer De Leon has received 103 various awards, including one Superintendent’s Award of Valor, one Police Officer of the Month Award, and 6 Department Commendations. He has no sustained disciplinary history in the past five years.

<sup>47</sup> Att. 46, pg. 23, ln. 12 to pg. 24, ln. 13.

<sup>48</sup> Att. 46, pg. 25, lns. 10 to 19.

<sup>49</sup> Att. 5, pg. 1.

<sup>50</sup> Att. 46, pg. 9, lns. 21 to 22, pg. 27, ln. 10.

<sup>51</sup> Att. 46, pg. 27, lns. 12 to 14.

<sup>52</sup> Att. 82.

## ii. Recommended Discipline

COPA has found that Officer De Leon violated Rules 2, 3, 5, 6, 8, 9, and 10 by failing to use de-escalation techniques, throwing ██████ to the ground without justification, and untimely activating his BWC. In this case, Officer De Leon's actions were particularly egregious. Officer De Leon pulled ██████ out of the squad car and threw her, face first, to the cement floor in the sally port. ██████ arms were handcuffed behind her back, and she had no way to break her fall. The evidence shows that Officer De Leon's conduct was not merely reactionary but retaliatory, as punishment for ██████ spitting on him. Additionally, Officer De Leon used this excessive force in full view of multiple other CPD members, including a PPO.

In mitigation, COPA credits Officer De Leon for acknowledging that he lost his composure with ██████ and expressing genuine contrition for his conduct. Additionally, Officer De Leon has an extensive complimentary history that includes one of CPD's most prestigious awards. It is for these reasons that COPA recommends Officer De Leon receive a minimum **180-day suspension**, up to and including separation from CPD. If Officer De Leon remains a CPD member, COPA recommends he receive retraining on CPD's use of force and BWC policies.

### b. Officer Juan Carlos Santamaria

#### i. Complimentary and Disciplinary History<sup>53</sup>

Officer Santamaria has received 27 various awards and has no sustained disciplinary history in the past five years.

#### ii. Recommended Discipline

COPA has found that Officer Santamaria violated Rules 2, 3, 5, 6, 8, and 10 by failing to intervene when Officer De Leon threw ██████ to the ground without justification. As with the other officers in the sally port who observed Officer De Leon's excessive force, Officer Santamaria should have immediately separated Officer De Leon and ██████ and ensured that he or another officer took control of escorting ██████ to the lockup/processing area. While insufficient, Officer Santamaria did make some efforts to intervene by grabbing ██████ arm as Officer De Leon escorted her inside. It is for these reasons, along with Officer Santamaria's complimentary history and lack of a disciplinary history, that COPA recommends he receive a **7-day suspension and retraining**.

### c. Officer Mark Gentile

#### i. Complimentary and Disciplinary History<sup>54</sup>

Officer Gentile has received 14 various awards and has no sustained disciplinary history in the past five years.

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<sup>53</sup> Att. 83.

<sup>54</sup> Att. 84.

**ii. Recommended Discipline**

COPA has found that Officer Gentile violated Rules 2, 3, 5, 6, 8, and 10 by failing to intervene when Officer De Leon threw ██████ to the ground and failing to secure his firearm before entering the lockup/processing area. As with Officer Santamaria, Officer Gentile acknowledged that he observed Officer De Leon throw ██████ to the cement floor in the sally port. It was incumbent upon Officer Gentile to immediately separate ██████ from Officer De Leon, so that the officer did not cause further harm to her. Officer Gentile failed to do so, and additionally failed to secure his firearm as required by CPD policy. It is for these reasons, along with Officer Gentile’s complimentary history and lack of a disciplinary history, that COPA recommends he receive a **10-day suspension and retraining**.

**d. PPO Psyenne Kallenborn**

**i. Complimentary and Disciplinary History<sup>55</sup>**

PPO Kallenborn has received one award since she became a CPD member in June 2022. She has received two SPARs: one for a preventable accident in February 2023, and one for failure to perform any duty in February 2023. Both SPARs resulted in a reprimand.

**ii. Recommended Discipline**

COPA has found that PPO Kallenborn violated Rules 2, 3, 5, 6, 8, and 10 by failing to intervene when Officer De Leon threw ██████ to the ground. All of the officers that viewed this excessive force should have stepped in and separated Officer De Leon from ██████. However, COPA recognizes that PPO Kallenborn was the least experienced of the officers in the sally port, and she followed the lead of her FTO when the incident occurred. Additionally, after she finished searching ██████ PPO Kallenborn immediately went to report the incident to a supervisor. While none of those things absolve PPO Kallenborn of her responsibility to intervene, her failure was more understandable than the other officers present given her lack of experience. For these reasons, COPA recommends that PPO Kallenborn receive a **3-day suspension and retraining**.

Approved:

██████████<sup>13</sup>  
\_\_\_\_\_  
Steffany Hreno  
*Director of Investigations*

10/19/2023  
\_\_\_\_\_  
Date

██████████  
\_\_\_\_\_  
Andrea Kersten  
*Chief Administrator*

10/19/2023  
\_\_\_\_\_  
Date

<sup>55</sup> Att. 86.

Appendix ACase Details

Date/Time/Location of Incident:	March 31, 2023 / 2:04 am / 1160 N. Larrabee Street
Date/Time of COPA Notification:	March 31, 2023 / 3:47 am
Involved Member #1:	Officer Emilio De Leon, Star #16360, Employee ID# [REDACTED], Date of Appointment: August 25, 2014, Unit of Assignment: 003, Male, Hispanic
Involved Member #2:	Officer David Alvarez, Jr., Star #16131, Employee ID# [REDACTED], Date of Appointment: August 25, 2014, Unit of Assignment: 003, Male, Hispanic
Involved Member #3:	Officer Juan Carlos Santamaria, Star #18680, Employee ID# [REDACTED], Date of Appointment: March 16, 2018, Unit of Assignment: 004, Male, Hispanic
Involved Member #4:	Officer Mark Gentile, Star #17580, Employee ID# [REDACTED], Date of Appointment: October 13, 2020, Unit of Assignment: 008, Male, White
Involved Member #5:	Probationary Police Officer Psyenne Kallenborn, Star #18031, Employee ID# [REDACTED], Date of Appointment: June 30, 2022, Unit of Assignment: 044, Female, White
Involved Member #6:	Field Training Officer Peterson Pohl, Star #6582, Employee ID# [REDACTED] Date of Appointment: December 18, 2000, Unit of Assignment: 018, Male, White
Involved Individual:	[REDACTED] Female, Hispanic

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**

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- G03-02, De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 27, 2023).
- G03-02-01, Response to Resistance and Force options (effective April 15, 2021 to June 27, 2023).
- G04-04, Domestic Incidents (effective December 28, 2012 to present).
- G08-05, Prohibition of Retaliation (effective December 30, 2020 to August 21, 2023).
- S04-04, Domestic Incidents (effective December 28, 2012 to present).
- S06-01-02, Detention Facilities General Procedures and Responsibilities (effective January 28, 2022 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>56</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>57</sup>

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<sup>56</sup> 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).

<sup>57</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