

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	May 31, 2020 / 8:25 pm / 2433 N Lincoln Avenue, Chicago, IL 60614.
Date/Time of COPA Notification:	June 3, 2020 / 12:47 am.
Involved Commander #1:	Commander Chris Papaioannou / Star #260 / Employee ID# [REDACTED] / Unit: 019 / DOA: June 21, 1999 / Male / White.
Involved Lieutenant #1:	Lieutenant Agustin Salgado / Star #481 / Employee ID# [REDACTED] / Unit: 019 / DOA: March 25, 2002 / Male / Hispanic.
Involved Individual #1:	[REDACTED] / Male/ Black.
Involved Individual #2:	[REDACTED] / Female / Asian.
Case Type:	05A – Excessive Force.

I. ALLEGATIONS

Officer	Allegation	Finding
Commander Chris Papaioannou	1. Using an emergency takedown on [REDACTED] without justification, in violation of Rule 6.	Exonerated
	2. Kneeing [REDACTED] without justification, in violation of Rule 6.	Exonerated
	3. Failing to complete a Tactical Response Report detailing the force used on [REDACTED] in violation of Rule 6.	Sustained
Lieutenant Agustin Salgado	1. Attempting to strike [REDACTED] with an impact weapon, without justification, in violation of Rule 6.	Sustained
	2. Striking unidentified member(s) of the public with an impact weapon, without justification, in violation of Rule 6.	Not Sustained
	3. Attempting to strike unidentified member(s) of the public with an impact weapon, without justification, in violation of Rule 6.	Sustained

4. Using excessive force on unidentified member(s) of the public, without justification, in violation of Rule 6.	Sustained
5. Failing to complete the appropriate reports detailing the force used on [REDACTED] in violation of Rule 6.	Sustained
6. Failing to complete the appropriate reports detailing the force used on unidentified member(s) of the public, in violation of Rule 6.	Sustained
7. Failing to comply with G03-02-07 by, failing to give verbal commands prior to the use of a baton, in violation of Rule 6.	Not Sustained
8. Failing to comply with G03-02-07 by, failing to request a supervisor to respond to the scene of your baton use, in violation of Rule 6.	Sustained
9. Failing to comply with G03-02-07 by, failing to notify OEMC of your use of a baton, in violation of Rule 6.	Sustained

II. BACKGROUND

In the wake of George Floyd's death at the hands of police officers in Minneapolis, Minnesota on May 26, 2020, large scale protests and demonstrations erupted around our nation calling for police reform. Chicago experienced a period of significant civil unrest which resulted in thousands of police and civilian encounters, many of which were fraught with emotion and hostility. Many of these encounters were captured on videos that went viral on social media platforms and were circulated around the world. While these videos were vital pieces of evidence, they often failed to positively identify the involved officer or civilian. Significant investigative resources were expended in order to obtain such information and move these cases to conclusion.

This investigation into the misconduct of the involved Department members began as a third-party complaint that provided video. While the video itself provided powerful evidence as to the misconduct in question, it failed to provide enough details to identify the parties involved. Therefore, COPA utilized a combination of video enhancement, in depth interviews, requests for Departmental assistance and careful review of Department records to identify both the officers and civilians involved. The following is a summary of the evidence COPA obtained and the ultimate outcome of this investigation.

III. SUMMARY OF EVIDENCE¹

During a gathering of protesters in front of Julia Porter Park, ██████ climbed on the roof of a parked vehicle and began chanting.² Various Department members, including Commander Chris Papaioannou and Sergeant Aaron Levine observed ██████ on top of the vehicle. Concerned that ██████ may be subjecting an unknown person's property to damage, Sgt. Levine twice used an amplification device to tell ██████ to get down from atop the vehicle. ██████ did not comply.³ In response to ██████ non-compliance, Department members approached ██████ and the vehicle.⁴ ██████ responded by jumping off the vehicle and fleeing, on foot, northwest on Lincoln Ave. Department members pursued ██████ on foot and Cmdr. Papaioannou used an emergency takedown to apprehend ██████.⁵ According to Cmdr. Papaioannou and the video evidence, once ██████ was on the ground, ██████ resisted arrest by repeatedly sitting up.⁶ In his interview, ██████ stated that Cmdr. Papaioannou, who he referred to as the "sergeant," grabbed him and threw him to the ground without asking any questions. ██████ stated that he never fought the officers because he was held down by several officers and did not have control of his body. However, initially he did try to get away from the Commander's grip because he felt he was being physically abused and had not committed a crime, particularly because the car he was standing on belonged to his friend.⁷ ██████ also stated that he did not recall being struck by a baton during this incident and that the only force used against him was by Cmdr. Papaioannou. Cmdr. Papaioannou was able to maintain control of ██████ by placing a knee on his torso and, with assistance of other Department members, handcuff ██████.⁸

Simultaneously, Lieutenant Agustin Salgado raised his baton as an unidentified male wearing a black hooded sweatshirt approached the Department members arresting ██████. As the male observed Lt. Salgado raise his baton, the male turned and fled. As the male turned and fled, Lt. Salgado swung his baton in a downward striking motion towards the male.⁹ After determining the male had fled the area, Lt. Salgado approached ██████ and Cmdr. Papaioannou. Lt. Salgado

¹COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. This section is a concise summary of the facts surrounding this incident as uncovered by COPA during the investigation.

² Pahang was chanting "fuck the police." Att. 9 from 02:15 to 02:30.

³ Att. 9 from 02:17 to 02:24 and Att. 42 at 03:37.

⁴ Att. 9 at 02:35 and Att. 32 at 04:26 and 15:30. (██████ details this event as being thrown to the ground.)

⁵ It is undisputed that ██████ was standing on the roof of a vehicle that did not belong to him, failed to comply with requests to remove himself from the vehicle, fled from the Department members as they approached him, and resisted attempts to detain him. *See* Att. 32 at from 04:31 to 17:31, *also see* Att. 9 at 15:30. ██████ presence on the roof of a vehicle is not typical behavior and reasonably drew the attention of the Department members. Once ██████ was observed on the roof of the vehicle, reasonable suspicion was present that ██████ was engaged in a criminal act, namely damage to property, and it was proper for members to detain ██████ to investigate the criminality of his actions. However, ██████ fled prior to any Department members detaining him, which only increased the reasonable suspicion that ██████ presence on the roof of the vehicle was unauthorized; providing even more justification for his detention. Further, once ██████ was detained he continued to attempt to escape control of Cmdr. Papaioannou to defeat detention. It is for these reasons that COPA determined there was no need to serve any allegations related to ██████ detention or arrest.

⁶ Att. 2 from 00:07 to 00:16, Att. 32 at 17:45 to 18:29, and Att. 48 from 06:19 to 06:32.

⁷ Att. 32 from 17:32-18:20

⁸ Att. 2 from 00:007 to 00:16 and Att. 48 at 06:49 to 06:55.

⁹ Att. 2 from 00:03 to 00:05.

again raised his baton and swung at ██████¹⁰ After observing that ██████ was under control. Lt. Salgado approached a Ms. Kaela ██████¹¹ who had a water bottle raised over her head, and again raised his baton; however, as ██████ is taken into custody, Lt. Salgado lowers his baton to his right side, and walked away.¹²

During his statement Cmdr. Papaioannou explained that he used an emergency takedown to defeat ██████ flight. Additionally, Cmdr. Papaioannou was clear that he did not strike ██████ with his knee, but rather placed his knee on ██████ to gain control as ██████ repeatedly sat up to defeat Cmdr. Papaioannou's control.¹³ Cmdr. Papaioannou admitted that he failed to complete a Tactical Response Report (TRR) detailing the force he used on ██████ because of a misunderstanding on the outcome of an Exempt Department member video conference in which discussion about the need to complete TRRs for force used in response to protests.¹⁴

During his statement Lt. Salgado, admitted to raising his baton towards the unidentified male subject, but described the forward swinging motion of the baton as merely lowering it.¹⁵ However; when specifically asked why his lowering of the baton towards the unidentified male was markedly different than when he lowered the baton in response to ██████ Lt. Salgado explained the forward momentum of his baton caused him to make the swinging motion as the male turned and fled.¹⁶ Further, Lt. Salgado explained that he swung his baton at ██████ because he believed ██████ was going to strike Cmdr. Papaioannou because ██████ repeatedly sat up and had clenched fists.¹⁷ Additionally, Lt. Salgado admitted that he did not complete a TRR or a case report detailing his use of the baton and explained that a TRR was not completed because Cmdr. Papaioannou informed him no TRR was required for force used during protest response.¹⁸ Further, Lt. Salgado explained that as he used his baton he instructed the unidentified male and ██████ to "back, get back", and ██████ to "stop resisting."¹⁹ Finally, Lt. Salgado admitted that he failed to notify OEMC, or request a supervisor to the scene for using his baton.²⁰

IV. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

¹⁰ Att. 50 from 04:29 to 04:53. COPA brought an allegation against Lt. Salgado for *attempting* to strike ██████ without justification, due to the lack of evidence as to whether ██████ was in fact struck by Lt. Salgado's baton. At the moment of impact, the video is obstructed. Complainant Hannah ██████ stated that she was not sure if Lt. Salgado made contact with ██████ and most critically, ██████ himself stated he was not aware of being struck. Based on that evidence COPA determined that the most appropriate allegation was Lt. Salgado attempted to strike ██████

¹¹ COPA identified the female as ██████ however, she never responded to request for a statement.

¹² Att. 2 at 00:12.

¹³ Att. 48 from 06:49 to 06:55.

¹⁴ Cmdr. Papaioannou explained that during the discussion there was mention of completing one TRR to document all the force used; however, Cmdr. Papaioannou was not sure what the ultimate decision was regarding TRRs. Att. 48 from 11:03 to 11:40.

¹⁵ Att. 50 from 08:38 to 09:25 and 12:10 to 12:18.

¹⁶ *Id.*, at 10:13 and from 12:43 to 13:39.

¹⁷ *Id.*, from 06:03 to 06:30 and 11:08 to 11:40.

¹⁸ *Id.*, from 14:00 to 14:30 and 14:56.

¹⁹ *Id.*, from 15:33 to 16:00.

²⁰ *Id.*, from 15:03 to 15:17.

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.

V. ANALYSIS AND CONCLUSION

a. Force Allegations

COPA finds that Allegations #1 and 2 against Cmdr. Papaioannou are **exonerated** and that Allegations #1, 3 and 4 against Lt. Salgado are **sustained**. Department members are permitted to use force, that is objectively reasonable, necessary, and proportional to overcome resistance.²¹ A subject who flees a Department member or otherwise attempts to defeat control or arrest is an active resister.²² A Department member is permitted to respond to active resistance with presence, verbal commands, holding techniques, compliance techniques, control instruments that apply non-impact pressure, oleoresin capsicum spray, stunning (i.e. slapping), takedowns, canines, or a taser; however, use of an impact weapon (i.e. a baton) is not permitted.²³ A subject who is using or threatening the use of force against another person which is likely to cause physical injury is an assailant.²⁴ A Department member is permitted to respond to an assailant who does not pose an imminent threat of death or great bodily harm with any response options available for active

²¹ G03-02.

²² G03-02-01 IV(B)(2)

²³ G03-02-01 IV(B)(2)(c)(1-5).

²⁴ G03-02-01 IV(C).

resistance plus direct mechanical techniques (i.e. punches and kicking), impact weapons (i.e. batons), and impact munitions.²⁵

Here, when [REDACTED] fled from Department members he was an active resister. [REDACTED] stated that he had not committed a crime because he was standing on his friends' car and did not understand why the officers immediately grabbed him and took him to the ground. However, BWC shows that [REDACTED] was given several orders to get off the car and only did so as officers began to move through the crowd toward him. Further, [REDACTED] fled northwest on Lincoln Ave., away from the Department members and was detained several addresses up the block. [REDACTED] active resistance justified Cmdr. Papaioannou's use of a takedown to defeat [REDACTED] flight. Once [REDACTED] was on the ground his active resistance continued as he, admittedly and repeatedly tried to sit up. [REDACTED] continued active resistance, justified Cmdr. Pappianaou's use of control techniques by placing a knee across [REDACTED] torso, to gain control over [REDACTED] so he could be handcuffed. Therefore; Cmdr. Papaionnaou's use of both the takedown and his knee as a control measure were reasonable, proportional, and in compliance with Department policy.²⁶

Lt. Salgado identified the male subject as an assailant as the male approached [REDACTED] arrest, however COPA does not find the evidence supports this analysis. Video evidence is inconclusive as to whether the unknown male approached with his fists clenched, however it appears that he approached to assist [REDACTED]. At the time of Lt. Salgado's attempted strike, the male was an active resister as he fled from Lt. Salgado. Based on (1) the markedly different ways Lt. Salgado lowers his baton in respect to the unidentified male and [REDACTED] and (2) Lt. Salgado's own admission that the lowering of the baton for the male was impacted by the forward momentum; COPA lends little credibility to Lt. Salgado's claim he was merely lowering his baton as the male fled. Rather COPA finds that Lt. Salgado attempted to deliver a baton strike as the male turned and fled, causing Lt. Salgado's swing to miss the male. Therefore; Lt. Salgado's swinging of the baton towards the unidentified male who is merely an active resister as he flees, is in violation of Department policy.

Further, except for Lt. Salgado's assertion that prior to swinging his baton at [REDACTED] he observed [REDACTED] sit up with clenched fist, COPA was unable to locate any evidence that [REDACTED] ever presented as an assailant. Therefore; COPA determined that the preponderance of the evidence supports a finding that [REDACTED] was only an active resister when Lt. Salgado's swung his baton at [REDACTED] and his actions were in violation of Department policy.

COPA finds that Allegation #2 against Lt. Salgado is **not sustained**. While footage clearly shows Lt. Salgado swinging his baton towards the unidentified male, COPA was unable to locate any evidence to determine if the swing struck the unidentified male.

b. Reporting / Notification Allegations²⁷

²⁵ G03-02-01 IV(C)(1)(a)(1-3).

²⁶ COPA notes the restraint used by Cmdr. Papaioannou to gain compliance of [REDACTED]

²⁷ COPA notes that while this incident occurred during the broader civil unrest related to various criminal justice matters, the Department elected to not declare a Mass Arrest Incident; therefore, there was no alteration to a Department Members obligation to document the force used as required by G03-02-02.

COPA finds that Allegation #3 against Cmdr. Papaioannou and Allegations #5 and 6 against Lt. Salgado are **sustained**. Department members are required to complete a TRR detailing force used on a subject who is injured or alleges injury; an active resister; actively obstructs a member by using a physical act directed at the member; or physically attacks a member, to include murder, and aggravated battery or battery.²⁸ Additionally, Department members are required to complete a case report detailing the use of a baton during a force incident.²⁹ Here, it is undisputed that no TRRs or other case reports were generated for the uses of force by either Cmdr. Papaioannou or Lt. Salgado.³⁰ Further, it is undisputed that the force used by both Cmdr. Papaioannou and Lt. Salgado were in response to an active resister and that Lt. Salgado used his baton during his use of force. Therefore, both Department members' failures to complete the required reports is in violation of Department policy.

COPA finds that Allegation #7 against Lt. Salgado is **not sustained**. COPA was unable to locate any evidence to corroborate or refute Lt. Salgado's assertion that he issued verbal commands prior to swinging his baton.

COPA finds that Allegations #8 and 9 against Lt. Salgado are **sustained**. After using a baton, Department members are required to request a supervisor to the scene and notify OEMC of their baton use.³¹ Here, it is undisputed that Lt. Salgado did not request a supervisor to the scene nor did he inform OEMC of his baton use. Therefore; his failure to make the required request and notification was in violation of Department policy.

VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Commander Chris Papaioannou

- i. **Complimentary History:** 4 Life Saving Awards; 8 Department Commendations; 2 Problem Solving Awards; 15 Complimentary Letters; 1 Honorable Mention Ribbon; and 68 Honorable Mentions
- ii. **Disciplinary History:** None
- iii. **Recommended Penalty:** 7 Day Suspension and Retraining on TRRs

Cmdr. Papaioannou admitted his failure to complete the TRR. While the lack of a TRR in this instance is concerning, COPA notes that Cmdr. Papaioannou's failure was not an isolated incident during the protests and is, in part, likely attributed to wide spread misinformation related to the Department's response to the protests, especially as it related to documenting force being used. However; COPA believes that Cmdr. Papaioannou's failure to confirm the final decision reached at the conclusion of the Exempt Department member conversation, is problematic. This belief is based on Cmdr. Papaioannou's span of control and obligation to both the Department and the public to ensure that his subordinates are provided the correct information to comply with

²⁸ G03-02-02 III (A)(1)(a-e).

²⁹ G03-02-07 IV (A)(4).

³⁰ COPA notes that despite Cmdr. Papaioannou's instructions related to TRRs, Lt. Salgado was still required to complete a case report detailing his baton use.

³¹ G03-02-07 III(B) and IV(A)(1).

Department directives, policies, and orders. Additionally, this failure likely exacerbated the spread of misinformation throughout the Department. Further, Cmdr. Papaioannou's failure to complete a TRR negatively impacted COPA's ability to identify his involvement in this incident. It is for these reasons, combined with Cmdr. Papaioannou's complimentary and disciplinary history, COPA recommends a 7-day suspension and retraining on TRRs.

b. Lieutenant Agustin Salgado

- i. Complimentary History:** 3 Complimentary Letters; and 11 Honorable Mentions
- ii. Disciplinary History:** None
- iii. Recommended Penalty:** 90 Day Suspension

While Lt. Salgado admitted his failure in complying with the procedural violations; he took no responsibility for his excessive use of force. Instead he offered self-serving and dubious justifications for his force. Additionally, Lt. Salgado's force only inflamed the already emotionally charged incident and in no way assisted in restoring order or gaining control of the incident. Further, Lt. Salgado's self-admitted failure to comply with Department policy regarding his baton use is concerning, especially given his rank and authority within the Department. Additionally, Lt. Salgado's failure to complete a TRR and required case report negatively impacted COPA's ability to identify his involvement in this incident. It is for these reasons, combined with Lt. Salgado's complimentary and disciplinary history, COPA recommends a 90-day suspension.

VII. DEPARTMENT RECOMMENDATIONS

COPA recognizes that mass-gatherings such as the protest during which this incident occurred provide significant operational challenges for the Department. Chief among these challenges is the proper documentation of police and citizen encounters as well as deployment and allocation of officers. This investigation was adversely impacted by the deficient documentation of both Cmdr. Papaioannou and Lt. Salgado. Specifically, their failure to complete Tactical Response Reports created a paucity of information about the nature and justification for the force used. But more troubling was the lack of clarity as to the requirements of such documentation by Department members holding the ranks of Commander and Lieutenant. It is critically important for leaders within the Department to have a clear understanding of the objectives and expectations for all officers. Given that our City continues to experience mass-gathering protests, COPA recommends that the Department immediately issue clear guidelines to Department members reminding them of their responsibility to document their uses of force, even during a mass-gathering situation.

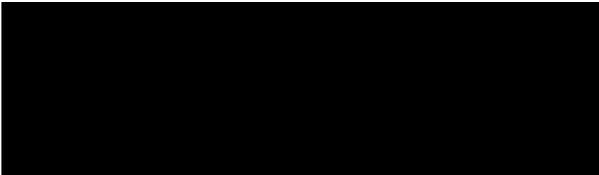
Approved:



November 9, 2020

Andrea Kersten
Chief of Administrative Operations

Date



November 9, 2020

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	0
Major Case Specialist:	Garrett Schaaf
Deputy Chief Administrator:	James Murphy-Aguilu