



Log # 2023-0001823

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 27, 2023, the Civilian Office of Police Accountability (COPA) received an initiation report documenting a complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on April 26, 2023, Officers Julio Zavala, Frank Granat, and Reynol Cuellar De La Cruz choked him and injured his thumb without justification.² Following its investigation, COPA reached unfounded findings for choking ██████████ without justification, and not sustained findings for injuring ██████████ left thumb without justification.

II. SUMMARY OF EVIDENCE³

On April 26, 2023, at approximately 10:10 pm, Officers Julio Zavala, Frank Granat, and Reynol Cuellar De La Cruz responded to a 911 call regarding a domestic incident involving person with a gun.⁴ ██████████ had gotten into an argument with his girlfriend, ██████████ and ██████████ sister, ██████████⁵ ██████████ called the police and reported that ██████████ had a gun.

When the officers arrived outside the residence at ██████████, ██████████ flagged them down and pointed to ██████████ who was walking towards a nearby park. The officers approached ██████████ to conduct an investigatory stop and immediately told him that he was not in trouble. ██████████ began lifting his shirt up and told the officers that he did not have anything on him, meaning a firearm.⁶

Due to the nature of the call involving a domestic incident and a possible firearm, the officers wanted to place handcuffs on ██████████ during the stop for safety reasons.⁷ As they attempted to handcuff ██████████ he began resisting by stiffening and locking his arms, pivoting his body,

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 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.

³ 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, civilian and officer interviews, police reports, and medical records.

⁴ Att. 12.

⁵ Att. 31, pg. 6 to 7.

⁶ Att. 34 at 22:13:19.

⁷ Att. 61, pg. 12, lns. 17 to 24; Att. 62, pg. 9, lns. 9 to 17.

latching onto a fence, and snatching his hands away.⁸ After struggling with ██████ for approximately two minutes, the officers decided to perform an emergency takedown.⁹ Once on the ground, ██████ continued to resist, but the officers were eventually able to place handcuffs on him. They then picked him up from the ground and conducted a protective pat down for weapons, with negative results.¹⁰

Shortly thereafter, ██████ noticed that his left thumb was bleeding.¹¹ The officers walked ██████ to the front of the CPD vehicle and wrapped his left hand in gauze due to a scratch on his left thumb. The officers offered to call an ambulance, but ██████ refused medical attention.¹²

██████ told the officers that ██████ exited out the back door of the residence, so it was possible that the firearm was in the backyard.¹³ Officer De la Cruz and Officer Geraldo Ortiz searched the yard for a weapon, but none was recovered. Because neither ██████ nor ██████ wanted to sign a complaint to have ██████ arrested, ██████ was released without charges.

The following day, ██████ went to Provident Hospital complaining of back pain, bruises on his right thumb, and swelling around his neck from being choked by the police.¹⁴ However, prior to the completion of testing, ██████ left the hospital without notifying medical personnel.¹⁵ The medical records reflected a scratch on ██████ left thumb,¹⁶ no soft tissue swelling, and a pre-existing condition involving narrowing of part of his spine due to bone spurs.¹⁷

III. ALLEGATIONS

Officers Julio Zavala, Frank Granat, and Reynol Cuellar De La Cruz:

- Choking ██████ without justification.
 - Unfounded
- Injuring ██████ left thumb without justification.
 - Not Sustained

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability

⁸ Att. 34 starting at 22:13:35.

⁹ Att. 34 starting at 22:15:31.

¹⁰ Att. 35 starting at 22:16:57.

¹¹ Att. 33 at 22:20:43.

¹² Att. 34 at 22:43:22.

¹³ Att. 35 starting at 22:20:20.

¹⁴ Att. 49, pg. 18.

¹⁵ Att. 49, pgs. 17, 21.

¹⁶ Att. 49, pgs. 20.

¹⁷ Att. 49, pgs. 20-21, 24.

to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

In this case, the officers provided statements that were consistent with each other, and that largely matched the Body Worn Camera (BWC) footage. Therefore, this investigation did not reveal any evidence that caused COPA to question the credibility of the officers.

██████ alleged he was choked by one of the accused officers. At the scene, ██████ asked Officer Zavala which one of the officers choked him (implying that it was not Officer Zavala), and said it was the “tall mother fucker” who choked him.¹⁸ In his interview with COPA, ██████ stated that he was 5’5,” and he described the officer who choked him as taller than him. ██████ estimated the officer was “damn near 5’8” (which is not particularly tall), and “heavyset.”¹⁹ However, Officer Zavala was the tallest and heaviest officer at the scene, at 6’0 and 220 lbs., with Officer Granat being 5’10” and weighing 175 lbs., and Officer Cuellar De La Cruz being 5’11, and 180 lbs.²⁰ Moreover, as will be discussed in detail below, the vide of the incident does not support that ██████ was choked at all.

Further, ██████ told COPA that he was slammed to the ground, causing a possible neck/spine injury.²¹ However, the BWC footage shows that when the officers performed an emergency takedown of ██████ they actually guided him to the ground in a relatively gentle way. Officer Cuellar De La Cruz was beneath ██████ and broke his fall, far from what could be considered slamming ██████ to the ground.²² Additionally, the medical records show that ██████ had a preexisting injury to his spine.²³ As such, COPA cannot find ██████ version of events to be reliable.

V. ANALYSIS²⁴

a. Choking Allegation

COPA finds the allegation that Officers Zavala, Granat, and De La Cruz choked ██████ without justification, is **unfounded**. Force is defined as any physical contact by a CPD member, either directly or through the use of equipment, to compel a person’s compliance.²⁵ CPD members may only use force that is objectively reasonable, necessary, and proportional under the totality of the circumstances.²⁶ CPD policy defines deadly force as force by any means that is likely to cause

¹⁸ Att. 34 at 22:28:25.

¹⁹ Att. 31, pg. 20.

²⁰ Att. 62, pg. 5; Att. 61, pg. 4; Att. 64, pg. 4. See also, CMS CPD details.

²¹ Att. 31, pg. 23, lns. 1 to 12.

²² Atts. 33, 34 at 22:15:40

²³ Att. 34 at 22:15:42.

²⁴ For a definition of COPA’s findings and standards of proof, see Appendix B.

²⁵ Att. 66, G03-02, (III)(A), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 28, 2023).

²⁶ Att. 66, G03-02, (III)(B)(1)-(3).

death or great bodily harm. It includes the application of a chokehold, carotid artery restraint, or other maneuvers for applying direct pressure on a windpipe or airway.²⁷

In his interview with COPA, ██████ alleged that one of the accused officers placed his arm around ██████ throat.²⁸ He later stated that the officer “put his hand around [his] throat,” and when asked to clarify, stated that the officer “put his whole forearm everything, around [his] throat.”²⁹ ██████ claimed he had trouble breathing and thought the officer was trying to choke him.³⁰ He said the officer applied pressure to his throat for three to four minutes,³¹ and also described the officer as “prying on [his] neck.”³² During the officers’ interviews, all three officers denied that they choked ██████ or placed their hands anywhere near his neck.³³

In the BWC footage, ██████ can be heard stating, “you’re choking me” several times from 22:15:10 to 22:15:28. While the BWC does not specifically show ██████ neck area during that timeframe (except for one quick shot that shows the hood area of ██████ hoodie, with no one’s arms or hands anywhere near it), the footage does show where all the officers’ hands were during that time period, and none of them were near ██████ neck area.³⁴ Officer Granat was standing on ██████ left side with his left hand on ██████ left hand, and his right hand on a handcuff that appeared to be around ██████ left wrist.³⁵ Officer De La Cruz, who was also standing on ██████ left side, had his left hand under ██████ armpit and his right hand on ██████ left wrist.³⁶ Finally, Officer Zavala, who was standing on ██████ right side, had his left hand on the top of ██████ right arm and his right hand on ██████ right wrist.³⁷ Thus, the BWC does not show that any of the officers’ arms or hands were around ██████ neck area during the time that ██████ claimed he was being choked, or at any other time.

Additionally, ██████ asked Officer Zavala which officer had choked him, and he described the officer who choked him as the “tall” one.³⁸ This suggests that ██████ did not think Officer Zavala was the officer who choked him. But, as stated above, Officer Zavala was the tallest officer present at the scene. Regardless, the BWC does not show Officer Zavala’s hands near ██████ neck area at any time during the incident, including the moments when ██████ claimed he was being choked.

For these reasons, COPA finds there is clear and convincing evidence that ██████ was not choked during this incident. As such, COPA finds this allegation against the officers is **unfounded**.

²⁷ Att. 66, G03-02, (IV)(A)(4).

²⁸ Att. 31, pgs. 9 and 10.

²⁹ Att. 31, pg. 17, ln. 17; pg. 19, lns. 6-10.

³⁰ Att. 31, pgs. 20-21.

³¹ Att. 31, pgs. 39-40.

³² Att. 31, pg. 31, ln. 10.

³³ Att. 61, pg. 17, lns. 4 to 5; Att. 62, pg. 18, lns. 4 to 5; Att. 65, lns. 9 to 18.

³⁴ Att. 37 starting at 22:15:16.

³⁵ Att. 33 at 22:15:26.

³⁶ Att. 33 at 22:15:26.

³⁷ Att. 37 at starting 22:15:09.

³⁸ Att. 34 at 22:28:19.

a. Injured Thumb Allegation

COPA finds the allegation that Officers Zavala, Granat, and De La Cruz injured ██████ left thumb without justification, is **not sustained**. The evidence shows that the officers stopped ██████ while responding to a 911 call reporting a domestic altercation involving a person with a gun. After being flagged down by ██████ the person who made the call, the officers approached ██████. Immediately upon approach, ██████ began to resist. During the officers' interview with COPA, they described ██████ as being an active resistor.³⁹

CPD policy defines an active resistor 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.⁴⁰ The policy authorizes CPD members to respond to active resisters using stunning techniques, takedown methods, canines, and tasers.⁴¹

Here, video evidence shows that ██████ latched onto a nearby fence to avoid the officers' physical control. The officers gave ██████ lawful orders to stop, show his hands, and place his hands behind his back. ██████ ignored the officers' commands and physically resisted them. As a result, the officers were justified in performing an emergency takedown of ██████ and the BWC shows they guided him to the ground in the gentlest manner possible under the circumstances. Once on the ground, ██████ continued to actively resist the officers by stiffening his body and moving his arms away from them. When the officers picked ██████ up from the ground, he noticed his left thumb was bleeding. It is not clear if ██████ sustained his injury from his own actions or those of the officers. As such, there is insufficient evidence to prove or disprove the allegation by a preponderance of evidence, and COPA finds the allegation is not sustained.

Approved:

████████████████████

Steffany Hreno
Director of Investigations

9/24/2024

Date

³⁹ Att. 61, pg. 9; Att. 62, pg. 15; Att. 65, pg. 22.

⁴⁰ Att. 67, G03-02-01 (IV)(B)(2), Response to Resistance and Force Options (effective April 15, 2021, to June 28, 2023).

⁴¹ Att. 67, G03-03-02-01, (IV)(B)(2)(c)(1-3).

Appendix ACase Details

Date/Time/Location of Incident:	April 26, 2023 / 10:10 pm / [REDACTED], [REDACTED]
Date/Time of COPA Notification:	April 27, 2023 / 2:37 pm
Involved Member #1:	Julio Zavala, Star #13305, Employee ID # [REDACTED] DOA: February 16, 2017, Unit of Assignment: 002, Male, Hispanic
Involved Member #2:	Frank Granat, Star #7181, Employee ID # [REDACTED] DOA: September 18, 2017, Unit of Assignment: 002, Male, Hispanic
Involved Member #3:	Reynol Cuellar De La Cruz, Star #7661, Employee ID # [REDACTED] DOA: August 16, 2017, Unit of Assignment: 002, Male, Hispanic
Involved Individual #1:	[REDACTED] Male, Black

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

- G03-02: De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 28, 2023).
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021, to June 28, 2023).

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.⁴² 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.”⁴³

⁴² 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).

⁴³ *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