

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 22, 2019
Time of Incident:	Approximately 7:27 P.M./Approximately 8:00 P.M.
Location of Incident:	2953 W. Division Street, Chicago, Illinois/2150 N. California Avenue, Chicago, Illinois
Date of COPA Notification:	July 12, 2019
Time of COPA Notification:	12:00 P.M.

COPA received notification from the Chicago Police Department’s Force Review Unit of an incident involving open hand strikes, a “pressure point” technique, and possible choking of an arrest subject, prompting COPA to contact the arrestee, Mr. [REDACTED] for an interview about the incident. In his statement Mr. [REDACTED] alleges that, during a traffic stop for failing to wear a safety belt while driving, an officer of the Chicago Police Department used disproportionate excessive force while he and two other officers attempted to remove him from the driver’s seat of the vehicle, including punching and choking Mr. [REDACTED]. He further alleges that, afterward, Officer Kashif Khan struck him in the face while in the 014th District Station.

II. INVOLVED PARTIES

Involved Officer #1:	Valente Lara, Star No. 13954, Employee No. [REDACTED], Date of Appointment: August 29, 2005, Rank: Police Officer, Unit of Assignment: 014, DOB: [REDACTED] 1979, Male, Hispanic
Involved Officer #2:	Kashif Khan, Star No. 4471, Employee No. [REDACTED], Date of Appointment: September 24, 2007, Rank: Police Officer, Unit of Assignment: 014, DOB: [REDACTED] 1973, Male, Asian/Pacific Islander
Involved Officer #3:	Denis Vale, Star No. 1087, Employee No. [REDACTED], Date of Appointment: February 17, 1998, Rank: Sergeant of Police, Unit of Assignment: 014, DOB: [REDACTED] 1966, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1998, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Valente Lara	1. It is alleged that on or about May 22, 2019 at approximately 7:27 P.M. at or near 2953 W. Division Street Officer Valente Lara Star No. 13954 used excessive force that was not proportional while detaining [REDACTED]	Not Sustained
Officer Kashif Khan	1. It is alleged by [REDACTED] that on or about May 22, 2019 at approximately 2000 at or near 2150 N. California Avenue, Officer Kashif Khan Star No. 4471 committed misconduct by striking [REDACTED] on or about the face with his hand without justification.	Not Sustained

I. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral.
3. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02 Use of Force
2. G03-02-01 Force Options

II. INVESTIGATION

a. Interviews

1. Civilian Interviews

In Complainant [REDACTED] interview with COPA on January 15, 2020¹, Mr. [REDACTED] describes the stop occurring on May 22, 2019. He states that, just after being pulled over

¹ Attachment 1.

by the three officers, Officer Kashif Khan, Star No. 4471, approached his vehicle on W. Division Avenue with his hand resting on his firearm. As Mr. ██████ held his cell phone attempting to record the encounter, Officer Khan drew his Taser and pointed it at ██████ Mr. ██████ states he attempted to raise his window; however, Officer Khan placed his Taser through the window, preventing it from being raised, and threatened to break the window. At the officer's direction, Mr. ██████ says he turned off his vehicle's engine, causing the vehicle doors to unlock, at which point the officers opened the doors and rushed in. ██████ states that Officer Khan then put a handcuff around one wrist, placed his foot on the small 'step' on the floor next to the driver's seat, using leverage to pull on the handcuff attached to Mr. ██████ wrist. Mr. ██████ states that he (██████) stiffened his legs, pushing them into the floor of the driver's compartment to prevent his removal from the vehicle.

Mr. ██████ states that as Officer Khan tried to pull him from the vehicle, Officer Lara entered the vehicle from the front passenger's side, unbuckled Mr. ██████ front driver's side seat belt, placed his knee in the passenger seat, and leaned over or on top of Mr. ██████ Mr. ██████ states that Officer Lara then began punching him in the side of the face with his fist, forearm, and elbow. Mr. ██████ describes that Officer Lara placed his arm around his neck. Mr. ██████ could feel Officer Lara's upper arm or bicep pressed against his neck. Mr. ██████ states he was pushed or forced backward in his seat and choked with his head pressed to the left of the driver's seat headrest. Mr. ██████ states he felt pressure applied to his neck and that his breathing was restricted by the choking. Mr. ██████ states he was pinned into his seat as Officer Lara punched and choked him, with Officer Khan continuing to attempt to pull him from the seat by the handcuff around his wrist. ██████ further describes as one of the officers (though he is unsure which one) attempted to force him from the vehicle by his neck, placing his hands on his neck and pushing or pulling him from the vehicle. Finally, Mr. ██████ says, the officers removed him from the vehicle, restrained him in handcuffs, placed him in a police vehicle, and transported him to a police station near California Avenue and Shakespeare Avenue.

While at the police station, Mr. ██████ describes that Officer Khan directed him to remove articles of clothing, such as his belt, prior to being placed in lock-up. He states that he said something to Officer Khan to which Officer Khan responded by punching Mr. ██████ in the lip. Mr. ██████ states that a female officer² was present and witnessed Officer Khan striking him.

2. Officer Interview

In **Officer Kashif Khan's interview with COPA Investigators on May 13, 2020³**, he states that as he, Officer Lara, and Sgt. Vale traveled westbound on Division Street near the scene of the stop, he observed Mr. ██████ traveling in the eastbound lane not wearing a seatbelt. Officer Khan states that he made a U-turn, activated his lights and emergency equipment, pulled the vehicle over, and encountered the sole occupant of the vehicle, Mr. ██████ Officer Khan states he repeatedly asked Mr. ██████ for identification which Mr. ██████ repeatedly refused. Due to concerns Mr. ██████ may have been wanted for a crime or had weapons in his vehicle, Officer Khan, along with the other officer's present, entered the vehicle to forcibly remove Mr.

² Mr. ██████ could not provide further detail other than the officer was female. COPA was unable to identify the officer.

³ Attachment 12(a) – 12(c).

██████████ from the vehicle. After a difficult struggle, with Mr. ██████████ resisting detention, stiffening his body, and putting his weight back into the driver's seat, Officer Khan states he and the other officers were finally able to remove him from the vehicle and place him into custody.

Officer Khan states that during the incident his focus was primarily on Mr. ██████████ and he did not place much focus on the actions of the other officers, including the actions of Officer Lara. Officer Khan states he does not recall Officer Lara positioning himself on top of Mr. ██████████ and believes Officer Lara was attempting to push Mr. ██████████ from the vehicle, further stating he did not recall seeing anything concerning about Officer Lara's conduct. After reviewing the Tactical Response Report (TRR), Officer Khan states he does not know how Officer Lara applied pressure points, stating only that he would think Officer Lara did it with his thumb. Officer Khan further states Officer Lara's hand were near Mr. ██████████ neck, but that was because Mr. ██████████ was "moving about," explaining, "If my partner is reaching for the shoulder or the chest, Mr. ██████████ movement dictates where the hand goes." Officer Khan states he does not recall whether Officer Lara's hand was placed directly on Mr. ██████████ throat, does not recall whether Officer Lara squeezed Mr. ██████████ throat, would not describe Officer Lara as choking Mr. ██████████ and does not remember seeing Officer Lara's hand gripping or fingers pressing into Mr. ██████████ neck or throat. Officer Khan states he does not recall hearing Mr. ██████████ emit any choking, gasping, or gargling noises during that point in the struggle. However, he acknowledges Mr. ██████████ said, "I can't breathe," but explains, "I was having a hard time breathing too [. . .] I believe he had a difficult time breathing because he was fighting three police officers." Officer Khan states he did not witness Officer Lara pushing Mr. ██████████ from the vehicle by Mr. ██████████ neck or by his head and does not recall whether Officer Lara gripped or pulled Mr. ██████████ hair to remove him from the vehicle. Officer Khan states that, after receiving notification of an interview with COPA Investigators, he discussed the incident with both Officer Lara and Sgt. Vale and he was present when Officer Lara and Sgt. Vale, respectively, watched their body worn camera videos.

In **Sergeant Denis Vale's interview with COPA Investigators on May 13, 2020**⁴, he states that while "driving on routine patrol, Officer Khan noticed Mr. ██████████ wasn't wearing a seatbelt," causing the officers to initiate a traffic stop. Sgt. Vale states the officers took position around Mr. ██████████ vehicle with Officer Khan approaching the driver's side and asking several times for a driver's license. Sgt. Vale states Mr. ██████████ refused to produce identification. He states Officer Khan pulled his Taser on Mr. ██████████ but Mr. ██████████ continued to refuse to exit. He states further that Officers Khan and Lara opened the driver's side and passenger's side front doors and a struggle ensued as the officers attempted to remove Mr. ██████████ from the vehicle. Sgt. Vale states, ██████████ on the driver's seat, Lara's on the passenger seat," continuing, "Lara was trying to do his pressure hold, I don't recall anything about Lara being completely on him, I don't think he'd fit because of the steering wheel." Sgt. Vale states he believes Officer Lara's "pressure hold" or "pressure point" was successful in compelling Mr. ██████████ toward exiting the vehicle. He states he did not see anything constituting either misconduct or mistake on the part of Officer Lara.

Sgt. Vale further states he did not recall, and notes review of the incident did not reveal any squeezing of Mr. ██████████ throat. Sgt. Vale states he does not recall hearing Mr. ██████████

⁴ Attachment 13.

emit any choking, gasping, or gargling noises during that point in the struggle. Sgt. Vale acknowledges Mr. ██████ stated, “I can’t breathe,” but explains, “he was struggling with three grown men, he had to be tired, it was a long struggle to that point, and I will speculate it was because of the struggle that we were having.” Sgt. Vale states he did not witness Officer Lara pushing Mr. ██████ from the vehicle by his neck, but in review of the body worn camera he observed Officer Lara push Mr. ██████ by his head, and also states “I think he grabbed his hair or something.” Sgt. Vale states that he did not recall whether the officers discussed what would go into their Tactical Response Reports. Sgt. Vale states that, after being notified of their impending interviews with COPA approximately nine days prior to his statement, he, Officer Lara, and Officer Khan did discuss coming down to COPA to give statements, but he does not recall exactly what was said.

In **Officer Valente Lara’s interview with COPA Investigators on May 13, 2020**⁵, he states that on the evening of the stop, he, Officer Khan, and Sgt. Vale traveled westbound on Division Street when Officer Khan made a U-turn to conduct the traffic stop. The officers approached the vehicle from both sides, and Officer Khan asked repeatedly for a driver’s license or ID, but Mr. ██████ repeatedly refused. Officer Lara states Officer Khan repeatedly ordered Mr. ██████ from the vehicle, but that Mr. ██████ again repeatedly refused to comply. Officer Lara states Mr. ██████ turned off the car’s engine, causing the doors to unlock, at which point Officer Khan and Officer Lara opened the front driver’s and passenger’s side doors, respectively. Officer Lara states he then entered the vehicle, and a struggle ensued. During the struggle, Officer Lara states he attempted to push Mr. ██████ from the vehicle and delivered both open hand strikes and control techniques before the officers were able to successfully pull Mr. ██████ from the vehicle and place him in handcuffs.

Officer Lara states, he jumped onto Mr. ██████ positioning himself on top of Mr. ██████. Officer Lara states, “he was pushing himself back towards the seat. He didn’t want to get out. So, I was struggling between him pushing himself back and me trying to pull him out and push him out [. . .].” Officer Lara states, “His movement and everything he was doing was not being easy. It was a very difficult time. Like I said, he was pushing himself back. I didn’t put myself on top of him, like complete weight. I was trying to bring him out because he was pushing back and I was trying to bring him out, to put him [. . .] in a better position that I could just push him [. . .] out of the car.” Officer Lara could not remember what parts of his body he placed on Mr. ██████ because it happened so fast.

Officer Lara was presented the statements captured by body worn camera (*infra*) “Step the fuck out” and “Step out of the fucking car.” Officer Lara states, “I don’t believe that’s my voice [. . .] I said a lot of things, but I don’t recall saying that and I don’t behave that way.” Officer Lara later acknowledges that, although he does not recall making those statements, the voice captured on BWC could have been his, but he maintains that he was not angry with Mr. ██████. Officer Lara states that, aside from himself, Officer Khan, Sgt. Vale, and Mr. ██████ no other person was present at the scene of the stop.

Officer Lara acknowledges that, once he had positioned himself on top of Mr. ██████ he then placed his right arm, and then his right hand, on Mr. ██████ throat. Officer Lara

⁵ Attachment 14(a) – 14(b).

identifies these movements as those referred to in his reports [*infra*] as “pressure points to the upper shoulder/neck area,” saying “When I was trying to press pressure on his neck and shoulder area, I was referring more to like the collar bone, and also movement—my hand was basically grabbing, like touching, his neck, but I didn’t cut his breathing air, I was not choking him, sir.” Officer Lara states he used his right hand and that he learned the “pressure points at the collar bone, between like the neck and the collar bone [. . .] at the academy [. . .].” Officer Lara states his application of pressure was intentional, in order to make Mr. ██████████ comply, adding, “But I didn’t mean to restrict his, uh . . . I didn’t mean to restrict his airway.” Asked if he did restrict Mr. ██████████ airway, Officer Lara states, “No, I don’t—I don’t—I don’t believe, I didn’t mean to restrict it, I don’t think I—I don’t think I did, sir.” Officer Lara states it was never his intention to frighten or communicate any threat to Mr. ██████████ but only to make him comply.

Officer Lara acknowledges body worn camera video [*infra*] documents that, approximately twenty seconds after positioning himself on top of Mr. ██████████ Officer Lara had his right hand on Mr. ██████████ throat, with his fingers changing from a flat, straight-fingered position to a curled finger position, with fingers appearing to grip and press inward into Mr. ██████████ throat. Asked why he changed his hand position to a grip position with fingers pressing inward into Mr. ██████████ throat, Officer Lara states, “there was a lot of movement and I was trying to apply pressure on the collar bone, he kept pushing himself back, but like I said, my intention was not to injure him, my intention was not to restrict the airway [. . .].” Officer Lara explains he was only “trying to get him out of the car as soon as possible, because I don’t know if there’s weapons in the car [. . .] I don’t know why he’s behaving the way he’s behaving [. . .].”

Officer Lara states, “he stated, “I can’t breathe,” which, the same way for me, I couldn’t breathe, all the movement going on in there. But as soon as he said it, I removed my hand right away, but that was not my intention, sir, at all.” Officer Lara acknowledges that immediately before Officer Lara changed his hand position to a gripped position with fingers appearing to press inward into Mr. ██████████ neck, Mr. ██████████ asked, “What’s your name?” However, Officer Lara asserts that his change in hand position was not made in response to Mr. ██████████ question and states he was not angry with Mr. ██████████ for asking the question. Officer Lara states he did not hear Mr. ██████████ making gargling, gasping, or choking noises, only hearing him state, “I can’t breathe.”

Officer Lara acknowledges that, after removing himself from on top of Mr. ██████████ he then placed his hands upon Mr. ██████████ neck, attempting thereby to push Mr. ██████████ from the vehicle. Officer Lara states he was attempting to push Mr. ██████████ from the vehicle “any way and how” he could, stating that the situation did not allow him the opportunity to select the best possible method available. Officer Lara states, “I was trying to get him out of the car as soon as possible, because like we said—like I said—I didn’t know what was in the car or why he was acting this way [. . .] I didn’t have the option to pick and choose [. . .] I was just grabbing for whatever so that I can push him out of the car.” Officer Lara acknowledges that he gripped or pulled Mr. ██████████ hair in his effort to remove Mr. ██████████ from the vehicle, but states, “I was just trying to get him out of the car. I [. . .] didn’t have any options [. . .] There’s no way I can push him out. I’m having a difficult time pushing him out. My partner is pulling him out. It—it feels like he’s glued to the seat. [. . .] I don’t have, like, like, my balance to, to, uh, pick a place to push him out. So, I—I basically put my hands wherever it was possible just to get him out of the

car.” Officer Lara states he does not believe he took any part of his use of force too far, did not make any mistakes during his arrest of Mr. [REDACTED]. Officer Lara states he believes his use of force was proportional because he “used the least amount of force necessary.” Officer Lara states that Officer Khan and Sgt. Vale were both present when he wrote his Tactical Response Report [*infra*] about his use of force during the incident, and that the three did talk about what would go into the report. He states that, after receiving notification of their impending interviews with COPA, he spoke with both Officer Khan and Sgt. Vale about the incident under investigation.

In **Officer Kashif Khan’s interview with COPA Investigators on July 15, 2020**⁶, Officer Khan states that following Mr. [REDACTED] arrest, officers transported Mr. [REDACTED] to the 014th District Station. Officer Khan states that he proceeded to the 014th District station, as well, arriving after the squadrol transporting Mr. [REDACTED]. Officer Khan states he had no direct communication or interactions with Mr. [REDACTED] once they had both arrived at the station. Officer Khan states he does not recall any female officers being present and does not believe any female officer would have been present at that time in the station. He states he did not personally have any kind of argument with Mr. [REDACTED] and did not interact with him at all the rest of the evening. Officer Khan further states that following the arrest, he did not strike Mr. [REDACTED] in the face or anywhere else.

Digital Evidence

Body worn camera (BWC) videos obtained from Officer Khan,⁷ Officer Lara,⁸ and Sgt. Vale⁹ document the duration of the stop and the arrest of Mr. [REDACTED]. The encounter begins as the officers effect a traffic stop of Mr. [REDACTED] on the eastbound side of the 2900 block of W. Division Street and then approach his vehicle from the rear. Officer Khan approaches Mr. [REDACTED] front driver’s side window, greets him, notifies him body worn camera is recording the interaction, and notifies him the reason for the stop was that it appeared he was not wearing his seatbelt while driving the vehicle. Officer Lara and Sgt. Vale walk to the passenger’s side and appear to look through the front and rear windows into the vehicle. Officer Khan asks for Mr. [REDACTED] license and insurance. Mr. [REDACTED] looks around at the other officers and asks why it is necessary for three officers to conduct the traffic stop. Officer Khan responds that their Sergeant was riding with them that day, indicating there is no other reason for the additional officer. Officer Khan asks Mr. [REDACTED] if he does not have a driver’s license, and Mr. [REDACTED] responds that he does have a driver’s license, but that he does not have it with him. Officer Khan asks for another form of identification. Mr. [REDACTED] then appears to look through his wallet for another form of identification.

After several seconds of looking through his wallet, Officer Khan states, “Do me a favor, sir, step out of the vehicle, sir. I need you to step out of your vehicle, sir.” Mr. [REDACTED] appears to shake his head and say, “I don’t know you—look, you’re drawing your weapon,” referring to Officer Khan’s hand placed on his firearm. Officer Khan states, “I don’t know you, I don’t know if you’ve got weapons or not on you,” and states again, “sir, I need you to step out of the vehicle.”

⁶ Attachment 15.

⁷ Attachment 7.

⁸ Attachment 8.

⁹ Attachment 9.

Sgt. Vale walks from the passenger-side of the vehicle to the driver-side. Officer Khan directs Mr. [REDACTED] from the vehicle three additional times without compliance before drawing his Taser and pointing it through the open driver-side window at Mr. [REDACTED]. Mr. [REDACTED] states, "A Taser?" Officer Khan states twice more, "I need you to step out of the vehicle, sir," adding, "I will break the window and pull you out." Officer Khan then repeatedly orders Mr. [REDACTED] from the vehicle with Mr. [REDACTED] arguing that his hands are free and that drawing the Taser is not necessary, asking if the officer has his body worn camera on. Officer Khan confirms his body worn camera is on. Sgt. Vale states, "If you don't have a license, sir, we are allowed to take you out of your vehicle." Mr. [REDACTED] then appears to begin rolling his window up with Officer Khan's hand and Taser still inside the window. Officer Khan again states he will break the window and pull Mr. [REDACTED] out. Officer Khan again tells Mr. [REDACTED] to unbuckle his seat belt and step out of the vehicle, adding "turn the vehicle off and step out of the vehicle." Mr. [REDACTED] appears to turn the vehicle off, but says, "I'm not stepping out, though." Officer Khan asks, "Why not?" Mr. [REDACTED] does not respond. Officer Khan states, "You don't have a license. Okay? Simple as that." Officer Lara then opens the passenger-side door and Officer Khan opens the driver-side door, grabbing Mr. [REDACTED] by his arms.

Officer Lara leans into the passenger-side of the vehicle, placing one knee on the seat, stating, "Step out of the car [. . .] He's asking you to step out of the car," unbuckling Mr. [REDACTED] seat belt. Officer Lara appears to attempt to push Mr. [REDACTED] from the vehicle, pushing with his right hand on [REDACTED] right shoulder and upper back as Officer Khan attempts to pull him by his right arm. Officer Lara states, "Come on. Step out of the car. Step out of the car." Officer Lara then appears to leap partially on top of Mr. [REDACTED] with his knees placed on or about the center console and Mr. [REDACTED] legs. Once Officer Lara leaps on top of Mr. [REDACTED] his body worn camera video is near completely obscured, with the video perspective blocked due to Officer Lara's immediate proximity to Mr. [REDACTED] person, eventually falling off Officer Lara's tactical vest. The altercation continues to be captured by Officer Khan's and Sgt. Vale's body worn cameras, as well as some audio from Officer Lara's fallen body worn camera.

Officer Khan continues to hold Mr. [REDACTED] left wrist and arm, attempting to pull him out of the vehicle. As Officer Lara straddles Mr. [REDACTED] he appears to place his right arm around Mr. [REDACTED] neck, with his arm's anterior cubital region placed around the front and sides of Mr. [REDACTED] neck. Doing so, Officer Lara comes to position himself atop Mr. [REDACTED] person in a close-contact ventral-to-ventral position, pushing him back into the driver's seat, and stating, "Step the fuck out!" Officer Lara is positioned atop Mr. [REDACTED] and appears to have his weight resting upon Mr. [REDACTED] person for approximately twenty-five seconds. After mounting Mr. [REDACTED] Officer Lara releases Mr. [REDACTED] neck from his arm's anterior cubital region and moves his hand onto or around Mr. [REDACTED] throat area, stating, "Step out of the fucking car!" Officer Lara then states, "You gonna step out of the car? You gonna step out of the car? You gonna step out of the car? You gonna step out of the car?" With Mr. [REDACTED] pinned back into his driver's seat, Officer Lara appears to have his right hand placed around Mr. [REDACTED] throat, with Mr. [REDACTED] head pushed back and to the left of his driver's seat headrest. Officer Lara, with flat, extended fingers, appears to apply pressure upon Mr. [REDACTED] throat. Mr. [REDACTED] is then captured emitting a gasping, gargling, or choking noise.

Opening the rear driver-side door, Sgt. Vale places his left hand on Mr. ██████ left shoulder and his right hand on Mr. ██████ head and states, "Stop it. Stop it, alright? Just stop it, okay? Stop it. Okay?" Sgt. Vale then appears to make a quick 'waving' gesture with his right hand. Mr. ██████ states, "What's your name?" Officer Lara's hand position changes from flat, extended fingers pressing onto or into Mr. ██████ throat to a gripped or claw-like position, with his fingers curled and pointing inward, appearing to apply direct pressure into the side of Mr. ██████ throat. Mr. ██████ again emits a gasping, gargling, or choking noise and then states in a strained tone of voice, "I can't breathe." Officer Lara states repeatedly, "step out of the car." Mr. ██████ states again, "I can't breathe." Sgt. Vale states repeatedly, "Stop it. Stop it. Stop it." Officer Khan continues to attempt to pull Mr. ██████ by his left wrist.

Officer Lara then turns his body to his right, appearing to remove his body weight from Mr. ██████ person. Officer Khan states, "Step out of the fucking car!" Officer Lara pushes Mr. ██████ by his right shoulder and upper back area, appearing to attempt to push Mr. ██████ out of the front driver-side door. As he does so, Officer Khan continues to pull Mr. ██████ by the handcuff affixed to his left wrist. Sergeant Vale repeatedly states, "Stop resisting!" Officer Lara then places his hands upon the sides and back of Mr. ██████ neck just below his skull and jawline, appearing to push Mr. ██████ from the vehicle by the back and sides of his head, jaw, and neck. Officer Khan attempts to pull Mr. ██████ by his hair and the handcuffed wrist. Officer Lara delivers several open hand strikes to Mr. ██████ head with his right hand while he grips Mr. ██████ hair with his left hand, attempting to push him out of the vehicle by his hair. Sgt. Vale repeatedly states, "Stop resisting," and also pulls Mr. ██████ by his hair and delivers several open hand strikes to his head. Officer Khan continues to pull Mr. ██████ by his hair, then returns to pulling Mr. ██████ by his handcuff as well as his arms, placing his right foot on the vehicle floor or 'step' located on the side of the driver's seat, while pulling Mr. ██████ by his handcuff. Officer Khan's body worn camera falls to the ground during the struggle and turns off. The struggle continues to be captured by Sgt. Vale's body worn camera. Mr. ██████ states repeatedly, "Stop punching me." Sgt. Vale replies that the officers had not punched him, stating, "We're stunning you," and further stating, "There's a difference, okay? It's an open hand." Sgt. Vale then repeatedly directs Mr. ██████ to, "Stop resisting." Officer Lara continues to push Mr. ██████ from the vehicle by his neck and head. Officer Khan continues to pull Mr. ██████ by his wrist and arm.

The officers remove Mr. ██████ from the vehicle. They hold him down to the ground next to the vehicle, with Officer Khan placing his knee on Mr. ██████ back. The officers fully secure Mr. ██████ hands in handcuffs and Sgt. Vale radios for a squadrol. Mr. ██████ and Officer Khan then proceed to argue about the officers' use of force, Mr. ██████ resistance to the arrest, as well as the justification for the stop, arrest, and removal of Mr. ██████ from the vehicle. As an additional officer arrives on scene in a police SUV, Officers Khan and Lara pick Mr. ██████ up from the ground and walk him to the SUV. Sgt. Vale repeats to Mr. ██████ "Stop resisting," as Mr. ██████ appears to struggle. The officers place Mr. ██████ into the back seat of the vehicle as they continue to argue about the justification for the arrest. As a police squadrol arrives, the officers remove Mr. ██████ from the back of the police SUV and walk him to the squadrol, placing him into the back of the vehicle as numerous other officers arrive on scene.

Officers then return to the area surrounding Mr. [REDACTED] car and Officers Khan and Lara re-affix their fallen body worn cameras. Officer Lara conducts a search of Mr. [REDACTED] vehicle, including the front and rear passenger compartments, the center console, the glove box, and two bags located in the backseat of the vehicle. Lieutenant Nicola Zodo, Star No. 588, then approaches Sgt. Vale, asking about the incident. Sgt. Vale briefs Lt. Zodo on the incident, and the two discuss what Department facility Mr. [REDACTED] should be transported. Sgt. Vale then enters the driver's seat of Mr. [REDACTED] vehicle, starts the ignition, and leaves.

Twenty-seven (27) digital photographic stills captured from the Body Worn Camera videos of Officer Khan and Sergeant Vale¹⁰ document in close detail multiple movements and actions taken by Officer Valente Lara during the arrest of Mr. [REDACTED]

b. Documentary Evidence

A memo of the Force Review Unit in CPD's Bureau of Organizational Development dated 11 July 2019¹¹ details a Complaint logged by Commander King-Smith, Crystal, Unit 721, alleging excessive force by Officer Lara, Valente, Star No. 13954. The memo flags two officers' Tactical Response Reports for review, stating in part, "it appears that Officer Lara has one hand pushing against the front of the subject's neck. The subject then asks, "What's your name?" and says "I can't breathe." Officer Lara reported that he "performed pressure point to the upper shoulder/neck area of the offender." However, Officer Lara did not articulate anything further with regard to a "pressure point" technique."

Attendance and Assignment Sheets from the 4th Watch of Unit 014 on May 22, 2019¹² document Officer Valente Lara, Officer Kashif Khan, and Sergeant Denis Vale were present on duty on the evening of the incident in question. Officers Lara and Khan were assigned to Beat number 1461A and Sergeant Vale was assigned to Beat number 1461. All three officers were assigned to police vehicle number 4946.

An **Office of Emergency Management and Communications Event Query Report with Event Number [REDACTED]**¹³ documents the May 22nd, 2019 traffic stop of [REDACTED] at approximately 19:20 hours. That report bears the Personnel Number of Officer Kashif Khan.

An **Arrest Report bearing CB # [REDACTED] RD# [REDACTED], and Event # [REDACTED]** dated May 22, 2019¹⁴ documents the arrest of [REDACTED] at approximately 19:27 hours on the date of report. The report states Mr. [REDACTED] was charged with one count of "Not Wearing a Seatbelt/Driver," one count of "Driving/No License/Permit/Age," one count of "Operate Uninsured MTR vehicle," and three counts of "Resisting/Obstructing/PC Off/Corr Emp/FRFTR"—one count for each involved officer. The "Incident Narrative" section of that report states, in part, [REDACTED] (Offender) refused to cooperate stiffening his body placing his full weight backwards into the seat, pulling his arms close to his body, pulling his hands away

¹⁰ Attachment 10(a) – 10(z)(1).

¹¹ Attachment 11.

¹² Attachment 16.

¹³ Attachment 17.

¹⁴ Attachment 2.

from A/O's as they attempted to place him into custody. A/O Lara applied pressure points to the upper shoulder neck area of [REDACTED] (offender). This had no effect causing A/O Lara to apply several open hand strikes to [REDACTED] (offender) face. A/O Khan was able to place one handcuff on [REDACTED] (offender) left hand however struggled to pull him out of the vehicle so that he may be placed into custody. A/O Khan handed off the handcuffed arm to Sgt. Vale and used both hands to grab whatever he could on [REDACTED] (offender) person to pull him out of the vehicle performing an emergency takedown and with the assistance of Sgt. Vale placed him into custody."

An **Original Case Incident Report bearing RD# [REDACTED] and Event # [REDACTED] dated May 22, 2019**¹⁵ further documents the arrest of [REDACTED] on the date of report. That report states, in part, [REDACTED] (Offender) refused to cooperate stiffening his body placing his full weight backwards into the seat, pulling his arms close to his body, pulling his hands away from the R/O's as they attempted to place him into custody. R/O Lara applied pressure points to the upper shoulder neck area of [REDACTED] (Offender). This had no effect causing R/O Lara to apply open hand strikes to [REDACTED] (Offender) face. R/O Khan was able to place one handcuff on [REDACTED] (Offender) left hand however struggled to pull him out of the vehicle so that he may be placed into custody. R/O Khan handed off the handcuffed arm to Sgt. Vale and used both hands to grab whatever he could on [REDACTED] (Offender) person to pull him out of the vehicle performing an emergency takedown and with the assistance of Sgt. Vale placed him into custody. [REDACTED] (Offender) continued to resist pushing back onto R/O Khan as he (Khan) held him ([REDACTED]) onto the ground awaiting transport."

The **Tactical Response Report of Officer Valente Lara dated May 22nd, 2019 bearing Event No. [REDACTED] and RD No. [REDACTED]**¹⁶ documents Officer Vale's use of force employed in the arrest of [REDACTED]. That report states, in part, "Listed offender attempted several times to pull his hands away from A/O's and pushed himself [*sic*] back into his seat to resist the arrest. A/O performed pressure point to the upper shoulder/neck area of the offender. Listed offender continued to refuse to cooperate, A/O attempted to push listed offender out of the car, but listed offender continued to push his body back inside the vehicle in attempt to resist arrest, A/O performed open hand strikes to the offender's face. Listed offender was told several times to stop resisting, offender was finally pushed out of the vehicle and an emergency takedown and emergency handcuffing was conducted by assisting A/O's." Under the "Subject's Actions" heading, Officer Lara indicated Mr. [REDACTED] "Did Not Follow Verbal Directions," "Stiffened (Dead Weight)," "Pulled Away," and "Other." Under the "Force Mitigation Efforts" heading, Officer Lara indicated he utilized "Member Presence," "Verbal Direction/Control Techniques," "Tactical Positioning," and "Additional Unit Members." Under the "Control Tactics" heading, Officer Lara indicated he utilized "Escort Holds" and "Pressure Sensitive Area."

The **Tactical Response Report of Officer Kashif Khan dated May 22nd, 2019 bearing Event No. [REDACTED] and RD No. [REDACTED]**¹⁷ documents Officer Khan's use of force employed in the arrest of [REDACTED]. That report states, in part, "Above refused to cooperate stiffening his body placing his full weight backwards into the seat, pulling his arms close to his body, pulling

¹⁵ Attachment 3.

¹⁶ Attachment 4.

¹⁷ Attachment 5.

his hands away from R/O's as they attempted to place him into custody. R/O Khan was able to place one handcuff on above's left hand however struggled to pull him out of the vehicle so that he may be placed into custody. R/O handed off the handcuffed arm to Sgt. Vale and used both hands to grab whatever he could on above's person to pull him out of the vehicle performing an emergency takedown placing above into custody."

The **Tactical Response Report of Sergeant Denis Vale dated May 22nd, 2019 bearing Event No. [REDACTED] and RD No. [REDACTED]**⁸ documents Sgt. Vale's use of force employed in the arrest of [REDACTED]. That report states, in part, "R/Sgt assisted the attempt to remove offender out of his vehicle and offender struggled and resisted all efforts by R/Sgt and 1461A. R/Sgt while giving verbal commands to offender to stop resisting gave open hand stuns to the back of the head of offender in attempt to gain compliance from offender. After a long struggle R/Sgt and 1461A were able to pull offender out of vehicle without further incident."

III. LEGAL STANDARD

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 the conduct reviewed complied with Department policy. *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 has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

¹⁸ Attachment 6.

IV. ANALYSIS

First, COPA must assess the credibility of the witnesses, specifically of the accused officers in this case. In doing so, COPA looks at the undisputed facts as identified by video evidence and compares those findings against the versions of events provided by the officers. In the instant case, COPA has doubts.

Most significant in our analysis of credibility, in response to Investigators' questions regarding Mr. ██████ statement, "I can't breathe," uttered as Officer Lara's hand gripped ██████ neck, all three officers offered the explanation that Mr. ██████ was likely experiencing shortness of breath or fatigue due to physical exertion from the choice to struggle with three police officers. Officers Khan and Lara both offered as supporting evidence for their explanation the assertion that they, too, had difficulty breathing due to the physical intensity of the struggle. Notably, all three officers admitted discussing the incident with one another prior to their interviews with COPA, including viewing body worn camera video together. Consequently, COPA does not find the officers' distinctly identical explanations for Mr. ██████ statement, "I can't breathe," to be reliable: more probable than the chance each officer independently derived the very same explanation for Mr. ██████ statement—and phrased it in markedly similar fashion—is the likelihood that the three officers came to the explanation during their admitted discussion(s) held prior to interview.

In sum, while the best evidence in this case comes from video, COPA finds the officers credibility diminished.

Officer Lara

Allegation 1:

COPA finds the allegation that Officer Lara used excessive force not proportional to the resistance offered by Mr. ██████ not sustained. Chicago Police Department General Order G03-02 on Use of Force and General Order G03-02-01 on Force Options require any use of force by Chicago Police Officers to be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a subject, under the totality of the circumstances. Both General Orders direct officers to use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so, based on the totality of the circumstances. In general, "pressure point" techniques, and open hand stuns are an authorized use of force option for passive resisters, active resisters, and assailants. The officers were justified in ordering Mr. ██████ out of the car, and by both the officer's reports, statements and the statement of Mr. ██████ himself, Mr. ██████ physically resisted the officers' efforts to extract him from the car. Therefore, with respect to the stuns and pushes. The officers were justified in their actions.

However, general Order 03-02-01 authorizes the use of chokeholds only in the case of assailants for whom deadly force is justified, defining a chokehold as "[A]pplying direct pressure to a person's trachea (windpipe) or airway (the front of the neck) with the intention of reducing

the intake of air.” The Order advises, “Holding and control techniques involving contact with the neck, but which are not intended to reduce the intake of air, are not defined as chokeholds.”

Due, however, to an absence of body worn camera video or other independent evidence documenting the full extent of Officer Lara’s hand position, finger location, grip, and localized pressure applied to both sides of Mr. ██████████ neck or throat, it is not possible to verify whether Officer Lara violated CPD directives on Use of Force and Force Options. Specifically, due to the locations of the other involved officers, positioned with their body worn cameras just outside of the vehicle’s driver’s side, due to ██████████ and Lara blocking those camera’s perspectives from capturing what occurred on the right side of Mr. ██████████ neck while seated in the driver seat, and due to Officer Lara’s own body worn camera becoming detached and falling to the floor of the vehicle during the struggle, no video evidence exists proving, by a preponderance of the evidence, whether Officer Lara choked Mr. ██████████ or otherwise reduced his intake of air.

Further, assuming *arguendo*, COPA finds that Officer Lara did choke Mr. ██████████ or reduce his intake of air, General Order G03-02-01 requires for a finding of misconduct that he did so *intentionally*. Officer Lara readily admits that he intentionally applied pressure to Mr. ██████████ neck area to gain compliance by inflicting pain (i.e. applying the “pressure point” technique). However, Officer Lara insists he does not believe he reduced Mr. ██████████ intake of air, yet also does not outright deny the possibility he did so inadvertently. Specifically, he states, “I didn’t mean to restrict his airway [. . .] I didn’t mean to restrict it.” While Officer Lara insists, he never intended to reduce Mr. ██████████ airways, COPA questions Officer Lara’s credibility. In any case, the evidence does not meet the clear and convincing standard to find that Officer Lara’s actions were within policy. Therefore, the allegation is not sustained.

Officer Khan

Allegation 1:

COPA finds the allegation that Officer Kashif Khan used excessive force by striking Mr. ██████████ in the face while at the 014th District Police Station not sustained. This allegation suffers from similar evidentiary limitations as the above. Mr. ██████████ states Officer Khan struck him in the face in the 014th District Station, and Officer Khan states he did not. No independent verification of the allegation—such as POD video documenting any interactions between Mr. ██████████ and Officer Khan inside the station—exist on the record that would allow COPA to reach an affirmative finding on the matter. As a result, the allegation is not supported by sufficient evidence which could be used to prove or disprove the allegation by a preponderance, and therefore the allegation is not sustained.

V. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer Lara	1.It is alleged that on or about May 22, 2019 at approximately 7:27 P.M. at or near 2953 W. Division Street Officer Valente Lara Star No. 13954 used excessive force that was not proportional while detaining [REDACTED]	Not Sustained
Officer Khan	1. It is alleged that on or about May 22, 2019 at approximately 8:00 P.M. at or near 2150 N. California Avenue Officer Valente Lara Star No. 13954 used excessive force that was not proportional while detaining [REDACTED]	Not Sustained

Approved:

[REDACTED]

12-28-2020

 Angela Hearts Glass
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	4
Investigator:	Daniel Thetford
Supervising Investigator:	James Murphy-Aguilu
Deputy Chief Administrator:	Angela Hearts-Glass