

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 12 th , 2021
Time of Incident:	2:09am
Location of Incident:	3 W. Erie Street, Oak Park, IL 60302
Date of COPA Notification:	September 12 th , 2021
Time of COPA Notification:	04:13pm

Excessive Force

II. INVOLVED PARTIES

Involved Officer #1:	Emile Domer, star #17294, employee ID # [REDACTED], Date of Appointment: 04/01/2013, rank PO, Unit of Assignment 015, DOB [REDACTED]/1986, Male, Black
Witness Officer #1:	Alejandro Olaguez, star #17444, employee ID # [REDACTED], Date of Appointment: 08/16/2019, rank PO, Unit of Assignment 015, DOB: [REDACTED]/1994, Male, White
Involved Individual #1:	[REDACTED]/1974, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Emile Domer	1. Using a chokehold on [REDACTED] without justification.	Sustained
	2. Forcefully taking [REDACTED] to the ground without justification.	Sustained
	3. Failing to comply with CPD Directive S03-14 Body Worn Cameras by deactivating your body worn camera before the conclusion of the event.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2 Any action or conduct which impedes the Departments efforts to achieve its policy and goals or brings discredit upon the Department.
 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
 3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
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General Orders

1. G03-02 De-escalation, Response to Resistance, and Use of Force
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Special Orders

1. S03-14 Body Worn Cameras
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State Laws

1. Illinois Officer-Worn Body Camera Act 50/ ILCS 706/10
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V. INVESTIGATION**a. Interviews**

In a statement to COPA on November 8, 2021 Officer Emile Domer stated he was at West Suburban Hospital on an unrelated prisoner detail, when he heard a loud disturbance coming from an adjacent area of the hospital. Officer Domer responded to the area of the disturbance and encountered a black male, now known as ██████████ being loud, aggressive, and threatening hospital staff. Officer Domer stated he attempted to give verbal commands to de-escalate the situation which worked briefly, and ██████████ sat in his wheelchair¹. ██████████ became increasingly agitated and got out of his wheelchair again and began to direct his anger toward Officer Domer. ██████████ took a fighting stance, gritted his teeth, balled up his fists, and contracted his muscles until Officer Domer felt like a battery was possible². Officer Domer stated he continued to attempt to verbally de-escalate because he realized ██████████ maybe be possibly having a mental episode. ██████████ was brought to the hospital by the Chicago Fire Department (CFD) with no shirt or shoes and while attempting to get him to comply, Officer Domer inadvertently stepped on his foot by accident. This action set off ██████████ even further and he grabbed Officer Domer by the wrist. Officer Domer stated he conducted an open hand strike to the chest which was guided up to his neck³. Officer Domer stated even though his hand was on ██████████ neck, his hand was open, and he didn't choke him because he didn't want to hurt him. ██████████ notified his immediate supervisor who responded to the scene. Officer Domer stated he was asked repeatedly if he wanted to have

¹ Attachment 18 - CFD Event Query # ██████████. ██████████ was brought West Suburban Hospital by the Chicago Fire Department after experiencing a psychiatric event and a need for medication

² Attachment 4 - 10:44/57:27 of PO Domer Interview

³ Attachment 4 - 11:35/57:27 of PO Domer Interview

██████████ arrested to which he declined because he felt like ██████████ needed to be in a hospital, not a jail.

Officer Domer was asked whether he placed his hands around the neck of ██████████ while taking him to the ground to which he confirmed he did. Officer Domer stated he conducted an open hand strike which he meant for the chest area, but his hand did “slip up”. Officer Domer was asked to clarify where his hand slipped up to and he replied “the neck area.” Officer Domer was asked if he applied any pressure to the neck of ██████████ and he did not recall.

In a statement to COPA on November 23rd, 2021, witness Officer Alexandro Olaguez Officer Olaguez stated he and his partner, Officer Emile Domer, were on a prisoner detail at West Suburban Medical Clinic when they heard an unrelated disturbance, with a person now known as ██████████. Officer Olaguez stated Officer Domer first responded to the disturbance. Officer Olaguez stated when he walked over to assist his partner, he saw Officer Domer attempting to de-escalate an agitated ██████████ who was being threatening and aggressive with hospital staff. Officer Domer repeatedly asked ██████████ to have a seat in his chair but eventually ██████████ became more aggravated (agitated). While standing next to Officer Domer, Officer Olaguez saw ██████████ grab Officer Domer’s right hand and that’s when Officer Domer took ██████████ to the ground and both officers performed emergency handcuffing.

Officer Olaguez was asked to clarify how Officer Domer took ██████████ to the ground. Olaguez stated based on reviewing body worn camera prior to the start of the interview, Officer Domer’s hand went to the chest area and his hand slipped up to the neck area⁴. Officer Olaguez could not tell if any pressure was applied to ██████████ neck when taking him to the ground, because once they went to the ground, he could not see anything. Once ██████████ was in handcuffs, he was brought back to his feet and placed in the wheelchair. Due to his mental state the decision was made by Officer Domer not to arrest ██████████

b. Digital Evidence

Body worn camera (BWC) of the event shows Officer Domer and Officer Olaguez next to an unknown male who is in a hospital bed when a disturbance is created by complainant ██████████. Officer Domer walks to ██████████ location and speaks with ██████████ in an effort to de-escalate the situation. ██████████ who is escorted by CFP personnel in a wheelchair, stands up from his wheelchair and begins walking around the hospital room area. Officer Domer asks ██████████ to sit in the wheelchair to which he does momentarily. Shortly thereafter, ██████████ stands up, takes an aggressive stance with Officer Domer and appears to grab Officer Domer’s right wrist (with his left hand)⁵. Officer Domer takes his right hand and places it on ██████████ neck while taking him to the ground⁶. Officer Olaguez, who joined the altercation appears to grab the right arm of ██████████ in an effort to help place cuffs on him.

⁴ Attachment 5 - 07:35/11:08 of Interview of PO Olaguez

⁵ Attachment 2 02:00/02:42 of BWC PO Domer

⁶ Attachment 23 - Screenshots

c. Documentary Evidence

Tactical Response Report (TRR) # [REDACTED]⁷ was completed by PO Emile Domer at the conclusion of his shift on September 12th, 2021. After reviewing the report and BWC, the TRR was flagged for review by Chicago Police Sergeant James Gentile.

CPD Initiation Report for Log # [REDACTED]⁸ was submitted by Sergeant James Gentile after a force incident review alleged Officer Domer placed his right hand around the neck of [REDACTED]

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 reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

⁷ Attachment 06 – CPD General Order 03-02 De-escalation, Response to Resistance, and Use of Force

⁸ Attachment 08 – 2021-0003606 Initiation Report

Based on interviews conducted, BWC and reports reviewed, COPA is able to determine the following facts: On September 21st, 2021, Officer Emile Domer, while working on an unrelated prisoner detail at West Suburban Hospital, responded to a request for assistance from medical staff for a disorderly patient. ██████ appears on camera agitated and screaming obscenities at hospital staff. Officer Domer attempted to verbally to de-escalate the situation and briefly got ██████ to sit back in his wheelchair. ██████ became agitated again and immediately rose from the wheelchair and stepped in Officer Domer's immediate space. ██████ can be seen grabbing Officer Domer's right wrist and being immediately taken to the ground by Officer Domer. The open right hand appeared to make contact with ██████ left shoulder briefly and then traveled to the neck area. Officer Domer appears to place his right hand around the neck of ██████ who is standing up, and Officer Domer proceeds to drive ██████ to the ground.

Effective April 15th, 2021, the Chicago Police Department prohibits the use of chokeholds or other maneuvers for applying direct pressure on a windpipe or airway⁹. Body worn camera of the incident refutes Officer Domer's statement he used an open hand strike to the chest and then his hand "slipped up" to the neck area. BWC of the incident shows Officer Domer places his right hand on the neck of ██████ and drives him to the ground¹⁰. One of the few exceptions for using a chokehold is a life-threatening situation, which this was not. Officer Domer declined to have ██████ arrested and stated he realized ██████ may be experiencing a mental health episode and did not need to be in jail but rather a hospital.

Officer Domer forcefully taking Mr. ██████ to the ground, similarly, effective April 15, 2021, the "Core Principle" surrounding de-escalation techniques and the use of force is stated as "the Department seeks to gain the voluntary compliance of persons when consistent with personal safety. The Department expects its members to develop and display skills and abilities to act in a manner to eliminate the need to use force and resolve situations without resorting to force."¹¹ Continuing, the decision to use force "must therefore be judged on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight."¹² In this instance, as Officer Domer began taking Mr. ██████ forcefully to the ground, Officer Olaguez had seemingly secured Mr. ██████ right hand, thus somewhat reasonably hindering Mr. ██████ from possibly committing a battery on Officer Domer. Additionally, despite Mr. ██████ belligerent, threatening verbal and physical posturing, Officer Olaguez did not attempt to use any force on Mr. ██████ yet alone forcefully take Mr. ██████ to the ground as Officer Domer initiated and performed.

Based on a preponderance of the evidence, COPA finds **Allegation #1** and **Allegation #2** are **SUSTAINED**.

In his interview with COPA, Officer Officer Domer was asked why his body worn camera ended prior to the conclusion of the event. Officer Domer states the camera fell off as he

⁹ Attachment 6 - CPD General Order 03-02 De-escalation, Response to Resistance, and Use of Force

¹⁰ Attachment 24 - Screenshots

¹¹ Attachment 6 - CPD General Order 03-02 De-escalation, Response to Resistance, and Use of Force

¹² Ibid

was on the ground and [REDACTED] may have rolled over on the camera causing it to turn off¹³. Based on a preponderance of evidence, COPA finds Allegation #3 is **NOT SUSTAINED**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Emile Domer

i. Complimentary and Disciplinary History

Officer Domer’s complimentary history includes the Crime Reduction Award for 2019. One Attendance Recognition Award. Four Complimentary Letters, three Department Commendations, two Joint Operation Awards, One Problem Solving Award, Three Top Gun Arrest Awards, Two Traffic Stop of The Month Awards, Four Unit Meritorious Performance Awards, One Honorable Mention Ribbon Award, Two Superintendent’s Honorable Mention Award, and Ninety-Seven Honorable Mention Awards.

Officer Domer has a three-day suspension for search warrants property damage on his disciplinary record¹⁴.

ii. Recommended Penalty

COPA recommends a penalty of 10 days Suspension and Training in Use of Force for Officer Domer. Officer Domer did not file a criminal complaint against [REDACTED] because he believed [REDACTED] needed to be in a hospital. Officer Domer should have used that same reasoning before applying the excessive force shown on his BWC.

IX. CONCLUSION

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

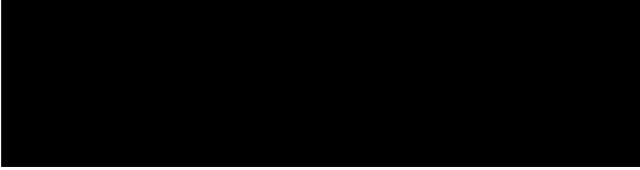
Officer	Allegation	Finding / Recommendation
Officer Emile Domer	1. Using a chokehold on [REDACTED] without justification.	Sustained
	2. Forcefully taking [REDACTED] to the ground without justification.	Sustained
	3. Failing to comply with CPD Directive S03-14 Body Worn Cameras by deactivating	Not Sustained

¹³ Attachment 4 - 34:45/57.27 of PO Domer Interview

¹⁴ COPA Case# 2019-0000045

your body worn camera before the
conclusion of the event.

Approved:



3-31-2022

Angela Hearts-Glass
Deputy Chief Investigator

Date