

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date / Time of Incident:	March 15, 2017, approximately 1:56 a.m.
Location of Incident:	3759 W. Chicago Avenue, Chicago, Illinois
Date / Time of COPA Notification:	March 15, 2017, approximately 6:51 a.m.

Chicago Police Department (“CPD”) Officers Chavez A. Siler (“Officer Siler”) and Michael D. Benamon (“Officer Benamon”) were at a Mini-Mart store located near 3759 W. Chicago Ave (“Mini-Mart”) when a security guard approached them and informed the officers that an armed individual(s) were inside the Mini-Mart. Once inside the Mini-Mart, Officer Siler recognized the man that security pointed out, [REDACTED] ([REDACTED]). Believing that [REDACTED] was armed, Officer Siler approached [REDACTED] and physical detained him.

Almost immediately following [REDACTED] detention, a physical struggle developed among [REDACTED] and Officers Siler and Benamon. The struggle moved through different aisles of the Mini-Mart, and within a short time, Officer Siler pulled his weapon out and began pointed the firearm at [REDACTED] head or struck [REDACTED] face/head with the firearm. A short time later, as the struggle continued, Officer Benamon retrieved [REDACTED] gun, stating, “Got it.” When Officer Corey T. Boone (“Officer Boone”) arrived on the scene, Officer Benamon held the gun up high, and handed it to Officer Boone.

Officers Siler and Benamon continued to struggle with [REDACTED] after Officer Benamon had removed [REDACTED] firearm, while they were on the floor in front of the cooler. Officer Siler then struck [REDACTED] several times in the face and head with Officer Siler’s own handgun. While Officer Benamon was on top of [REDACTED] and Officer Siler was kneeling next to them, Officer Boone moved around the struggle and fired his taser twice at [REDACTED] back to stop [REDACTED] from resisting at all. During the struggle, Officer Benamon uttered a racial slur, which he conceded he should not have said. Many reports were submitted and approved for this incident, some of which were incomplete or misleading.

II. INVOLVED PARTIES

Accused Member #1:	Chavez A. Siler, Star #7068, Employee ID# [REDACTED] Date of Appointment: September 24, 2007, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED] 1972, Gender: M, Race: BLK
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¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Accused Member #2: Michael D. Benamon, Star #17036, Employee ID# [REDACTED] Date of Appointment: November 4, 2013, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED] 1986, Gender: M, Race: BLK

Accused Member #3: Corey T. Boone, Star #14847, Employee ID# [REDACTED] Date of Appointment: October 27, 2014, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED] 1991, Gender: M, Race: WHI

Accused Member #4: Robert J. Clark, Star #2795, Employee # [REDACTED] Date of Appointment: August 26, 2013, Rank: po/9161, Unit of Assignment: 011, DOB: [REDACTED] 1985, Gender/Race: M/WHI

Accused Member #5: Kevin C. Leahy, Star #1032, Employee ID# [REDACTED] Date of Appointment: September 28, 1998, Rank: Sergeant/9171, Unit of Assignment: 011, DOB: [REDACTED] 1974, Gender/Race: M/WHI

Accused Member #6: Wilfredo Roman, Jr., Star #732, Employee ID# [REDACTED] Date of Appointment: June 19, 2000, Rank: Lieutenant/9173, Unit of Assignment: 015/313, DOB: [REDACTED] 1976, Gender/Race: M/S

Involved Individual #1: [REDACTED] DOB: [REDACTED] 1995, Gender/Race: M/BLK

Officer	Allegation	Finding
Officer Chavez A. Siler	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Siler, Star #7068, committed misconduct through the following acts or omissions:	
	1. Using excessive force in effecting the arrest of [REDACTED]	Sustained

Officer	Allegation	Finding
Officer Michael D. Benamon	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Michael D. Benamon, Star #17036, committed misconduct through the following acts or omissions:	

	1. By using excessive force against [REDACTED] when the accused, including but not limited to, struck [REDACTED]	Sustained
	2. Referring to [REDACTED] as a “nigger;”	Sustained
	3. Detaining [REDACTED] without justification;	Not Sustained
	4. Not reporting Officer Siler's use of excessive force against [REDACTED] and/or [REDACTED]	Sustained
	5. Not intervening in Officer Siler's use of excessive force against [REDACTED]	Sustained

Officer	Allegation	Finding
Officer Corey T. Boone	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Corey T. Boone, Star #14847, committed misconduct through the following acts or omissions:	
	1. Discharging your taser at or in the direction of [REDACTED]	Sustained
	2. Not reporting Officer Siler's and/or Officer Benamon's use of excessive force against [REDACTED]	Sustained
	3. Not intervening in Officer Siler's and/or Officer Benamon's use of excessive force against [REDACTED] AND/OR [REDACTED]	Sustained
	4. On October 15, 2018, the accused committed misconduct through the following act(s) or omission(s): During an interview with Civilian Office of Police Accountability, the accused made one or more false, misleading, and/or inaccurate statements related to the arrest of [REDACTED] on or about March 15, 2017. Said false, misleading, and/or inaccurate statements included the accused’s denial that he witnessed Officer Chavez Siler strike [REDACTED] face/head with a firearm and/or the accused’s denial that he witnessed Officer Chavez Siler point his firearm directly against [REDACTED] head.	Sustained
Officer	Allegation	Finding
Officer Robert J. Clark	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Robert J. Clark, Star #2795, committed misconduct through the following acts or omissions:	

	<p>1. Not reporting Officer Siler’s and/or Officer Benamon’s use if excessive force against ██████████ and/or ██████████</p>	<p>Sustained</p>
	<p>2. Not intervening in Officer Siler’s and/or Officer Benamon’s use if excessive force against ██████████</p>	<p>Sustained</p>
	<p>3. On July 2, 2019, the accused committed misconduct through the following act(s) and/or omission(s): During an interview with Civilian Office of Police Accountability, the accused made one or more false, misleading, and/or inaccurate statements related to the arrest of ██████████ on or about March 15, 2017. Said false, misleading, and/or inaccurate statements included the accused’s denial that he witnessed Officer Chavez Siler strike ██████████ ██████████ face/head with a firearm and/or the accused’s denial that he witnessed Officer Chavez Siler use excessive force against ██████████ ██████████ in violation of Rule 14 of the CPD Rules of Conduct.</p>	<p>Sustained</p>

Officer	Allegation	Finding
<p>Sergeant Kevin C. Leahy</p>	<p>On or about March 15, 2017, Sergeant Kevin C. Leahy, star #1032 committed misconduct through the following act(s) or omission(s):</p> <p>1. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on Officer Chavez Siler's Tactical Response Report (RD #JA187411) related to the arrest of ██████████ ██████████ on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois:</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Suter struck ██████████ with his firearm after ██████████ was disarmed; and/or that ██████████ attacked with a weapon; and/or that ██████████ used a weapon as deadly</p>	

	<p>force; and/or an omission that Officer Chavez Siler pointed his firearm directly against [REDACTED] head; and/or that [REDACTED] used force likely to cause death or great bodily harm, and/or an omission that Officer Chavez requested assisting officers to tase [REDACTED] in the face; and/or an omission that the Officer Chavez Siler struck [REDACTED] in the face with his firearm; and/or</p>	<p>Sustained</p>
	<p>2. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on a certain Original Case Incident Report (RD #JA187411) related to the arrest of [REDACTED] on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois:</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) including an omission that Officer Chavez Siler struck [REDACTED] with his firearm after [REDACTED] was disarmed; and/or an omission that [REDACTED] during his struggle with Officer Chavez Siler, let go of any weapon in his possession and put his hands up; and/or an omission that Officer Chavez Siler pointed his firearm directly against [REDACTED] head; and/or an omission that Officer Chavez Siler requested assisting officers to tase [REDACTED] in the face; and/or and omission that Officer Chavez Siler struck [REDACTED] in the face with a firearm.</p>	<p>Sustained</p>

Officer	Allegation	Finding
<p>Lieutenant Wilfredo Roman, Jr.</p>	<p>On or about March 15, 2017, Lieutenant Wilfredo Roman, Jr., Star #732, committed misconduct through the following act(s) or omission(s):</p> <p>1. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on an Initiation Report for Log #1084433 related to the arrest of [REDACTED] on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois;</p>	

	<p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Siler struck [REDACTED] with his firearm after [REDACTED] was disarmed; and/or an omission that Officer Chavez Siler pointed his firearm directly against [REDACTED] head; and/or an omission that [REDACTED] during his struggle with Officer Chavez Siler, let go of any weapon in his possession and put his hands in the air; and/or that Officer Chavez Siler's actions prevented the use of deadly force by the involved officers; and/or</p>	<p>Sustained</p>
	<p>2. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on Officer Chavez Siler's Tactical Response Report (RD #JA187411) related to the arrest of [REDACTED] on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois;</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Siler struck [REDACTED] with his firearm after [REDACTED] was disarmed; and/or that [REDACTED] attacked with a weapon; and/or that [REDACTED] used a weapon as deadly force; and/or an omission that Officer Chavez Siler pointed his firearm directly against [REDACTED] head; and/or that [REDACTED] used force likely to cause death or great bodily harm, and/or an omission that Officer Chavez requested assisting officers to tase [REDACTED] in the face; and/or an omission that the Officer Chavez Siler struck [REDACTED] in the face with his firearm; and/or that Officer Chavez Siler's use of force was in compliance with Department policy</p>	<p>Sustained</p>

III. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, CPD Rules of Conduct (prohibiting the violation of any law)
 2. Rule 5, CPD Rules of Conduct (prohibiting the failure to perform a duty)
 3. Rule 8, CPD Rules of Conduct (prohibiting maltreatment)
 4. Rule 10, CPD Rules of Conduct (prohibiting inattention to duty)
 5. Rule 14, CPD Rules of Conduct (prohibiting false reports)
 6. Rule 22, CPD Rules of Conduct (prohibiting the failure to report violations of the CPD's Rules and Regulations and prohibiting any other improper conduct which is contrary to the CPD's policy, orders, or directives)
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General Orders

1. G03-02 *Use of Force Guidelines* (effective October 1, 2002 - October 16, 2017)
 2. G03-02-02 *Force Options* (effective January 1, 2016 - October 16, 2017)
 3. G03-02-03 *Deadly Force* (effective February 10, 2015 - October 16, 2017)
 4. G03-02-05 *Incidents Requiring the Completion of a Tactical Response Report* (effective August 18, 2016 - October 16, 2017)
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Special Orders

1. S03-14-09 *Investigatory Stop System* (effective June 10, 2016 – July 10, 2017)
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Federal Laws

1. U. S. Constitution, Fourth Amendment
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State Laws

1. 720 ILCS 5/7-5 (officer use of force)
2. 725 ILCS 5/107-14 (temporary questioning without arrest)

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V. INVESTIGATION

A. Interviews

Officer Chavez A. Siler

On May 17, 2019, Officer Siler gave an Audio Recorded Statement.² Prior to his statement, Officer Siler viewed the surveillance video from the mini mart located at 3759 W. Chicago Avenue, Chicago.

In summary, Officer Siler told COPA investigators that during the early morning hours of March 15, 2017, himself and Officer Benamon were outside the mini mart located at 3759 W. Chicago Avenue, Chicago when a store security guard informed them that a man wanted by the police for shooting at a person was inside, and that the man was known to carry a .45 caliber pistol.³ Officer Siler and Officer Benamon then went inside the store. Officer Siler observed [REDACTED] whom he understood was the person that the security guard referred to. Officer Siler observed a bulge on [REDACTED] and concluded that [REDACTED] was armed.⁴ Officer Siler then approached [REDACTED] and grabbed [REDACTED] hands. [REDACTED] responded by pulling away towards his waist, and a struggle ensued.⁵ The officers tried to disarm [REDACTED] and also gave verbal commands asking [REDACTED] to let go of the gun. Officer Siler threatened to shoot [REDACTED] but [REDACTED] would not release the gun, so Officer Siler used his firearm as a blunt object with which to strike [REDACTED]

Officer Siler pulled his own gun out of the holster and held it to [REDACTED] head during parts of the struggle. He explained that he did that, because he wanted to avoid accidentally shooting Officer Benamon if it became necessary for him to shoot [REDACTED]⁶ Officer Siler said that he held his trigger finger on the rail of his gun as a safety mechanism while he used his gun.⁷

While they were down on the ground by the cooler, he called for someone to taser [REDACTED] Officer Siler acknowledged that he was the officer that probably asked someone to taser [REDACTED] in the face.⁸ Officer Siler said that he made that threat to get [REDACTED] to comply, but he did not expect anyone to actually taser [REDACTED] in the face.⁹

While Officer Siler acknowledged that the video showed when Officer Benamon disarmed [REDACTED] Officer Siler said that he did not see that during the incident.¹⁰ Nor did Officer Siler see Officer Benamon hand [REDACTED] gun to Officer Boone.¹¹ Officer Siler also said that he did

² Attachments 74-77 comprise an audio recording of that statement. Attachment 93 is a transcript of that audio recording.

³ Attachment 93 at p. 41, line 5, through p. 51, line 6.

⁴ Attachment 93 at p. 55, line 3, through p. 59, line 19.

⁵ Attachment 93 at p. 14, lines 14-20, and p. 62, lines 16-23.

⁶ Attachment 93 at p. 80, line 18, through p. 82, line 2.

⁷ Attachment 93 at p. 83, lines 6-19.

⁸ Attachment 93 at p. 95.

⁹ Attachment 93 at pp. 95-96

¹⁰ Attachment 93 at pp. 71-72, and p. 84, lines 9-18.

¹¹ Attachment 93 at p. 83, line 24, through p. 84, line 8.

not hear Officer Benamon say, “Got it” when he took [REDACTED] gun and held it up. Officer Siler said that he first knew that [REDACTED] had been disarmed when they were able to put handcuffs on [REDACTED].¹² However, at one point during the struggle, the magazine fell out of Officer Siler’s handgun, but when Officer Siler saw it on the ground, he thought it was [REDACTED] weapon.¹³ Nevertheless, because [REDACTED] still was not complying, they did not know if he had another gun on him.¹⁴

Officer Siler said that he struck [REDACTED] after he had been disarmed, because he did not then know that [REDACTED] had been disarmed.¹⁵ He said that he would not have struck [REDACTED] about the face and head with own gun if he had known that [REDACTED] had been disarmed.¹⁶ Officer Siler further stated that he struck [REDACTED] in the head with his gun because he was seeking to gain [REDACTED] compliance without shooting him, and because Officer Siler didn’t have a free, empty hand that he could use to strike [REDACTED].¹⁷ In addition, Officer Siler didn’t want to drop his gun to the floor or look away from [REDACTED] in order to holster his gun.¹⁸

Officer Michael D. Benamon

On January 28, 2019, Officer Michael D. Benamon gave an Audio Recorded Statement.¹⁹ Acting within its discretion, COPA did not permit Officer Benamon to view the surveillance video prior to commencing his statement, though COPA did adjourn the statement approximately twenty-three minutes after commencing it in order to permit Officer Benamon to view that footage.

Officer Benamon said that a store security guard approached him and Officer Siler at the outset of the incident and informed the officers that a man (now known to be [REDACTED]) was in the store and that he was wanted by the police.²⁰ During the struggle that ensued, Officer Benamon was able to get his hands onto the gun that [REDACTED] was holding close to his body; eventually, Officer Benamon was able to take the gun from [REDACTED].²¹ Officer Benamon then shouted, “I got it,” meaning that he had the firearm.²² Officer Benamon said that Officer Siler struck [REDACTED] when Officer Benamon held [REDACTED] weapon up, but Officer Benamon was not sure whether Officer Siler heard that shout.²³

Officer Benamon acknowledged during his interview that he saw Officer Siler strike [REDACTED] with his weapon.²⁴ Officer Benamon said that an officer should only draw his weapon and point it at a target unless he intends to possibly shoot the individual. When asked if it would be effective in this situation for Officer Siler to have his weapon pointed against [REDACTED] head,

¹² Attachment 93 at p. 73.

¹³ Attachment 93 at pp. 73-75.

¹⁴ Attachment 93 at p. 75.

¹⁵ Attachment 93 at p. 94, line 11, through p. 95, line 6.

¹⁶ Attachment 93 at p. 115, line 24, through p. 115, line 6.

¹⁷ Attachment 93 at p. 86, line 3, through p. 87, line 15.

¹⁸ *Id.*

¹⁹ Attachments 62 and 63 comprise an audio recording of that statement. Attachment 65 is a transcript.

²⁰ Attachment 65 at, p. 29, line 23 through p. 11, line 6.

²¹ Attachment 65 at p. 13, line 23 through p. 16, line 2.

²² Attachment 65 at p. 38, line 23 through p. 39, line 1.

²³ Attachment 65 at p. 42, line 19 through p. 43, line 2.

²⁴ Attachment 65 at pp. 24-25.

Officer Benamon could not really answer, but he explained that there was so much going on, and a lot of emotions were involved.²⁵

Officer Benamon acknowledged that he used the “n-word” during the struggle,²⁶ and he conceded that he should not have done so.²⁷

Officer Corey T. Boone

Officer Corey T. Boone gave an Audio Recorded Statement on October 15, 2018. Officer Boone gave a Second Audio Recorded Statement on October 7, 2019.²⁸

Statement I – October 15, 2018

During the first eighteen minutes of his October 15, 2018 statement, Officer Boone responded to questions that called for Officer Boone to describe certain of the incident’s particulars.²⁹ In non-verbatim material summary, Officer Boone then claimed an inability to remember all of the incident’s details,³⁰ he asked for an opportunity to view the surveillance video,³¹ and he described the officers’ efforts to arrest ██████████ in general terms.³² Officer Boone did not then disclose that Officer Siler struck ██████████ in the head with a firearm during the incident or that Officer Siler pointed his firearm directly against ██████████ head during the incident.

Officer Boone was then permitted to view the surveillance video. Officer Boone then responded to certain questions by denying that he had observed Officer Siler strike ██████████ in the head with a firearm during the incident³³ and by denying that that he had observed Officer Siler point his firearm directly against ██████████ head during the incident,³⁴ though Officer Boone acknowledged that the surveillance video depicted such events.³⁵

²⁵ Attachment 65 at pp. 90-93.

²⁶ Attachment 65 at p. 50, line 23 through p. 51, line 3.

²⁷ Attachment 65 at p. 49, p. 51, lines 14-17.

²⁸ Attachments 52-55 comprise an audio recording of Officer Boone’s October 15, 2018 statement. Attachment 64 is a transcript of that statement. Attachments 107 and 108 comprise an audio recording of Officer Boone’s October 7, 2019 statement. Attachment 109 is a transcript of that statement.

²⁹ Attachment 64 at p. 6, line 21, through p. 20

³⁰ Attachment 64 at p. 6, lines 21-24, p. 8, lines 16-21, p. 9, lines 2-3 and lines 8-13, p. 10, lines 14-16, p. 11, lines 1-13, p. 12, lines 18-20, p. 13, lines 20-22, p. 19, lines 11-14

³¹ Attachment 64 at p. 8, lines 16-21, p. 9, lines 8-13, p. 17, lines 7-8 and 17 - 19, p. 18, line 8,

³² Attachment 64. at p. 8, lines 13-15, p. 9, lines 4-7, p. 9, line 14, through p. 10, line 13, p. 10, line 17, through p. 11, line 1, p. 11, line 14, through p. 12, line 17, p. 13, lines 10-14, p. 13, line 24, through p. 14, line 3, p. 14, line 24, through p. 15, line 3.

³³ Attachment 64 at p. 74, lines 13-22, p. 75, lines 14-21.

³⁴ Attachment 64 at p. 76, lines 2-15, p. 76, line 24, through p. 78, line 9.

³⁵ *Id.*

Statement II – October 7, 2019

During his October 7, 2019 statement, Officer Boone responded to questions about the truthfulness and/or accuracy of his prior answers to COPA by standing by his October 15, 2018 statement.³⁶

Officer Robert J. Clark

On July 2, 2019, Officer *Robert Clark* gave an Audio Recorded Statement.³⁷ Prior to his statement, Officer Clark viewed surveillance video from one camera from the mini mart located at 3759 W. Chicago Avenue, Chicago.

Officer Clark and his partner, Officer Boone were the first assisting officers on the scene. When Officer Clark walked into the Mini-Mart, he saw Officer Benamon holding the recovered firearm in the air and handing it to Officer Boone.³⁸

When ██████████ was on the ground, Officer Clark eventually positioned himself so that he was in a crouched position facing ██████████ with his back to the camera. Officer Clark had an expandable baton in his right hand.³⁹ Officer Clark said that he had his baton out, because it was a “deadly force situation.” Officer Clark said deadly force was appropriate at that time because they had recovered a firearm from ██████████.⁴⁰ According to Officer Clark, even though they had already recovered a gun from ██████████ they had reason to believe that he had another weapon, because ██████████ was still resisting, pulling away, and possibly fighting. Officer Clark could not tell if ██████████ was an assailant, but he knew that ██████████ was an active resister. Officer Clark said if a subject has one weapon, he could have ten weapons.⁴¹ While Officer Clark was in that crouched position, he cursed at ██████████ and asked him if he wanted to be tasered in the face in order to convince ██████████ to comply with their demands. Then Officer Siler said to tase ██████████ in the face.⁴²

Officer Clark said that he did not see Officer Siler using his weapon to strike ██████████. He said that, but for some rumors, he first became aware that Officer Siler struck ██████████ about the face and head with his firearm was when he watched the surveillance video at COPA the morning of his interview.⁴³ He had also seen it noted in the case report the night before his interview.⁴⁴ When Officer Clark was later asked if he had seen Officer Siler strike ██████████ Officer Clark said, “I could not say specifically strike him.”⁴⁵

³⁶ Attachment 109.

³⁷ Attachments 90-92 comprise an audio recording of that statement. Attachment 97 is a transcript.

³⁸ Attachment 97 at p. 38.

³⁹ Attachment 97 at pp. 46-47.

⁴⁰ Attachment 97 at p. 48.

⁴¹ Attachment 97 at pp. 50- 51.

⁴² Attachment 97 at pp. 53-54.

⁴³ Attachment 97 at pp. 43-44

⁴⁴ Attachment 97 at p. 45.

⁴⁵ Attachment 97 at p. 84.

Officer Clark said that he did not report that either Officer Siler or Officer Benamon used excessive force. He said that while he was aware that a complaint register had been pulled, he would not have reported it even if he had not known that, because, in his assessment, there was nothing to report. Officer Clark did not believe that excessive force had been used, based on both his recollection and what he had seen on the video.⁴⁶

Officer Clark did not intervene while Officer Siler and Officer Benamon were using excessive force with [REDACTED] because deadly force was authorized in that situation.⁴⁷ Officer Clark said, in his assessment, there was nothing to report.⁴⁸

Statement II - January 5, 2021

COPA interviewed Officer Clark on January 5, 2021, after alleging the officer provided a false, misleading and/or inaccurate statement in his initial interview. Officer Clark maintained that he did not see Officer Siler strike [REDACTED] with his firearm, or any excessive force against [REDACTED]. Officer Clark did not recall seeing Officer Siler holding a gun to [REDACTED] face/head on March 15, 2017. Officer Clark believed the force used against [REDACTED] was justified, as CPD had recovered a gun from [REDACTED] and it was “a deadly force situation.”⁴⁹ Officer Clark also stated [REDACTED] actively resisted by flailing his arms towards officers, and he resisted by pulling his arms away. While Officer Clark believed [REDACTED] tasing was reasonable, he related it is not “general practice” to aim a taser at someone’s face.⁵⁰ Per Officer Clark, it stopped being a deadly force situation once [REDACTED] was handcuffed. When asked why surveillance video suggested that Officer Clark may have seen Officer Siler strike [REDACTED] with his firearm, Officer Clark reiterated that he did not see this action on March 15, 2017. Officer Clark believed he was focused on Officer Siler’s back and his footing while the strikes occurred.

Sergeant Kevin C. Leahy

Sergeant Kevin C. Leahy gave an Audio Recorded Statement on June 14, 2019. Sergeant Leahy gave a Second Audio Recorded Statement on December 10, 2019.⁵¹ COPA permitted Sgt. Leahy to view the surveillance video prior to commencing both of his statements.

Statement I – June 14, 2019

Sergeant Leahy approved the Original Case Incident Report respecting the incident.⁵² Sergeant Leahy arrived at the scene of the incident in response to a radio call.⁵³ An ambulance was then

⁴⁶ Attachment 97 at pp. 79-83.

⁴⁷ Attachment 97 at pp. 57-58.

⁴⁸ Attachment 97 at pp. 79-83.

⁴⁹ Att. 134, pg. 19: line 8.

⁵⁰ Att. 134, pg. 25: line 1.

⁵¹ Attachments 82 and 83 comprise an audio recording of Sgt. Leahy’s June 14, 2019 statement; Attachment 95 is a transcript of that statement. Attachments 118-120 comprise an audio recording of Sgt. Leahy’s December 10, 2019 statement; Attachment 125 is a transcript of that statement.

⁵² Attachment 95, p. 13, lines 16 – 22.

⁵³ Attachment 95 at p. 15, lines 12 - 23.

called for [REDACTED] and Sergeant Leahy called for an ambulance for the officers.⁵⁴ While on the scene, Sergeant Leahy learned that the store had surveillance videos that depicted the incident; he viewed “bits and pieces” of those videos and realized that the videos could be downloaded.⁵⁵ He did not further view any part of those videos on the date of the incident.⁵⁶ Sergeant Leahy spoke with Officers Siler and Benamon on the morning of the incident, but he could not recall the specifics of those communications.⁵⁷ Sergeant Leahy did not prepare Officers Siler’s part of Officers Siler’s TRR.⁵⁸ Sergeant Leahy knows that he spoke with Lieutenant Roman at the 011th District Station after the incident, but he does not have a memory of doing so.⁵⁹ Sergeant Leahy did not observe anyone view any part of the surveillance videos at the 011th District Station.⁶⁰ Sergeant Leahy confirmed that it would have been his assignment to review the Original Case Incident Report’s narrative portion in order to make sure that it was accurate and correct.⁶¹ Sergeant Leahy did not have a memory of reviewing that report prior to approving it.⁶²

After the conclusion of Sergeant Leahy’s June 14, 2019 statement, but prior to the commencement of his December 10, 2019 statement, COPA formally served Sergeant Leahy with a Notification of Charges/Allegations that states the allegations that are set out above as Allegations 1 and 2 against Sergeant Leahy.

Statement II – December 10, 2019

During his December 10, 2019 statement, Sergeant Leahy stated that he did not have any involvement in inventorying any of the surveillance videos.⁶³ Sergeant Leahy then further stated that it had been his understanding, at the time that he completed his tour of duty on the morning of the incident, that the videos had in fact been inventoried.⁶⁴ In response to a question asking him why he didn’t view the videos on the morning of the incident, Sergeant Leahy stated, “I don’t recall. I don’t know.”⁶⁵ In response to a question asking him whether, in hindsight, he thought that he should have viewed the videos, Sergeant Leahy responded affirmatively.⁶⁶ Sergeant Leahy further stated that at the time that he approved reports documenting the incident he did not know that [REDACTED] had been unarmed when Officer Siler struck him.⁶⁷

⁵⁴ Attachment 95 at p. 15.

⁵⁵ Attachment 95 at p. 17, line 20, through p. 20, line 13.

⁵⁶ Attachment 95 at p. 17, line 20, through p. 20, line 13, p. 56, line 22, through p. 57, line 15.

⁵⁷ Attachment 95 at p. 27, line 4, through p. 29, line 12; p. 31, lines 5-17; p. 48, lines 4-22.

⁵⁸ Attachment 95 at p. 32, line 17, through p. 34, line 12.

⁵⁹ Attachment 95 at p. 34, line 13, through p. 35, line 3; p. 35, lines 16-19; p. 50, lines 2-14.

⁶⁰ Attachment 95 at p. 35, lines 11-15.

⁶¹ Attachment 95 at p. 38, lines 2-15.

⁶² Attachment 95 at p. 38, line 16, through p. 40, line 8.

⁶³ Attachment 125 p. 32, lines 18-21.

⁶⁴ Attachment 125 at p. 33, lines 3-6.

⁶⁵ Attachment 125 at p. 33, lines 7-15.

⁶⁶ Attachment 125 at p. 33, line 16, through p. 34, line 4.

⁶⁷ Attachment 125 at p. 37, line 6, through p. 37, line 19.

Lieutenant Wilfredo Roman, Jr.

Lieutenant Wilfredo Roman, Jr. gave an Audio Recorded Statement on June 17, 2019. Lieutenant Roman gave a Second Audio Recorded Statement on October 21, 2019.⁶⁸ COPA permitted Lieutenant Roman to view the surveillance videos prior to commencing the statements.

Statement I – June 17, 2019

On the morning of the incident, Lieutenant Roman reviewed surveillance video depicting the incident at the 011th District Station for purposes of completing his part in the preparation of TRRs respecting the incident.⁶⁹ Lieutenant Roman acknowledged that the video showed Officer Siler striking ██████ after ██████ had been disarmed, but he stated that his findings at the time were that Officer Siler believed that ██████ still had a gun at the time that Officer Siler struck ██████ and further, that he did not believe that Officer Siler had been alerted to the fact that ██████ had been disarmed prior to the time that he struck ██████⁷⁰

After the conclusion of Lieutenant Roman's June 17, 2019 statement, but prior to the commencement of his October 21, 2019 statement, COPA formally served Lieutenant Roman with a Notification of Charges/Allegations that states the allegations that are set out above as Allegations 1 and 2 against Lieutenant Roman.

Statement II – October 21, 2019

Lieutenant Roman denied that he intended to mislead anyone by omitting information from the Initiation Report and Officer Siler's TRR, and he pointed to the fact that he had arranged for the videos to be preserved and inventoried and to the fact that he had submitted an initiating report as evidence of his lack of intent to mislead.⁷¹ However, Lieutenant Roman acknowledged that the first sentence of the Initiation Report "could probably be misleading" because it doesn't indicate that ██████ was not armed at the time that Officer Siler had administered some strikes to ██████⁷² In explaining his approval of Officer Siler's TRR, Lieutenant Roman stated that his interpretation of the events was that ██████ could have attacked Siler with a weapon, not that ██████ had in fact attacked Siler with a weapon,⁷³ and that ██████ had used force likely to cause death or great bodily harm because ██████ had been in possession of a firearm.⁷⁴

⁶⁸ Attachment 84 is an audio recording of Lt. Roman's June 17, 2019 statement; Attachment 96 is a transcript of that statement. Attachments 110 - 113 comprise an audio recording of Lt. Roman's October 21, 2019 statement; Attachment 121 is a transcript of that statement.

⁶⁹ Attachment 96 p. 12, line 5, through p. 20, line 20.

⁷⁰ Attachment 96 at p. 45, line 23, through p. 46, line 21.

⁷¹ Attachment 121 p. 36, line 9, through p. 37, line 14.

⁷² Attachment 121 at p. 36, lines 7-21.

⁷³ Attachment 121 at p. 43, line 11, through p. 45, line 8.

⁷⁴ Attachment 121 at p. 45, line 9, through p. 48, line 3.

B. Digital Evidence

Mini Mart Videos

The incident under investigation is depicted by convenience store surveillance videos.⁷⁵ COPA has copies of surveillance videos from five different surveillance cameras. Channel 1 is entitled Oil Aisle and provides a view of the area where Officer Siler initially approached [REDACTED] and the struggle began. Channel 2 is entitled “Front Area,” and it shows the area where Officer Siler and Officer Benamon initially approached [REDACTED]. Channel 8 is entitled Aisle 3 And,” and it shows a view from the cooler to the other end of the store. Channel 11 is entitled “Cooler,” and it shows a view of the aisle near the cooler. That aisle is perpendicular to the other aisles in the store, such as the aisle with chips and soda. This camera shows the cooler aisle from the side of the store that is furthest away from the chips and soda aisle. Channel 15 is entitled “Front Outside,” and it shows outside the front of the store.

Exterior footage shows [REDACTED] enter the store with two adult male companions in view of Officers Siler and Benamon, who are depicted sitting in a marked CPD vehicle parked just outside the store.⁷⁶ Approximately two minutes later, a different male subject is depicted leaving the store – he approaches the officers and apparently speaks with them.⁷⁷ Interior footage then shows the officers enter the store. The footage then shows the officers confront [REDACTED] approximately a minute later as [REDACTED] emerges from the store’s aisles.

Channel 1 shows Officer Siler confronting [REDACTED]. Channel 8 also shows Officer Siler confronting [REDACTED]. At that time, Officer Siler grabbed [REDACTED] wrists. [REDACTED] did not appear to be pulling away initially, but he appeared to be pulling away after Officer Benamon grabbed [REDACTED] from behind.⁷⁸ (R. Channel 8 at 42:20-42:30)

The struggle continued into Aisle 3, where the shelves were filled with soda and chips. For a short time, the three men were on the ground in that aisle.⁷⁹ While it is difficult to view what occurs during the struggle, it shows that Officer Siler was never thrown.⁸⁰

When the three men stood up, Officer Siler unholstered his weapon and placed it directly against [REDACTED] head.⁸¹ The struggle continued to the end of the aisle. During that time, [REDACTED] told the officers that he was not going to shoot.⁸² The officers yelled at [REDACTED] to put his hands in the air, and [REDACTED] who had one hand in the air while the other hand was being held by Officer Benamon, told the officers that he had his hand up.⁸³ The officers then told Sergeant White to put his hands behind his back. At one point, the video footage shows that

⁷⁵ Attachment 19 comprises those videos.

⁷⁶ Attachment 19, Channel 15 (Front Outside), at 50:43.

⁷⁷ Attachment 19, Channel 15 (Front Outside), at 52:42 - 52:49.

⁷⁸ Attachment 19, Channel 8 at 42:20-42:30.

⁷⁹ Attachment 19, Channel 8 at 42:35-43:20.

⁸⁰ Attachment 19, Channel 8 at 42:20-43:15

⁸¹ Attachment 19, Channel 11 at 4:24.

⁸² Attachment 19, Channel 11 at 4:30.

⁸³ Attachment 19, Channel 11 at 4:37.

██████████ had both of his hands in the air.⁸⁴ Within seconds, Officer Benamon grabbed ██████████ gun and said, “I got it.”⁸⁵ Shortly after the struggle proceeded around to the next aisle, Officer Boone entered the aisle, and Officer Benamon handed ██████████ gun to Officer Boone.⁸⁶ At that time, it appears that Officer Siler is looking up at Officer Benamon as he hands the gun off to Officer Boone.⁸⁷

Eventually, the struggle proceeded to the floor by the cooler, at which time.⁸⁸ Officer Benamon on top of ██████████ and Officer Siler kneeling next to them.⁸⁹ While ██████████ is on his back, Officer Siler used his own firearm and struck ██████████ in the face.⁹⁰ ██████████ eventually turned on his stomach, and Officer Siler continued to strike ██████████ in the head with his gun.⁹¹

While they were still on the ground and the officers yelled at ██████████ to put his hands behind his back, the officers already had control over one of ██████████ arms, which was pulled behind his back.⁹² In addition, ██████████ said something about his hand and his jacket; possibly that his hand was in his jacket.⁹³ In response, an officer told ██████████ “fuck your hand nigger.”⁹⁴

Shortly after that, one of the officers yelled for an officer to be tasered in the face.⁹⁵ Officer Boone, who had a taser, came around the struggle, kneeled near ██████████ and the officers and tasered ██████████.⁹⁶ While Officer Boone was kneeling and about to tase ██████████ Officer Siler was still striking ██████████ in the head.⁹⁷ Officer Boone then tasered ██████████ a second time, and ██████████ stopped moving.⁹⁸ Eventually, the officers got ██████████ up, walked him out of the Mini-Mart.⁹⁹ ██████████ face was bloody, and there was a significant amount of blood on the floor.¹⁰⁰

C. Documentary Evidence

Original Case Incident Report

The Original Case Incident Report relating to the incident was prepared by Officer McCoy. That report provides, in pertinent part:

⁸⁴ Attachment 19, Channel 11 at 4:40.

⁸⁵ Attachment 19, Channel 11 at 4:40-4:42.

⁸⁶ Attachment 19, Channel 11 at 4:57-5:00.

⁸⁷ Attachment 19, Channel 11 at 4:55-4:59.

⁸⁸ Attachment 19, Channel 11 at 5:00.

⁸⁹ Attachment 19, Channel 11 at 5:03.

⁹⁰ Attachment 19, Channel 11 at 5:01-5:03.

⁹¹ Attachment 19, Channel 11 at 5:07-5:08.

⁹² Attachment 19, Channel 11 at 5:15.

⁹³ Attachment 19, Channel 11 at 5:35.

⁹⁴ Attachment 19, Channel 11, at 5:35

⁹⁵ Attachment 19, Channel 11 at 5:40.

⁹⁶ Attachment 19, Channel 11 at 5:40.

⁹⁷ Attachment 19, Channel 11 at 5:40.

⁹⁸ Attachment 19, Channel 11 at 5:50-6:00.

⁹⁹ Attachment 19, Channel 11 at 7:00.

¹⁰⁰ Attachment 19, Channel 11 at 7:00.

Officer Siler, who had his weapon drawn while fearing for his life and knowing the offender to be armed used multiple striking techniques to the offender to stop the escalation of deadly force and gain control of the offender and weapon.¹⁰¹

The report does not disclose that [REDACTED] was unarmed at some of the times that Officer Siler used those striking techniques.

Tactical Response Report (“TRR”)

In his Tactical Response Report (“TRR”) relating to the incident, Officer Siler reported that [REDACTED] had attacked him with a weapon, using force likely to cause death or great bodily harm.¹⁰² Officer Siler also reported in his TRR that he used an impact weapon against [REDACTED].¹⁰³ Sergeant Leahy was the TRR’s reviewing supervisor.¹⁰⁴ Lieutenant Roman approved the report.¹⁰⁵ In approving the TRR, Lieutenant Roman wrote, in pertinent part:

After reviewing the information available to me at the time of this incident, including all available video, I have concluded the subject was a high-level assailant and his actions were aggressively offensive towards the officer. R/Lt. concluded that the officer’s actions were in compliance with Department Policy and procedure regarding the appropriate use of force. See attached initiation report.¹⁰⁶

The TRR does not disclose that [REDACTED] was unarmed at some of the times that Officer Siler used an impact weapon against him.

Initiation Report

In the Initiation Report relating to the incident, Lieutenant Roman wrote, in pertinent part:

Officer Siler, Chavez while attempting to place the above subject under arrest who was in possession of a firearm, struck the subject about the head with his firearm, in an attempt to stop escalation of deadly force against the officers and to gain control of the subject and the weapon. During the struggle, the subject disobeyed numerous commands to remove his hands away from the firearm that the subject had control of during the incident. The actions performed by the officers allowed them to gain control of the subject and the firearm preventing officers from using deadly force options.

¹⁰¹ Attachment 5.

¹⁰² Attachment 8 at p. 1, Part 40

¹⁰³ Attachment 8 at p. 2, Part #78.

¹⁰⁴ Attachment 8 at p. 2, Part #80.

¹⁰⁵ Attachment 8 at p. 3, Part #85.

¹⁰⁶ Attachment 8 at p. 3.

This incident requires further investigation. Incident captured on video surveillance footage which was provided by the Gas Station.¹⁰⁷

Inventory Reports

Inventory Reports show that CPD officers inventoried a DVD containing surveillance videos at 8:05 a.m. on the morning of the incident,¹⁰⁸ and that Officer Benamon inventoried a Glock semi-automatic .45 caliber pistol recovered from [REDACTED] along with an accompanying loaded magazine.¹⁰⁹

VI. 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 occurred and violated 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 misconduct occurred, 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.

¹⁰⁷ Attachment 3.

¹⁰⁸ Attachment 79.

¹⁰⁹ Attachment 78.

VII. ANALYSIS

A. Allegations of Improper Detention

An officer may detain individual when the officer reasonably infers from the circumstances that the person is committing, is about to commit, or has committed an offense.¹¹⁰

In this instance, the evidence shows that a store security guard approached Officers Siler and Benamon at the outset of the incident. Officer Siler told investigators that the security guard then informed the officers that a man wanted by the police was inside the store. According to Officer Siler, the guard then informed the officers that the man had recently committed a serious violent crime – he had fired a gun at another person. Officer Siler then determined that [REDACTED] was the subject described by the security guard.

Nevertheless, following COPA's investigation there is insufficient evidence to adequately corroborate exactly what the security guard told the officers, and therefore, the evidence fails to clearly and convincingly show that the officers reasonably inferred from the circumstances that [REDACTED] may have committed a criminal offense. Accordingly, allegation 3 against Officer Benamon is therefore Not Sustained.¹¹¹

B. Allegations of Excessive Force

Officer Siler's use of force.

A CPD policy entitled, *Force Options*, General Order 03-02-02, separates an assailant's actions into three distinct classifications: 1.) aggressively offensive without weapons, 2.) actions likely to cause physical injury, and 3.) actions likely to cause death or serious physical injury. Equally important, the second classification expressly includes "*a subject who is armed with a deadly weapon and fails to disarm, thereby making subject's actions likely to cause physical injury.*" COPA finds that [REDACTED] was an armed subject who initially failed to disarm and then tried to flee; therefore, for the reasons described below the allegation that Officer Siler used excessive force is sustained.

The Confrontation

Soon after Officers Siler and Benamon confronted [REDACTED] a struggle ensued among them. While it was not entirely clear what happened during the initial phase of this struggle, it appeared, based upon available video evidence and the interviews of those involved, that deadly force was not used by either officer during this initial phase of the struggle. As the struggle continued, video evidence provided a better, more complete view of the struggle. During this time, [REDACTED] was captured telling the officers that he was not going to shoot.¹¹² The officers yelled at [REDACTED] to put his hands in the air. [REDACTED] who had one hand in the air while the other hand was being

¹¹⁰ See 725 ILCS 5/107-14(a); Terry v. Ohio, 392 U.S. 1 (1968); CPD Special Order S03-14-09 *Investigatory Stop System* (effective June 10, 2016 – July 10, 2017).

¹¹¹ COPA did not serve formal allegations of improper detention upon Officer Siler.

¹¹² Attachment 19, Channel 11 at 4:30.

held by Officer Benamon, was recorded telling the officers he had his hand up.¹¹³ Meanwhile, Officer Siler, using both of his hands, placed the barrel of his firearm directly against [REDACTED] head. At one point, the video footage showed [REDACTED] with both of his hands in the air.¹¹⁴ Soon thereafter, Officer Benamon grabbed [REDACTED] gun and stated, “I got it.”¹¹⁵ From this point forward, neither officer instructed [REDACTED] to put his hands up; instead, both officers only asked [REDACTED] to place his hands behind his back. As the struggle moved over to the next aisle, Officer Siler grasped [REDACTED] by the shirt and then intermittently pistol-whipped [REDACTED] in the face or aimed the barrel of his firearm directly against [REDACTED] head. Around this time, Officer Boone entered the aisle and Officer Benamon handed [REDACTED] firearm to Officer Boone.¹¹⁶ It appeared that Officer Siler looked up at Officer Benamon as he handed the firearm off to Officer Boone.¹¹⁷ The struggle then proceeded to the floor by the cooler.¹¹⁸ At which time, Officer Benamon knelt on [REDACTED] who was on the ground in a prone position, and Officer Siler knelt next to them.¹¹⁹ While [REDACTED] was on the ground, Officer Siler continued to pistol-whip [REDACTED] in the face with a firearm, point the barrel of a firearm directly against [REDACTED] head, or ask assisting officers to tase [REDACTED] in the face.¹²⁰ This combination of force by Officer Siler only stopped once [REDACTED] lied motionless on the ground, seemingly unconscious.

Officer Siler’s Decision to Use Force

There is a distinct difference between an officer’s subjective belief that a firearm may be used against them and an officer that can factually articulate a specific imminent deadly threat against them: the former is conjecture while the latter is an actual situation based in fact. In this case, COPA finds that Officer Siler’s decision to use deadly force was based upon unreasonable conjecture and not upon objective facts that would lead a reasonable officer to use deadly force.

Significantly, the video captured [REDACTED] holding his hands up, telling the officers that his hand(s) are up, and telling the officers that he was not going to shoot. Additionally, at no point in the video was there any evidence of [REDACTED] kicking, punching, or physically attacking either officer. Neither officer during their respective interviews claimed that [REDACTED] physically attacked them, nor was there any alleged injury to either officer to support such an attack. Equally important, Officer Benamon, who was closely involved in the struggle, told COPA investigators the [REDACTED] was trying to *flee* the store.

Factually, [REDACTED] was disarmed early on during the struggle, but Officer Siler told COPA investigators he was not aware of [REDACTED] being disarmed. However, COPA finds Officer Siler’s recollection questionable. First, the video captured Officer Benamon verbally acknowledge gaining control of [REDACTED] firearm – this is something Officer Siler’s should have heard, as he was in close proximity to Officer Benamon during this acknowledgment. Second, video

¹¹³ Attachment 19, Channel 11 at 4:37.

¹¹⁴ Attachment 19, Channel 11 at 4:40.

¹¹⁵ Attachment 19, Channel 11 at 4:40-4:42.

¹¹⁶ Attachment 19, Channel 11 at 4:57-5:00.

¹¹⁷ Attachment 19, Channel 11 at 4:55-4:59.

¹¹⁸ Attachment 19, Channel 11 at 5:00.

¹¹⁹ Attachment 19, Channel 11 at 5:03.

¹²⁰ Attachment 19, Channel 11 at 5:01-5:03.

captured Officer Siler looking up at [REDACTED] firearm as Officer Benamon passed the firearm to Officer Boone. Third, once [REDACTED] was disarmed, both officers only verbal commanded [REDACTED] to put his hands behind his back, as opposed to also instructing [REDACTED] to put his hands up or to let go the firearm, suggesting Officer Siler was aware that Officer Benamon had [REDACTED] weapon. Nevertheless, COPA finds Officer Siler's actual awareness of who had [REDACTED] firearm and when a moot point, as deadly force is not permitted to disarm an individual per CPD policy.

While both officers expressed some concern during their interviews that [REDACTED] could use his firearm against them and both even speculated that [REDACTED] possibly had second firearm, both officers failed to articulate specific facts that led them to the reasonable belief that [REDACTED] intended to use a firearm as deadly force against the officers, or that he had more than one firearm. In fact, this lack of articulation by the officers was consistent with video evidence that arguably depicted [REDACTED] trying to comply by raising his hands, telling the officers he was not going to shoot, and confirmed [REDACTED] was not physically fighting back. In other words, the officers failed to articulate any specific threat from [REDACTED] involving a firearm because there was no such threat. And while the video did depict a struggle among all three, it is difficult to discern whether [REDACTED] was actively trying to flee or was caught between two officers struggling over a subject who was trying to comply. Either way, armed or unarmed, fleeing or compliant, *absent an articulable threat of deadly force, CPD policy does simply does not permit any officer to use deadly force to disarm a subject.*

Deadly Force

While applicable CPD policy at the time of this incident does not specifically enumerate strikes to the head as deadly force, current CPD policy does. Consequently, COPA finds that CPD's past and less comprehensive policies have no effect in rendering what is currently and expressly considered deadly force by CPD as not deadly force at the time of the incident. Accordingly, COPA finds direct mechanical strikes with a firearm to an individual's face to be deadly force.

Threat to Shoot [REDACTED] in the Head.

Aiming a firearm directly against an individual's head is unquestionably a threat to shoot that individual. While Officer Siler told COPA investigators during his interview that the goal was to control [REDACTED] hands, and by extension, [REDACTED] firearm, the video unequivocally proves that Officer Siler spent a significant part of his struggle with [REDACTED] pointing a firearm directly against [REDACTED] head and/or pistol-whipping [REDACTED] in the face. COPA finds such a course of action by Officer Siler imprudent, and in violation of not only CPD's use of force policies (as discussed above), but also the Department's Rule 38, a prohibition against any unlawful or *unnecessary uses or displays of a weapon.*

COPA finds nothing necessary or proportional about Officer Siler's decision to aim the barrel of his firearm directly against [REDACTED] head, nor was it necessary or proportional for Officer Siler to strike [REDACTED] repeatedly with his firearm (pistol-whipping). When questioned, Officer Siler reasoned that pistol-whipping [REDACTED] was reasonable and necessary, and justified his actions as an exhibit of self-control by not discharging his firearm at [REDACTED] COPA finds such

a justification absurd, and at odds with common sense and the training of a reasonable officer. First, the use of a firearm by an officer as deadly force is a measure of last resort, and an officer's firearm should only be used safely and in controlled manner consistent with the officer's training. Secondly, and consistent with this first principal, it was unsafe for Officer Siler to aim his weapon directly against [REDACTED] head, as such a tactic during a struggle comes with no guarantee against an accidental discharge, which could have injured or killed, [REDACTED] Officer Benamon, Officer Siler, or other responding officers or bystanders. Such an action became even more dangerous when Officer Siler began pistol-whipping [REDACTED] with his firearm, as the firearm was pointed/aimed in all different directions. Furthermore, by unnecessarily placing his firearm in close proximity to [REDACTED] Officer Siler presented [REDACTED] an opportunity to disarm him. Finally, as described above, per CPD policy Officer Siler could not use deadly force to disarm [REDACTED] COPA finds that Officer Siler's argument the he used a less-lethal form of deadly force by pistol-whipping [REDACTED] to be without merit.

Threat to Tase [REDACTED] in The Face

Towards the end of the altercation, Officer Siler asked assisting Officers to tase [REDACTED] in the face. During his interview with COPA investigators, Officer Siler offered that he never intended to have anyone actually tase [REDACTED] in the face and that his request was just a verbal threat to drive compliance by [REDACTED] COPA does not accept this explanation. First, verbal threats by officers asserting non-permissible uses of force are not sanctioned anywhere in the CPD's use of force policies. Moreover, such conduct is contrary to the principles of de-escalation. Second, Officer Siler's explanation requires COPA to except the premise that Officer Siler would never tase an individual in the face, presumably because of the cruel and dangerous nature of such an action, yet Officer Siler repeatedly pistol-whipped [REDACTED] during the same encounter. COPA cannot reconcile these points. Therefore, COPA extends little credit to Officer Siler's explanation that he never intended for [REDACTED] to be tased in the face.

For the reasons outlined above, COPA finds the evidence shows by a preponderance that Officer Siler's use of force was excessive Accordingly, the Allegation that Officer Siler used excessive force is sustained.

II. Officer Benamon's use of force.

Despite disarming [REDACTED] and perceiving [REDACTED] as fleeing subject, something Officer Benamon told COPA investigators multiple times during his interview, Officer Benamon used closed hand strikes against [REDACTED] A fleeing, disarmed subject, such as [REDACTED] falls squarely within the Department's definition of an active resister as a person who is attempting to create distance between them and the arresting officer(s) with the intent to avoid physical control or defeat the arrest. Direct Mechanical strikes, such as punching, are not permitted against an active resister. Accordingly, allegation 1 against officer Benamon is sustained.

III. Officer Boone's use of force.

When officer Boone deployed his taser, [REDACTED] is on the ground, in a prone position, with Officers Benamon and Siler Kneeling and/or applying pressure to [REDACTED] back/body.

██████████ is well under control. Neither officer commands ██████████ to stop resisting, implying that he is not. Officer Siler is pointing his firearm directly against ██████████ head. ██████████ is not an assailant fighting back against the officers. ██████████ not resisting and trying to get away. At best, ██████████ was a passive resister for not placing his hands behind his back as instructed to by Officers Siler and Benamon. Arguably, ██████████ was incapable of placing his hands behind his back due to the officers' actions. Because ██████████ was only a passive resister, the use of the taser was not a permitted. Accordingly, allegation 1 against officer Boone is sustained.

C. Rule 14 Allegation against Officer Boone and Clark

There is sufficient evidence to sustain Allegation 4 against Officer Boone by a preponderance of the evidence. During his interviews with COPA investigators, Officer Boone stated that during the incident, he never saw Officer Siler pistol-whip ██████████ about the face and/or point a firearm directly against ██████████ head. COPA finds this assertion more likely than not improbable, and therefore, a false statement to COPA investigators.

The videotape footage showed Officer Boone in close proximity to the struggle among ██████████ and the Officers when Officer Siler pistol-whipped ██████████ and pointed his weapon pointed against ██████████ head. In fact, the whole reason Officer Boone arrived was assist Officers Siler and Boone and it is clear from the video that Officer Boone's attention was focused on the struggle from the time Officer Boone arrived to when the struggle concluded. Officer Boone even moved from behind the struggle to in front of it, a better vantage point, and then actively became involved in the struggle by tasing ██████████ when asked to do so by Officer Siler. While Officer Boone may not have seen every strike to ██████████ head/face or every time Officer Siler pointed the firearm against ██████████ head, however it's simply implausible that he never saw any of it, especially considering Officer Boone's proximity to the struggle, his role as an assisting officer, his clear visual focus seen on the video, and his ultimate involvement in the struggle. Accordingly, COPA find Officer Boone falsely denied what he witnessed.

COPA also finds that Officer Boone's false denial was willing and material. Officer Boone was provided ample opportunity to explain, clarify what he did or do not witness. Therefore, despite two interviews and multiple questions probing Officer Boone's account, he consistently and willingly maintained that he had not witnessed Officer Siler use of force. Arguably, the majority of all responses made by an officer during an investigator's line of questioning in the course of a misconduct investigation are material. In this instance, Officer Boone's responses regarding his perception when asked, under allegation, why he had not intervened or reported Officer Siler's use of force are unquestionably material – claiming to have not witnessed this was his defense.

As expressed above, COPA found Officer Boone's denial of witnessing Officer Siler's use of force improbable, and that the officer willingly denied this during both interviews, and his response was false and material. The fact that Officer Boone's false statement was in direct response to his own pending allegation, demonstrates that his false statement was intentional. Accordingly, allegation 4 against Officer Boone is sustained.

Officer Clark also denied and/or did not recall witnessing any excessive force used by Officer Siler against [REDACTED]. Like Officer Boone, COPA also finds that Officer Clark may not have noticed every strike to [REDACTED] head/face or every time Officer Siler pointed the firearm against [REDACTED] head; however, it is simply implausible that he never saw any of it, especially considering Officer Clark's proximity to the struggle, his role as an assisting officer, his clear visual focus seen on the video, and his ultimate involvement in the struggle. Accordingly, COPA finds Officer Clark falsely denied what he witnessed. Furthermore, for the same reasons outlined above with regard to Officer Boone, COPA also finds Officer Clark's denial to be material and willful. Accordingly, allegation 3 against Officer Clark is sustained.

In sum, COPA found both officers' accounts maximized their lack of involvement, minimized their accountability, and neither officer was forthcoming in their interviews with COPA. Such conduct was in violation of Rules 14 and 51.

D. Allegations of Failure to Intervene¹²¹

Officer Benamon

It is alleged that Officer Benamon failed to intervene when Officer Siler used excessive force against [REDACTED]. When Officer Benamon saw Officer Siler pistol-whipping [REDACTED] and/or point the firearm directly against [REDACTED] head, particularly after Officer Benamon himself had taken the gun from [REDACTED] held the gun up to give to Officer Boone, and announced that he had it, Officer Benamon should have known that the use of deadly force was clearly impermissible. Equally important, Officer Benamon told COPA investigators that [REDACTED] was trying to flee. Although Officer Benamon should have stopped Officer Siler from using deadly force, at a minimum, Officer Benamon had ample opportunity and time to continue to communicate to Officer Siler to ensure that Officer Siler knew that he had retrieved [REDACTED] gun. Instead, he permitted Officer Siler to continually pistol-whip [REDACTED] when such force was inappropriate. Accordingly, Allegation 5 is sustained against Officer Benamon.

Officers Boone and Clark

As with Officer Benamon, Officer Boone also knew that [REDACTED] had been disarmed. Therefore, Officer Boone had a duty to intervene and stop Officer Siler from using deadly force when it was not warranted. Again, at a minimum, Officers Boone and Clark should have continued to communicate that fact to Officer Siler. Accordingly, Allegation 3 is sustained against Officer Boone and so is allegation 2 against Officer Clark.

¹²¹ At the time of the incident, it was well-established in law that police officers owed a duty to intervene to prevent other officers from infringing the constitutional rights of civilians. See *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994).

E. Allegations of Failure to Report*Officer Benamon*

CPD Rule of Conduct 22 imposes a duty upon CPD officers to report improper conduct on the part of other officers; that rule was in effect at the time of the incident.¹²² Because Officer Benamon knew that [REDACTED] had been disarmed and believed that he was attempting to flee, he should have known that Officer Siler was using excessive force. Accordingly, Officer Benamon had a duty to report Officer Siler's improper conduct, and Allegation 4 is sustained against Officer Benamon.

Officer Boone and Clark

As with Officer Benamon, Officers Boone and Clark knew that [REDACTED] had been disarmed and therefore knew that Officer Siler was using excessive force. Therefore, Officer Boone had a duty to report Officer Siler's use of excessive force. Accordingly, Allegation 2 against Officer Boone is sustained and so is Allegation 1 against Officer Clark.

F. Allegations of Verbal Abuse

In addition to recorded video capturing the conduct, Officer Benamon has admitted to the conduct alleged. Therefore, Allegation 2 against Officer Benamon is sustained.

G. Allegations against Sgt. Leahy and Lieutenant Roman

The allegations against Sergeant Leahy and Lieutenant Roman are supported by the preponderance of the evidence and sustained.

At the time of the incidents, CPD General Order G03-02-05 imposed duties upon all CPD members to be accurate and thorough in reporting use of force incidents.¹²³ The directive also imposed certain specific responsibilities upon TRR reviewing supervisors. Among those are the responsibility to ensure that required information is recorded in appropriate reports¹²⁴ and the responsibility to return a TRR to the involved member if incomplete or insufficient.¹²⁵

The evidence shows that Sergeant Leahy breached those duties of accuracy and thoroughness when he approved the Original Case Incident Report relating to the incident, because that report stated that [REDACTED] was armed, but it omitted the fact that [REDACTED] was unarmed at times when Officer Siler struck him. That omission made the Original Case Incident Report deceptive, necessarily misleading any reader to incorrectly conclude that [REDACTED] was armed with a gun at all times that Officer Siler struck him.

¹²² CPD General Order G03-02 *Use of Force* (effective October 16, 2017), Section V.B, expressly provides that CPD members who directly observe a use of excessive force must report it to a supervisor as soon as practicable.

¹²³ CPD General Order G03-02-05 *Incidents Requiring the Completion of a Tactical Response Report* (effective August 18, 2016 - October 16, 2017), Section II.

¹²⁴ *Id.*, Section V.A.2.

¹²⁵ *Id.*, Section V.A.5.

The evidence also shows that Sergeant Leahy breached duties of accuracy and thoroughness as a TRR reviewing supervisor when he failed to reject and return Officer Siler's TRR, and that Lieutenant Roman likewise breached those duties when he approved that TRR. Like the Original Case Incident Report, the TRR stated that [REDACTED] was armed, but it misleadingly omitted to state that [REDACTED] was unarmed at times when Officer Siler struck him. It may well be, as Sergeant Leahy claims, that he did not know that Officer Siler struck [REDACTED] after [REDACTED] had been disarmed. However, Sergeant Leahy's ignorance of those facts cannot be a defense to his breaches of duty because the evidence shows that Sergeant Leahy could have easily learned the facts simply by watching the surveillance videos. Duties of accuracy and thoroughness in reporting carry with them an obligation for the reporter to take reasonable steps to learn and know the true facts. To be sure, Lieutenant Roman knew those true facts when he approved the TRR, as he had viewed the store's surveillance videos prior to doing so. Lieutenant Roman acknowledged as much in his statement, conceding that the videos showed that [REDACTED] was unarmed at times when Officer Siler struck him, but contending that he had then concluded from the video that Officer Siler believed that [REDACTED] was then still armed. Yet, Lieutenant Roman omitted that conclusion from the TRR.

Lieutenant Roman also breached duties of accuracy and thoroughness in referring to and in submitting the Initiation Report, because that report stated that Officer Siler, "while attempting to place [REDACTED] under arrest who was in possession of a firearm, struck the subject about the head with his firearm," but did not at the same time disclose that Officer Siler also struck [REDACTED] with his own firearm five times when [REDACTED] was unarmed. As with Lieutenant Roman's TRR omission, that omission in the Initiation Report made it misleading.

Furthermore, the reports approved by Sergeant Leahy and Lieutenant Roman failed to include that Officer Siler pointed his firearm directly against [REDACTED] head, multiple times. The reports failed mention that [REDACTED] let go of any weapon in his possession and put his hands in the air. The reports failed to include that [REDACTED] told the officer he was not going to shoot and that Officer Benamon believed [REDACTED] was trying to flee, not fight the officer. The reports are void of the fact that [REDACTED] never hit, punched, or physically attacked the officers. The reports advanced the assertion that Officer Chavez Siler's actions prevented the use of deadly force, when in fact he used deadly force.

The juxtaposition of the reports and the videos in this instance leads readers and viewers questioning why there were so many omissions and wrong conclusions. Rule 5 of the CPD Rules of Conduct prohibits the failure to perform a duty; Rule 10 prohibits inattention to duty. Rule 6 requires member to follow directives and orders. Sergeant Leahy and Lieutenant Roman broke those rules by approving reports which were blatantly inaccurate. Accordingly, allegations 1 and 2 against Sergeant Leahy and Lieutenant Roman are therefore sustained.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer Chavez A. Siler	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Siler, Star #7068, committed misconduct through the following acts or omissions:	
	1. Using excessive force in effecting the arrest of [REDACTED]	Sustained

Officer	Allegation	Finding
Officer Michael D. Benamon	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Michael D. Benamon, Star #17036, committed misconduct through the following acts or omissions:	
	1. By using excessive force against [REDACTED] when the accused, including but not limited to, struck [REDACTED]	Sustained
	2. Referring to [REDACTED] as a “nigger;”	Sustained
	3. Detaining [REDACTED] without justification;	Not Sustained
	4. Not reporting Officer Siler's use of excessive force against [REDACTED] and/or [REDACTED]	Sustained
	5. Not intervening in Officer Siler's use of excessive force against [REDACTED]	Sustained

Officer	Allegation	Finding
Officer Corey T. Boone	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Corey T. Boone, Star #14847, committed misconduct through the following acts or omissions:	
	1. Discharging your taser at or in the direction of [REDACTED]	Sustained
	2. Not reporting Officer Siler's and/or Officer Benamon's use of excessive force against [REDACTED]	Sustained

	3. Not intervening in Officer Siler's and/or Officer Benamon's use of excessive force against ██████████ AND/OR ██████████	Sustained
	4. On October 15, 2018, the accused committed misconduct through the following act(s) or omission(s): During an interview with Civilian Office of Police Accountability, the accused made one or more false, misleading, and/or inaccurate statements related to the arrest of ██████████ on or about March 15, 2017. Said false, misleading, and/or inaccurate statements included the accused's denial that he witnessed Officer Chavez Siler strike ██████████ face/head with a firearm and/or the accused's denial that he witnessed Officer Chavez Siler point his firearm directly against ██████████ head.	Sustained
Officer	Allegation	Finding
Officer Robert J. Clark	It is alleged by the complainant that on about March 15, 2017, at 1:56 a.m., at 3759 W. Chicago Avenue, Chicago, Illinois, Officer Robert J. Clark, Star #2795, committed misconduct through the following acts or omissions:	
	1. Not reporting Officer Siler's and/or Officer Benamon's use if excessive force against ██████████ and/or ██████████	Sustained
	2. Not intervening in Officer Siler's and/or Officer Benamon's use if excessive force against ██████████	Sustained
	3. On July 2, 2019, the accused committed misconduct through the following act(s) and/or omission(s): During an interview with Civilian Office of Police Accountability, the accused made one or more false, misleading, and/or inaccurate statements related to the arrest of ██████████ on or about March 15, 2017. Said false, misleading, and/or inaccurate statements included the accused's denial that he witnessed Officer Chavez Siler strike ██████████ face/head with a firearm and/or the accused's denial that he witnessed Officer Chavez Siler use excessive force against ██████████ in violation of Rule 14 of the CPD Rules of Conduct.	Sustained

Officer	Allegation	Finding
<p>Sergeant Kevin C. Leahy</p>	<p>On or about March 15, 2017, Sergeant Kevin C. Leahy, star #1032 committed misconduct through the following act(s) or omission(s):</p>	
	<p>1. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on Officer Chavez Siler's Tactical Response Report (RD #JA187411) related to the arrest of ██████████ on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois:</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Suter struck ██████████ with his firearm after ██████████ was disarmed; and/or that ██████████ attacked with a weapon; and/or that ██████████ used a weapon as deadly force; and/or an omission that Officer Chavez Siler pointed his firearm directly against ██████████ head; and/or that ██████████ used force likely to cause death or great bodily harm, and/or an omission that Officer Chavez requested assisting officers to tase ██████████ in the face; and/or an omission that the Officer Chavez Siler struck ██████████ in the face with his firearm; and/or</p>	<p>Sustained</p>
	<p>2. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on a certain Original Case Incident Report (RD #JA187411) related to the arrest of ██████████ on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois:</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) including an omission that Officer Chavez Siler struck ██████████ with his firearm after ██████████ was disarmed; and/or an omission that ██████████</p>	

	<p>██████████ during his struggle with Officer Chavez Siler, let go of any weapon in his possession and put his hands up; and/or an omission that Officer Chavez Siler pointed his firearm directly against ██████████ head; and/or an omission that Officer Chavez Siler requested assisting officers to tase ██████████ in the face; and/or an omission that Officer Chavez Siler struck ██████████ in the face with a firearm.</p>	<p>Sustained</p>
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Officer	Allegation	Finding
<p>Lieutenant Wilfredo Roman, Jr.</p>	<p>On or about March 15, 2017, Lieutenant Wilfredo Roman, Jr., Star #732, committed misconduct through the following act(s) or omission(s):</p>	
	<p>1. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on an Initiation Report for Log #1084433 related to the arrest of ██████████ on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois;</p> <p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Siler struck ██████████ with his firearm after ██████████ was disarmed; and/or an omission that Officer Chavez Siler pointed his firearm directly against ██████████ head; and/or an omission that ██████████ during his struggle with Officer Chavez Siler, let go of any weapon in his possession and put his hands in the air; and/or that Officer Chavez Siler's actions prevented the use of deadly force by the involved officers; and/or</p>	<p>Sustained</p>
	<p>2. The accused made, caused to be made, adopted, approved and/or attested to one or more false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) on Officer Chavez Siler's Tactical Response Report (RD #JA187411) related to the arrest of ██████████ on or about March 15, 2017, at or around 3759 W. Chicago Ave., Chicago, Illinois;</p>	

	<p>Said false, misleading, inaccurate, incomplete, and/or inconsistent statement(s) and/or fact(s) include an omission that Officer Chavez Siler struck [REDACTED] with his firearm after [REDACTED] was disarmed; and/or that [REDACTED] attacked with a weapon; and/or that [REDACTED] used a weapon as deadly force; and/or an omission that Officer Chavez Siler pointed his firearm directly against [REDACTED] head; and/or that [REDACTED] used force likely to cause death or great bodily harm, and/or an omission that Officer Chavez requested assisting officers to tase [REDACTED] in the face; and/or an omission that the Officer Chavez Siler struck [REDACTED] in the face with his firearm; and/or that Officer Chavez Siler's use of force was in compliance with Department policy</p>	<p>Sustained</p>
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IV. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Siler

i. Complimentary and Disciplinary History:

1 Attendance Recognition Award, 1 Presidential Election Deployment Award 2008, 3 Department Commendations, 13 Honorable Mentions, 2 Complementary Letters, 1 2019 Crime Reduction Award, 1 Life Saving Award, 1 NATO Summit Service Award, and 1 Crime Reduction Award. No applicable disciplinary history.

ii. Recommended Penalty:

Separation

Officer Siler’s repeated application of deadly force was wholly out of line with reasonableness. Despite [REDACTED] unaggressive and nonlethal attempt to flee the mini mart, Officer Siler repeatedly used his firearm to strike [REDACTED] in the head and threatened to shoot [REDACTED] in the head. Such actions are inconsistent with Department training and directives and ultimately bring significant discredit to the Department. Officer Silar’s decision making during the incident and his subsequent justification for his actions render him unfit to serve as an officer. Officer Silar’s inability to utilize effective policing tactics and his unmeasured use of force came at

a high cost to [REDACTED]. Accordingly, COPA recommends that Officer Siler be separated from the Department.

b. Sgt. Benamon

i. Complimentary and Disciplinary History:

1 Superintendent's Honorable Mention, 5 Physical Fitness Awards, 15 Honorable Mentions, 2 Complimentary Letters, and 1 2019 Crime Reduction Award. No applicable disciplinary history.

ii. Recommended Penalty

60-Day Suspension

Officer Benamon himself described [REDACTED] as attempting to flee the mini mart. Despite this perception, Officer Benamon delivered close hand strikes to [REDACTED] something directly prohibited by Department policy. Accordingly, COPA recommends a 60-day suspension.

c. Officer Boone

i. Complimentary and Disciplinary History:

1 Attendance Recognition Award, 4 Physical Fitness Awards, 1 Special Commendation, 13 Honorable Mentions, 1 2019 Crime Reduction Award, 1 Annual Bureau of Recognition, and 1 Unit Meritorious Award. No applicable disciplinary history.

ii. Recommended Penalty:

Separation

While other officers interviewed were able to recall the incident, Officer Boone was seemingly oblivious of the incident during his interviews. Even when confronted with clear and convincing video footage depicting these events and what Officer Boone likely witnessed, he continued to deny that he witnessed what he clearly saw. Such a denial of knowledge demonstrated an unacceptable lack of candor. This refusal to meaningfully cooperate in a misconduct investigation brings significant discredit to the Department and further erodes trust between the Department and the community it serves. Therefore, COPA finds that Officer Boone violated Department Rules 14 and 51 and recommends he be separated from the Department.

d. Officer Clark**i. Complimentary and Disciplinary History:**

1 Attendance Award, 1 Physical Fitness Award, 14 Honorable Mentions, and 1 2019 Crime reduction Award. No applicable disciplinary history.

ii. Recommended Penalty:**Separation**

While other officers interviewed were able to recall the incident, Officer Clark, much like Officer Boone, was seemingly oblivious of the incident during his interviews. Even when confronted with clear and convincing video footage depicting these events and what Officer Clark likely witnessed, he continued to deny that he witnessed what he clearly saw. Such a denial of knowledge demonstrated an unacceptable lack of candor. This refusal to meaningfully cooperate in a misconduct investigation brings significant discredit to the Department and further erodes trust between the Department and the community it serves. Therefore, COPA finds that Officer Clark violated Department Rules 14 and 51 and recommends he be separated from the Department.

e. Sgt. Leahy**i. Complimentary and Disciplinary History:**

4 Attendance Awards, 1 Presidential Election Service Award 2008, 3 Department Commendations, 61 Honorable Mentions, 1 2004 Crime Reduction Award, 1 Police Officer of the Month Award, 1 2019 Crime Reduction Award, 7 Complimentary Letters, 1 Superintendent's Award of Valor, 1 Life Saving Award, 1 NATO Summit Service Award, and 1 2009 Crime Reduction Award. No applicable disciplinary history.

ii. Recommended Penalty:**180-Day Suspension**

Sgt. Leahy's reported ignorance of the incident amounted to a complete lack of accountability regarding his duties of accuracy and thoroughness in reviewing CPD reports. This lack of review resulted Sgt. Leahy's blind approval of multiple deficient reports that contained material omissions and/or inaccurate statements of fact. As a supervisor, the responsibility to conduct a meaningful review of use of force incidents is significant. Accordingly, a failure to fulfill this responsibility requires a substantial penalty. COPA recommends a 180-day suspension.

f. Lt. Roman

i. Complimentary and Disciplinary History:

2 Deployment Operations Center Awards, 3 Other Awards, 6 Attendance Recognitions Awards, 1 Presidential Election Deployment Award 2008, 6 Physical Fitness Awards, 1 special Commendation, 1 2004 Crime Reduction Ribbon, 171 Honorable Mentions, 10 Department Commendations, 7 Complementary Letters, 1 2019 Crime Reduction Award, 1 Life Saving Award, 1 Honorable Mention Ribbon, 1 NATO Summit Service Award, 1 Superintendents Award of Tactical Excellence, 1 2009 Crime Reduction Ribbon, and 1 Unit Meritorious Performance Award. No applicable disciplinary history.

ii. Recommended Penalty:

180-Day Suspension

Reports approved by Lt. Roman approved were void of the fact that [REDACTED] never hit, punched, or physically attacked the officers and advanced the assertion that Officer Chavez Siler's actions prevented the use of deadly force, when in fact he used deadly force. Such omissions made these reports materially deficient and constituted an egregious failure of his supervisory responsibilities. As a supervisor, the responsibility to conduct a meaningful review of use of force incidents is significant. Accordingly, a failure to fulfill this responsibility requires a substantial penalty. COPA recommends a 180-day suspension.

Approved:

[REDACTED]

March 30, 2021

Andrea Kersten
Chief of Inv. Ops.

Date

[REDACTED]

March 30, 2021

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	Kelsey Fitzpatrick
Deputy Chief Administrator:	Matthew Haynam
Chief of Inv. Ops.:	Andrea Kersten