

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	February 16, 2022 / 12:45 a.m. / 3120 South Halsted Street, Chicago, Illinois 60608
Date/Time of COPA Notification:	February 16, 2022 / 7:43 a.m.
Involved Officer No. 1:	Christopher Flores / Star# 11039 / Employee# [REDACTED] / Appointed: May 16, 2017 / Police Officer / Unit 009 / DOB: [REDACTED] 1993 / Male / Hispanic
Involved Individual No. 1:	[REDACTED] / DOB: [REDACTED] 1993 / Male / Black /
Case Type:	Excessive Force; Verbal Abuse

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer Christopher Flores	It is alleged by the Chicago Police Department, by and through Lt. Todd Ptaszkowski #779, that on or about February 16, 2022, at approximately 12:45 a.m., at or near 3120 S. Halsted Street, Chicago, Illinois 60608, Officer Christopher Flores, Star #11039, committed misconduct through the following acts or omissions:	
	1. Punched [REDACTED] on or about the face;	<b>Sustained</b>
	2. Directed abusive and/or profane language at [REDACTED] using words to the effect of: "You catch another punch to the face if you do that shit again," and/or "You're lucky I only hit you in the face once."	<b>Sustained</b>
	It is alleged by the Civilian Office of Police Accountability, by and through Deputy Chief Matthew Haynam, that on or about February 16, 2022, at approximately 12:45 a.m., at or near 3120 S. Halsted Street, Chicago, Illinois 60608, Officer Christopher Flores, Star #11039, committed misconduct through the following acts or omissions:	
	3. Directed abusive language at [REDACTED] using words to the effect of: "You	<b>Sustained</b>

	spit one more time, I'm throwing these hands again."	
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## II. SUMMARY OF EVIDENCE<sup>1</sup>

COPA opened this investigation pursuant to an **Initiation Report**<sup>2</sup> received on February 16, 2022, from Sergeant Javier Alonso, #1717. The Initiation Report identified Lieutenant Todd Ptaszkowski, #779 ("Lt. Ptaszkowski") of the Chicago Police Department ("CPD") as the complainant. Per the Initiation Report, Police Officer Christopher Flores, #11039 ("Officer Flores") notified Sergeant Manuel Hernandez, #879, that he struck arrestee [REDACTED] [REDACTED] ("Mr. [REDACTED]") once with a closed fist because Mr. [REDACTED] spat in his face and continuously made verbal threats after numerous commands to cease said behavior. In addition to the use-of-force allegation, Lt. Ptaszkowski reviewed Officer Flores's body-worn camera ("BWC") recording of the incident and alleged that Officer Flores stated, "You'll catch another punch to the face if you do that shit again," and "You're lucky I only hit you in the face once." In addition to Lt. Ptaszkowski's allegations, COPA – after review of the BWC recording – alleged that Officer Flores also stated to Mr. [REDACTED] "You spit one more time, I'm throwing these hands again."

The incident described above is captured on the **BWC video recording of Officer Flores**.<sup>3</sup> The BWC recording shows that Officer Flores struck Mr. [REDACTED] after Mr. [REDACTED] spat on him.<sup>4</sup> The recording also shows that Officer Flores made each of the statements referenced above.<sup>5</sup> In addition to the BWC evidence, CPD reports including the **Initiation Report**<sup>6</sup> and **Tactical Response Report (TRR)**<sup>7</sup> document that after being spat on by Mr. [REDACTED] Officer Flores struck Mr. [REDACTED] on the face once with a closed fist. The **Report of Exposure to Communicable Disease/Hazardous Material**<sup>8</sup> documents that upon entering the ambulance, Mr. [REDACTED] spat a combination of blood and saliva on the face of Officer Flores. The **Arrest Report**<sup>9</sup> also documents that Mr. [REDACTED] spat in the face of Officer Flores while in custody in the ambulance. The incident was also witnessed by Chicago Fire Department paramedic Joseph Edward. The paramedic told both Sgt. Alonso and COPA investigators that Mr. [REDACTED] spat in the face of Officer Flores and that Officer Flores struck Mr. [REDACTED] as a result.<sup>10</sup>

<sup>1</sup> COPA 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. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation.

<sup>2</sup> Att. 1. CR Initiation Report of Sgt. Javier Alonso.

<sup>3</sup> Att. 2. BWC of PO Christopher Flores (2022-02-16\_0037\_X6039AGCU).

<sup>4</sup> Att. 2 at 6:05-6:15 minutes. Because of the position of the BWC on Officer Flores's chest and the short distance between Officer Flores and Mr. [REDACTED] the recording does not show Officer Flores's punch landing on Mr. [REDACTED] head or body. The recording does show saliva from Mr. [REDACTED] moving towards Officer Flores and Officer Flores lunging towards Mr. [REDACTED] immediately thereafter. COPA reaches the conclusion that Officer Flores punched Mr. [REDACTED] on or about the face based on viewing the BWC recording in conjunction with Officer Flores's contemporaneous statements and in conjunction with the admissions Officer Flores made during his interview with COPA investigators, as described below in this report.

<sup>5</sup> Att. 2 at 6:25 minutes, 6:58 minutes and 7:18 minutes.

<sup>6</sup> Att. 1.

<sup>7</sup> Att. 3. Tactical Response Report of PO Christopher Flores (Final).

<sup>8</sup> Att. 4. Report of Exposure to Communicable Disease-Hazardous Material.

<sup>9</sup> Att. 5. Arrest Report of [REDACTED]

<sup>10</sup> Att. 6, pg. 5, and Att. 7, Statement Transcript of Joseph Edward (paramedic), pg. 7, lines 23-24.

In Officer Flores's statement to COPA investigators,<sup>11</sup> the accused recounted that on February 16, 2022, at approximately 12:45 a.m., upon sitting Mr. ██████ in an ambulance to transport him to the hospital, Mr. ██████ began "kicking the ambulance stretcher."<sup>12</sup> Officer Flores stated that Mr. ██████ also "spit in one or two different directions" and that at one point he stated to Mr. ██████ "Please do not spit."<sup>13</sup> Officer Flores stated that Mr. ██████ then turned to him and spit a combination of blood and saliva in his face.<sup>14</sup>

Officer Flores explained that according to the Department's use-of-force model, Mr. ██████ became an assailant when Mr. ██████ spat on his face, and he responded by striking Mr. ██████ in the face with a closed fist.<sup>15</sup> Officer Flores stated that he also attempted to hold Mr. ██████ head down on the bench to prevent further battery to himself or "anyone who might come into the ambulance."<sup>16</sup> Officer Flores added that upon his use of force, he warned Mr. ██████ that "if he spit again, we would get the same result." Officer Flores further added that Mr. ██████ responded by apologizing to him,<sup>17</sup> and the paramedics attempted to place a mask over Mr. ██████ face "to prevent further spitting" and "attempted to sedate him."<sup>18</sup>

Officer Flores also stated that once at the hospital, the paramedics and hospital staff told him that, based on their experience, they believed Mr. ██████ had been using PCP. In Officer Flores's experience as a police officer, this also tends to explain Mr. ██████ behavior.<sup>19</sup> Officer Flores also stated that prior to being spit on by Mr. ██████ the arrestee was "very irate," "uncooperative," and "aggressive."<sup>20</sup>

## 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 allegation 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.

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<sup>11</sup> Att.7. Statement Transcript of PO Christopher Flores.

<sup>12</sup> Att. 7, pg. 12, lines 2-5. This is corroborated in the statement of the witness paramedic in Att. 6, pg. 7, lines 16-18.

<sup>13</sup> Att. 7, pg. 12, lines 5-7.

<sup>14</sup> *Id.* at lines 8-11. This is corroborated in the statement of the witness paramedic in Att. 6, pg. 7, lines 23-24 and pg. 13, lines 18-21.

<sup>15</sup> Att. 7, pg. 12, lines 12-15.

<sup>16</sup> *Id.* at lines 15-18.

<sup>17</sup> *Id.* at lines 23-24 and pg. 13, lines 1-3.

<sup>18</sup> *Id.* at pg. 13, lines 3-6. This is corroborated in the statement of the witness paramedic in Att. 6, pg. 7, lines 19-22.

<sup>19</sup> Att. 7, pg. 13, lines 6-11.

<sup>20</sup> *Id.* at pg. 11, lines 1-15.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed did not comply with CPD policy.<sup>21</sup> If the evidence gathered in an investigation establishes that it is more likely that the conduct violated CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.<sup>22</sup> 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."<sup>23</sup>

### III. ANALYSIS AND CONCLUSION

COPA finds that **Allegation No. 1** against Officer Flores is **Sustained**. The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the officer.<sup>24</sup> The factors to be considered in assessing the reasonableness of force include, but are not limited to: (1) whether the person was posing an immediate threat to the safety of officers or others; (2) what risk of harm and level of threat or resistance is presented by the person; (3) what is the person's proximity or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; and (4) the availability of other resources.<sup>25</sup> In all uses of force, the goal of a Department member's response is to resolve the incident "with the foremost regard for the preservation of human life and the safety of all persons involved."<sup>26</sup>

As mentioned above, the primary question in reviewing use of force incidents is whether an officer's actions were reasonable based upon the totality of the circumstances. The circumstances may further limit these permissible responses to only that which is necessary, by using "the minimum amount of force needed to provide for the safety of any person or Department member, stop an attack, make an arrest, bring a person or situation under control, or prevent escape."<sup>27</sup> Responses must also be "proportional to the threat, actions, and level of resistance offered by a person."<sup>28</sup>

In his statement to COPA, Officer Flores told investigators, "Spitting on somebody is considered a battery. Causing a battery to somebody by definition makes you an assailant based on the use of force model."<sup>29</sup> The officer further asserted that striking Mr. [REDACTED] with a closed fist, as a result of being spit on, was a proper response for that type of behavior.<sup>30</sup>

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<sup>21</sup> See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) ("A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.").

<sup>22</sup> See, e.g., *People v. Coan*, 2016 IL App (2d) 151036.

<sup>23</sup> *Id.* ¶ 28.

<sup>24</sup> See General Order G03-02, Use of Force, § (III)(B)(1)-(3). (Att. 33).

<sup>25</sup> *Id.* § (III)(B)(1).

<sup>26</sup> *Id.* § (II)(A).

<sup>27</sup> *Id.* § (III)(B)(2).

<sup>28</sup> *Id.* § G03-02(III)(B)(3).

<sup>29</sup> Att. 7, pg. 15, lines 6-8.

<sup>30</sup> *Id.*, lines 9-13.

The force that Officer Flores used is classified by the Chicago Police Department as a “direct mechanical technique,” which is a “forceful, concentrated striking movement[] such as punching and kicking . . . .”<sup>31</sup> Pursuant to CPD Directives, direct mechanical strikes may only be used against a subject who is labeled as an “assailant.”<sup>32</sup> An assailant is “a person who is using or threatening the use of force against another person . . . which is likely to cause physical injury.”<sup>33</sup> When Mr. █████ spat on Officer Flores, he was unarmed and handcuffed in a seated position. And while Mr. █████ actions were crude, offensive, and could potentially spread disease, his excretion did not cause bodily harm to Officer Flores or to any other persons present. Additionally, any threat that could have been posed by him was substantially minimized. He was restrained and in the presence Officer Flores, with at least one additional police officer outside the ambulance, along with CFD paramedics.

Officer Flores referred to Mr. █████ spitting as a “battery” and believed that his conduct was permitted to prevent further battery.<sup>34</sup> However, the battery committed by Mr. █████ was not a use of force or threatened use of force which would render him an assailant as defined by the directives quoted above. Spitting can be considered a battery, but Illinois law recognizes two distinct categories of battery: the first type involves causing bodily harm to an individual, and the second type involves making contact of an insulting or provoking nature with an individual.<sup>35</sup> Only the first type of battery, involving bodily harm, implicates the definition of “assailant” found in the Department’s use-of-force directives. Illinois courts have consistently held that an offender spitting on a police officer has committed the “insulting or provoking” type of battery,<sup>36</sup> and the United States Court of Appeals for the Seventh Circuit has held that the insulting-or-provoking form of the Illinois battery statute is not a crime of violence for purposes of a federal sentencing enhancement.<sup>37</sup>

None of this suggests that Officer Flores was obligated to allow Mr. █████ to spit in his face. To the contrary, Officer Flores could use reasonable force to prevent Mr. █████ from spitting and could have enlisted assistance from fellow officers or CFD personnel. However, Mr. █████ conduct would properly be classified as active resistance, and direct mechanical techniques, such as punching with a closed fist, are not authorized for use against active resisters.<sup>38</sup> Further, even if Officer Flores classified Mr. █████ as an assailant, this would not automatically allow Officer Flores to punch Mr. █████ Instead, Officer Flores’s actions would still be constrained by the requirement to use force in an objectively reasonable, necessary, and proportional manner, in light of the totality of the circumstances. Given that Mr. █████ was handcuffed and restrained in the ambulance, punching him was not objectively reasonable,

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<sup>31</sup> General Order G03-02-01, Response to Resistance and Force Options, § (IV)(C)(1)(a). (Att. 34).

<sup>32</sup> *Id.* § (IV)(C).

<sup>33</sup> *Id.*

<sup>34</sup> See *supra* Note 29 and accompanying text.

<sup>35</sup> See 720 ILCS 5/12-3(a).

<sup>36</sup> See *People v. Wrencher*, 2011 IL App (4<sup>th</sup>) 080619, ¶¶ 54-55; *People v. Peck*, 260 Ill. App. 3d 812, 814-15 (1994).

<sup>37</sup> See *United States v. Hampton*, 675 F.3d 720, 730 (7th Cir. 2012).

<sup>38</sup> See General Order G03-02-01, § IV.B. This order defines a “resister” as “a person who is uncooperative,” and further defines an active resister as “a person who attempts to create distance between himself or herself and the member’s reach with the intent to avoid physical control and/or defeat the arrest.” Within the framework created by General Order G03-02-01, Mr. █████ is best characterized as an active resister because he was uncooperative when ordered to stop spitting inside the ambulance and because he spit at Officer Flores with the apparent intent to either force Officer Flores to retreat or to avoid physical control.

necessary, or proportional, regardless of his classification under the rubric created by the Department's use-of-force directives.

Therefore, COPA concludes that Officer Flores' closed-fist strike to Mr. ██████ face was excessive. It was an objectively unreasonable and unnecessary tactic that was disproportional under the totality of the circumstances. By engaging in this conduct, Officer Flores violated Rule 2 (bringing discredit upon the Department), Rule 3 (failing to promote the Department's efforts to implement its policy or accomplish its goals), Rule 6 (disobeying written directives G03-02 and G03-02-01), Rule 8 (engaging in disrespect to or maltreatment of Mr. ██████) and Rule 9 (engaging in an unjustified physical altercation with Mr. ██████).

COPA finds that **Allegation Nos. 2 and 3** against Officer Flores are **Sustained**. In his statement to COPA, Officer Flores admitted that after Mr. ██████ spat on him, he stated to Mr. ██████ words to the effect of "You catch another punch to the face if you do that shit again," "You're lucky I only hit you in the face once," and "You spit one more time, I'm throwing these hands." Additionally, the BWC evidence shows clearly that Officer Flores made these statements to Mr. ██████<sup>39</sup> In his statement to COPA, Officer Flores stated that he did not believe the statements were verbally abusive.<sup>40</sup> However, COPA finds that not only were the statements abusive, at least one of them contained profane language.

COPA finds that there is no justification for using such profane and abusive language. Additionally, Officer Flores' verbal responses were made in retaliation against Mr. ██████ for his offensive spitting and threatened future punishment in retaliation for Mr. ██████ actions. Insulting or provoking actions or statements directed toward a Department member do not justify a retaliatory response. Moreover, a reasonable officer would not speak to a citizen in this manner. General Order G02-01 makes it clear that a police officer must be respectful in their contact with the public:

Department members will treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.<sup>41</sup>

After considering Officer Flores' actions during the encounter, the context of the statements made, and the officer's explanation, COPA finds that Officer Flores' behavior was unwarranted and impeded the Department's goals to promote respect between law enforcement and the community, in violation of Rule 2 (bringing discredit upon the Department), Rule 3 (failing to promote the Department's efforts to implement its policy or accomplish its goals), Rule 6 (violating General Order G02-01), and Rule 8 (engaging in disrespect to or maltreatment of Mr. ██████) of the Rules and Regulations of the Chicago Police Department.

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<sup>39</sup> Att. 2 at 6:25 minutes, 6:58 minutes, and 7:18 minutes.

<sup>40</sup> Att. 7, pg. 18, lines 8-9 and pg. 24, lines 11-12, 18-19.

<sup>41</sup> General Order G02-01, Human Rights and Human Resources, § III.B. (Att. 35).

**IV. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

For the reasons set forth above, combined with Officer Craig’s complimentary and disciplinary history, COPA makes the recommendations listed below:

**i. Complimentary and Disciplinary History:**

Officer Flores has no sustained complaints of misconduct within the time period contemplated by the applicable collective bargaining agreement. Officer Flores has received one (1) Lifesaving Award, thirty-two (32) Honorable Mentions, one (1) complimentary letter, and three (3) other awards and commendations.

**ii. Recommended Penalty:**

Officer Flores used excessive force against Mr. [REDACTED] and threatened to use force to punish Mr. [REDACTED] further. Officer Flores did not take responsibility for his misconduct and instead attempted to justify his actions. Officer Flores’s conduct was not premeditated; he appears to have reacted – inappropriately – to extremely offensive conduct by Mr. [REDACTED]. Officer Flores’s use of force did not result in any documented serious injury to Mr. [REDACTED]. Under these circumstances, COPA recommends that a minimum 90-day suspension be imposed.

Approved:



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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

Date: 7/26/2022