



Brandon Johnson
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Fred L. Waller
Interim Superintendent of Police

July 12, 2023

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability ("COPA")
1615 W. Chicago Ave., 4th Floor

Re: Complaint Register Number: 2021-0004082
Interim Superintendent's Request for an additional COPA investigation
Non-Concurrence with COPA's findings and proposed penalty:
Sergeant Scott Celani #2309

Dear Chief Administrator Kersten:

Based on a review of the above-referenced complaint register ("CR"), the Chicago Police Department ("CPD") requests that the Chief Administrator conduct an additional investigation. Notwithstanding the evidence provided by COPA, CPD does not concur with the recommended findings and penalty for Sergeant ("Sgt.") Celani as related to the sustained findings for using excessive force during the arrest of [REDACTED] in violation of Rules 2, 3, 6, 8, 9, and 10. Based on the preponderance of evidence standard, the evidence in this matter does not support a sustained finding. In accordance with Municipal Code of Chicago, MCC 2-78-130, the Interim Superintendent provides the following comments when there is a disagreement as to the investigative findings and proposed penalty.

ALLEGATIONS

It is alleged by COPA, that on or about 15 Oct 2021, at approximately 01:24, at or near 8219 S. Martin Luther King Jr. Dr., Sgt. Scott Celani committed misconduct through the following acts or omissions:

Allegation #1 – Using excessive force during the arrest of [REDACTED] in violation of Rules 2, 3, 6, 8, 9, 10, and 11.

FACTS:

This case review is to be read in conjunction with all other reports generated under the COPA investigation for CR #2021-0004082. This case review is a summarization of all reported information. All statements are also in summary format and are not to be considered verbatim.

On 16 Oct 2021, COPA received an initiation report from Lt. Daniel O'Donnell, 006th District. The report documented complainant [REDACTED] (" [REDACTED] ") allegation of misconduct against Sgt. Celani for excessive force used during an arrest when "he kned his head into the floor." Upon review of the evidence, COPA served an allegation that Sgt. Celani allegedly committed misconduct by using excessive force during the arrest of [REDACTED]. Following its investigation, COPA reached sustained findings. However, COPA did not

provide a complainant sworn affidavit or affidavit override as evidence. COPA was unable to interview [REDACTED] and chose not to interview any of the other officers on scene or the civilian witness, Ms. [REDACTED].

On 15 Oct 2021, Sgt. Celani responded to a call for service of an aggravated vehicular hijacking. He relocated to the east alley of 8200 block of South Martin Luther King Jr. Drive and discovered the stolen vehicle. Officers then observed two individuals, [REDACTED] and [REDACTED] near the recovered vehicle. Sgt. Celani approached [REDACTED] who was seated on the ground against the rear bumper of the vehicle and ordered him to stand up and put his hands behind his back. [REDACTED] stood up and began to walk away. Simultaneously, Sgt. Celani grabbed his left arm and placed a handcuff on [REDACTED] left wrist. [REDACTED] then aggressively pulled away, and a struggle ensued².

Multiple officers assisted in attempting to detain [REDACTED] while he flailed his arms and stiffened up. P.O. Jorge Magana and Sgt. Celani then conducted an emergency takedown of [REDACTED]. Sgt. Celani gave instructions to assisting officers to get the other handcuff on [REDACTED] and roll him over. Sgt. Celani can also be heard saying, "Stop pulling away." [REDACTED] left arm was behind his head as Sgt. Celani held on to the other end of the handcuff. Officers tried to handcuff [REDACTED] and Sgt. Celani grabbed him by the left arm³.

[REDACTED] laid in the prone position on the ground with his left arm extended and stated, "Ya'll got me, ya'll got me." Sgt. Celani then grabbed the said arm and pressed his right hand on the back of [REDACTED] neck. Immediately thereafter, Sgt. Celani appeared to rest his leg on the side of [REDACTED] upper back / shoulder area for approximately 8 seconds. [REDACTED] then stated, "My face, my face," and "It's right here, it's right here." Sgt. Celani next ordered [REDACTED] to release his other hand and attempted to move the arm behind his back. To help complete the handcuffing, Sgt. Celani moved [REDACTED] left arm around his back⁴. Sgt. Celani indicated in his TRR that [REDACTED] actions included not following verbal directions, stiffening (dead weight), and pulling away. Furthermore, Sgt. Celani specified that he used force to defend himself, other Department members, and to overcome [REDACTED] resistance and aggression. Sgt. Celani also clarified that he put a knee on the back of [REDACTED] as a control tactic⁵.

[REDACTED] complained about his breathing after being placed into custody and requested EMS. His injury included a visible abrasion on the left side of his forehead⁶. Upon arrival at Jackson Park Hospital, P.O. Magana escorted [REDACTED] out of the ambulance when he broke free by pulling away in a violent manner and fled on foot. [REDACTED] was found 20 minutes later and placed back into custody⁷.

The CFD patient care report noted an abrasion to [REDACTED] left forehead, and the Jackson Park Hospital records show that he was treated for an abrasion to the forehead and a sore left wrist, but there is no indication that he was treated for a neck injury or pain in that area. Sgt. Celani documented [REDACTED] condition as injured by member on the TRR, and he was charged with multiple counts of resisting arrest, escape from a peace officer, and aggravated vehicular hijacking with a firearm⁸.

¹ *Id.*

² *Id.* at pg. 1-2.

³ *Id.* at pg. 2.

⁴ *Id.* at pg. 2.

⁵ Att. 11, pg. 1.

⁶ Att. 40, pg. 2.

⁷ Att. 1, pg. 3.

⁸ Att. 40, pg. 3.

COPA Interview (Sgt. Scott Celani)⁹

This statement is in summary format and is not to be considered verbatim. Sgt. Celani stated that he responded to an armed vehicular hijacking incident where the victim located his vehicle on GPS. Furthermore, he went to where the GPS was pinged at, which is when he observed [REDACTED] and [REDACTED] sitting near the said vehicle. Sgt. Celani then told [REDACTED] to stand up and put his hands behind his back and not to run, which is when a struggle ensued. [REDACTED] was placed into custody and transported to Jackson Park Hospital in an ambulance.

Sgt. Celani does not recall if he had a description of the offender or how long of a time lapse there was between the vehicular hijacking and when he located [REDACTED]. He decided to place handcuffs on [REDACTED] for everyone's safety. Sgt. Celani placed a handcuff on [REDACTED] left wrist, and he pulled away violently becoming an active resister. He viewed this as trying to use as much force as possible to rip the handcuff out of his hand to free himself.

COPA then showed Sgt. Celani P.O. Kowal's BWC video of the incident, which depicted P.O. Magana helping Sgt. Celani perform the takedown of [REDACTED]. The video also displayed Sgt. Celani on the left side of [REDACTED] body, and the offender was putting his left hand above his head and complaining about his face. After being shown the BWC video and asked if he put his knee on [REDACTED] neck, Sgt. Celani advised COPA that he put his knee on [REDACTED] shoulder blade in order to pivot his left arm. Furthermore, he used this control tactic so [REDACTED] could not place his arm below his body. Sgt. Celani stated that he pushed down on [REDACTED] body in order to swing his left arm behind his back and to put his right knee on [REDACTED] upper back / shoulder area. Later in his interview, Sgt. Celani specified that [REDACTED] stiffened his arms while he was lying on the ground before being handcuffed. He also related that he does not know why [REDACTED] said "my face, my face". Sgt. Celani specified that [REDACTED] had a red scratch and blood on his face after reviewing the BWC; he also heard [REDACTED] state that he could not breathe after he was placed in custody. An ambulance was then called to treat [REDACTED].

Additionally, Sgt. Celani acknowledged that he put his knee on [REDACTED] back in the TRR report. Sgt. Celani does not know why the Force Review unit flagged the BWC for further review. Sgt. Celani reiterated that he did not apply pressure to [REDACTED] back and does not recall if [REDACTED] said anything.

Sgt. Celani stated to COPA that he has not received advanced training on use of force techniques that compress blood vessels in the neck that restrict blood flow or oxygen. Furthermore, he understands the Department's use of force policy, and he received training on the use of force model, de-escalation tactics, force options, and the appropriate amount of the use of force. Additionally, Sgt. Celani advised COPA that he has not received special training on takedowns.

Sgt. Celani concluded his interview by stating that he believes his actions and his TRR are aligned with CPD's use of force policy and that his BWC was also consistent with his TRR. Furthermore, he does not recall reviewing any BWC videos related to this incident before filling out his TRR or prior to his COPA interview. Sgt. Celani denied [REDACTED] allegation that he used excessive force because it was adequate for an active resister.

⁹ Att. 32.

ANALYSIS

The allegation requires a further review because no sworn affidavit or affidavit override were provided by COPA as evidence, in accordance with the Section 6.10 of the Agreement between the City of Chicago and the Policemen's Benevolent & Protective Association of CPD Sergeants, which was effective at the time of the initial complaint. *"When an allegation of misconduct against a sergeant is initiated by a non-Department member and the allegation is not of a criminal nature within the meaning of Section 6.1(E) of the aforementioned Agreement, an affidavit shall be secured from the complainant. If the investigative agency determines to conduct a CR investigation where the complainant is anonymous or does not execute an affidavit, the appropriate official shall execute an affidavit stating that he / she has reviewed the evidence compiled in a preliminary investigation, and, based upon the sufficiency of the evidence, a continued investigation of the allegation is necessary. For COPA cases, the "appropriate official" shall be the Commanding Officer of the Bureau of Internal Affairs ("BIA"). If an affidavit is not executed by COPA or BIA, the matter shall not be used by the Department with respect to any aspect of the sergeant's employment¹⁰".*

Furthermore, Sgt. Celani was the only individual interviewed by COPA, and a proper investigation cannot be completed without statements from the complainant, other Department members on scene, specifically the officers who assisted in placing Mr. [REDACTED] into custody, and a civilian witness. The missing witness statements would be highly probative in value in that they would aid in understanding whether or not Sgt. Celani's use of force was proportional to [REDACTED] actions. The assisting officers could also provide a further explanation on why the situation required 2 officers and a sergeant to place [REDACTED] in custody. Additionally, COPA stated in its interview of Sgt. Celani that the Force Review unit "flagged" this case for a further review¹¹. The Force Review report and any other communications by Force Review, regarding this incident, were not provided by COPA as evidence. This information is essential for an investigation related to a Department member's use of force.

Based on the aforementioned facts by a preponderance of evidence, the evidence in this matter does not support a sustained finding. COPA's allegation that Sgt. Celani used a neck restraint on [REDACTED] is inconclusive. Furthermore, the Department finds Sgt. Celani's COPA statement as highly credible. Sgt. Celani is an 18 year CPD veteran with an impeccable complimentary history and an unblemished disciplinary record. He was consistent throughout the entire interview by describing [REDACTED] as an active resister and that he applied his knee to [REDACTED] back as a control tactic, which is a proportional response to an active resister. Likewise, Sgt. Celani remained adamant that his actions did not rise to the level of deadly force.

The issue is reduced to whether or not Sgt. Celani's actions were objectively reasonable, necessary, and proportional, given the totality of the circumstances, as defined in¹². In *Graham v. Connor*, the hallmark United States Supreme Court Fourth Amendment case on police use of force, the Court held that claims of excessive force used by government officials are properly analyzed under the Fourth Amendment's "objective reasonableness" standard. Furthermore, the "objective reasonableness" of a use of force should be judged by the perspective of an officer on the scene, and should take into account factors such as the severity of the crime, the threat posed by the suspect, and any attempts by the suspect to resist or evade arrest¹³.

¹⁰ Agreement Between the City of Chicago and the Policemen's Benevolent & Protective Association of Illinois, Unit 156-Sergeants. Eff. Jul. 1, 2016 - Jun 30, 2022.

¹¹ Att. 32 at 23:30.

¹² Att. 36, pg. 1.

¹³ *Graham v. Connor*, 490 U.S. 386 (1989).

The Department defines an active resister as a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes, but is not limited, to evasive movement of the arm, flailing arms, and full flight by running. A subject who is attempting to avoid apprehension and who fails to comply with a sworn member's orders to reveal themselves is considered an Active Resister. When dealing with an active resister, the force options include, but are not limited to, holding and compliance techniques and takedowns¹⁴.

In light of the totality of the circumstances faced by Celani during this incident, the force he used against [REDACTED] was objectively reasonable, necessary, and proportional in order to affect the arrest. To put this into context, Sgt. Celani responded to an aggravated vehicular hijacking call, a forcible felony, where the stolen vehicle was located with [REDACTED] leaning next to it. Sgt. Celani then performed a lawful Terry stop of [REDACTED] to investigate this matter, which is when [REDACTED] resisted being handcuffed by pulling away and attempting to flee on foot. Subsequently, [REDACTED] evasive actions necessitated the response of Sgt. Celani and two other officers to perform an emergency takedown and handcuffing. The struggle ensued on the ground when [REDACTED] continued to defy verbal directions and resisted arrest by stiffening up his arms. Sgt. Celani attempted to use his right knee to apply leverage to [REDACTED] in an effort to place the active resister on his stomach to properly restrain the offender. [REDACTED] body position (lying on left side while hiding the uncuffed hand) as depicted in the BWC¹⁵ demonstrates his attempt to evade arrest and resist CPD's effort to conduct their investigation.

Additionally, the BWC videos provided by COPA provide unconvincing evidence that Sgt. Celani utilized a neck restraint technique on [REDACTED] and none of the hospital reports indicate that [REDACTED] sustained or complained about a neck injury. Moreover, [REDACTED] foremost complaints were the abrasions sustained to his face and the wrist injury. Noteworthy, is that [REDACTED] continued his propensity to resist arrest by escaping from police custody when he first arrived at Jackson Park Hospital for treatment. Consequently, he was later captured and charged with multiple counts of resisting arrest, escape from a peace officer, and aggravated vehicular hijacking with a firearm.

CONCLUSION

CPD requests that the Chief Administrator conduct an additional investigation. Notwithstanding the evidence provided by COPA, CPD does not concur with the recommended findings and penalty for Sgt. Celani as related to the sustained findings for using excessive force during the arrest of [REDACTED] in violation of Rules 2, 3, 6, 8, 9, and 10. Based on the preponderance of evidence standard, the evidence in this matter does not support a sustained finding.

CPD looks forward to discussing this matter with you pursuant to MCC 2-78-130(a)(iii).

Sincerely,

[REDACTED]
Fred L. Waller
Interim Superintendent of Police
Chicago Police Department

¹⁴ Att. 36, pg. 3-4.

¹⁵ Att. 21 at 2:08.