

SUMMARY REPORT DIGEST

Civilian Office of Police Accountability

LOG NO
1077591

TYPE
CR

DATE OF REPORT
14-SEP-2017

INSTRUCTIONS: To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, NO AFFIDAVIT, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed Five (5) DAYS SUSPENSION.

TO: CHIEF ADMINISTRATOR,
CIVILIAN OFFICE OF POLICE ACCOUTABILTY

CHIEF,
BUREAU OF INTERNAL AFFAIRS

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
DAVIS, LAKEISHA	9182			113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 1919 S. TRUMBULL AVE, CHICAGO, IL 60623 DATE / TIME:16-AUG-2015 04:08 BEAT: 1024

ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT	UNIT	SEX/RACE	DOB	APPOINTED DATE	ON	SWORN
				ASSIGNED	DETAILED				DUTY ?	?
CARRERA, JOSE L	9161	12997		010		M / WWH	-1976	30-NOV-2012	YES	YES
GOMEZ, ROBERTO	9161	11353		010		M / WWH	-1974	14-DEC-2012	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
				M / BLK	-1975 / 41

VICTIMS

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
				M / BLK	1975 / 41

WITNESSES

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
				F / BLK	-1988 / 28
				F / BLK	/

* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

See Report

SUMMARY

See Report

ATTACHMENTS

INVESTIGATIVE REPORTS - SUPPORTING ALLEGATIONS LIST ATTACHMENTS NUMBER	INVESTIGATIVE REPORTS - SUPPORTING ACCUSED MEMBERS(S) LIST ATTACHMENTS NUMBER:	PHYSICAL EVIDENCE LIST ATTACHMENTS NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE:
			53

FINDINGS - RECOMMENDATIONS

Accused 1: Officer Roberto Gomez, Star 11353
Allegations 1-5 Unfounded

Accused 1: Officer Jose Carrera, Star 12997
Allegations 1-5 Unfounded


Supervising Investigator COPA

DATE INITIATED
(Date incident was received for investigation)

09-NOV-2015

DATE COMPLETED (Date of this report)

14-SEP-2017

ELAPSED TIME
(Total time expressed in days)

675

Investigator will initiate the Command Channel Review form by
completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE


SUMMARY OF INCIDENT:

On August 16, 2015, police responded to a call of a man climbing over a fence, officers approached [REDACTED] and instructed him to come outside of the fence of the residence for the purpose of a field interview. [REDACTED] refused to follow the instructions and reached for a firearm. [REDACTED] was tased, arrested and transported to the 010th District Station.

ALLEGATIONS:

On October 14, 2015, Intake Aide Denise Stewart received a letter from **Complainant [REDACTED]** and registered a complaint on his behalf. It is alleged that on 16 August 2015, at approximately 0410 hours, in the vicinity of 1911 S. Trumbull Ave., **Officer Roberto Gomez, star 11353 and Officer Jose Carrera, star 12997:**

- 1) Punched [REDACTED] on his face, in violation of Rule 8.
- 2) Kicked [REDACTED] on his face, in violation of Rule 8.
- 3) Tased [REDACTED] without justification, in violation of Rule 8.
- 4) Pointed a weapon at [REDACTED] without justification, in violation of Rule 38.
- 5) Falsely charged [REDACTED] with possession of a weapon, in violation of Rule 2.

APPLICABLE RULES AND LAWS:

Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

Rule 38: Prohibits unlawful or unnecessary use or display of a weapon.

INVESTIGATION:

In his letter submitted to COPA, **Complainant [REDACTED]** reported that on September 16, 2015,¹ at 5:00 am, he was beaten by several unidentified Chicago Police Officers. [REDACTED] stated that while he was knocking on the door of the mother of his children, several unidentified officers arrived and asked him to open the gate. [REDACTED] reported that when he opened the gate the officers punched him about his face and tased him. [REDACTED] stated that he was transported to the hospital for medical treatment and later transported to the police station. [REDACTED] denied having a firearm in his possession. [REDACTED] stated that he sustained injuries to his face.

In an interview COPA on November 5, 2015, **Complainant [REDACTED]** stated similar information as he reported in his letter to COPA. [REDACTED] added that on August 15, 2015, he attended a party with [REDACTED]

¹ According to Department reports, [REDACTED] was arrested on 16 August 2015.

██████████ drove ██████████ home on August 16, 2015, at approximately 1:00 am and returned to the party. ██████████ stated that he returned to ██████████ residence at approximately 4:00 am. ██████████ stated that ██████████ resides on the first floor of a two-story building with a black six foot wrought iron fence.

██████████ stated that while he was on the front porch, Officers Carerra and Gomez arrived. ██████████ added that Officers Carerra and Gomez had their weapons drawn and instructed him to open the gate. ██████████ stated that he opened the gate and one of the officers grabbed him by his left wrist and punched him about the left side of his face without cause. ██████████ stated that he fell to the ground and one of the officers kicked him about his face and tased him. ██████████ stated that he was later told that someone called to report a break in.

██████████ stated that he does not reside with ██████████ but ██████████ knew that he was coming back after the party. ██████████ stated that he later learned that ██████████ signed a complaint stating that ██████████ had attempted to unlawfully enter the residence. ██████████ stated that ██████████ informed him that she signed the complaints not knowing that he was the person under arrest and further that she did not call the police. ██████████ stated that he consumed two alcoholic beverages while at the party and denied being intoxicated. Additionally, ██████████ stated that he did not resist arrest and denied having a firearm in his possession. ██████████ stated that he was falsely charged by the accused officers. (Atts. 4, 7, 9)

In her interview with COPA on March 22, 2017² **Witness** ██████████ stated that she and ██████████ have a son in common and that they have not been in a relationship for approximately seven years. ██████████ related that on August 15, 2015, she took her son to ██████████ family reunion. ██████████ stated that she observed ██████████ consume alcoholic beverages while at the family reunion. ██████████ had no knowledge as to the type of alcoholic beverages ██████████ had consumed or how many alcoholic beverages he consumed. ██████████ stated that as she was leaving the family reunion she informed ██████████ not to come to her residence because he was intoxicated. ██████████ related that she knew ██████████ was intoxicated because he was staggering.

██████████ stated that she left the family reunion with her son and her cousin, ██████████ (NFI). ██████████ explained that after "██████████ dropped her off at home, she went to bed. ██████████ stated that several hours later as she was asleep in her bedroom, which is located on the first floor and near the front of the residence, she heard the front gate rattling. ██████████ related that her god-sister, ██████████ was asleep in the living room, which is located in the front of the residence. ██████████ stated that she and ██████████ observed an unidentified male, now known as ██████████ attempting to jump over the six foot wrought iron gate in front of her residence. ██████████ added that it was too dark outside to see ██████████ face.

██████████ stated that she called the police and informed the dispatcher that an unidentified male was trespassing on her property. ██████████ stated that moments later, she observed the police lights and heard a male officer state words to the effect of, "open the gate." ██████████ heard ██████████ explain that the mother of his child resided at the location. ██████████ stated that while ██████████ was looking out of the window near the front porch, ██████████ stated that the officers had jumped over the wrought iron gate and tased ██████████. At the same time, ██████████ heard a male officer state words to the effect of, "Yeah he's got a gun." ██████████ told ██████████ that as ██████████ was tased, an object fell from his person. However, ██████████ never learned what that object was.

██████████ stated that she did not witness any contact between ██████████ and the arresting officers. ██████████ stated that she received a subpoena for ██████████ at her residence and informed ██████████ of the subpoena. Upon inquiry

² It should be noted that ██████████ appeared at COPA to give a statement after receiving a subpoena. Prior to the subpoena, the R/I made several documented attempts to contact ██████████

██████████ related that she contacted ██████████ via Facebook. ██████████ stated that she does not have any additional contact information for ██████████. Upon inquiry, ██████████ stated that she did not recall informing COPA investigators that she observed ██████████ resist the police. ██████████ related that she did not see ██████████ the night of his arrest as he was placed inside the squad car. ██████████ stated that after learning that ██████████ was the trespasser she signed the complaint forms. (Att. 48 – 49)

Attempts were made to interview **Witness** ██████████. On January 11, 2016, the R/I telephoned ██████████ and spoke with a female who identified herself as ██████████. ██████████ identified herself as ██████████ sister. ██████████ related that she observed ██████████ jumped over the fence while in possession of a gun. ██████████ stated that she called the police. ██████████ added that when the police arrived ██████████ resisted arrest. ██████████ scheduled an appoint to come to COPA and give a formal statement on January 12, 2016 but failed to appear. On September 29, 2016, the R/I telephoned ██████████ and spoke with a female who identified herself as ██████████. ██████████ stated that she no longer wanted to give a statement to COPA regarding the incident. (Att. 43, 52, 53)

According to **Department Reports** ██████████ was arrested on 16 August 2015, at approximately 0417 hours, at ██████████. ██████████ was charged with Unlawful Use of Weapon (Possession of firearm), Criminal Trespass, and two (2) counts of Aggravated Assault. It is reported that the arresting officers responded to a call of a burglary in progress at the location of the incident. Upon arrival the arresting officers observed a black male, now known as ██████████ matching the description that they received via Department radio.

The report details that Officer Carrera ordered ██████████ to open the gate and ██████████ refused. Officer Carrera then jumped the gate and observed ██████████ reach and pick-up a firearm. Officer Carrera wrapped his arms around ██████████. Officer Gomez jumped over the gate and observed ██████████ point the firearm in his direction. Officer Gomez immediately grabbed the firearm out of ██████████ hand. An emergency take down was performed and ██████████ refused to place his hands behind his back. Officer Gomez tased ██████████ and ██████████ was placed in custody. ██████████ was transported to Mount Sinai Hospital for medical treatment. It is reported that ██████████ was received in lockup with injuries to his face (NFI). (Atts. 10, 11)

According to the **Tactical Response Report (TRR)** completed by Officer Carrera, ██████████ did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer Carrera responded with member presence, verbal commands, wristlock and take down/emergency handcuffing. (Att. 12)

According to the **Officer Battery Report (OBR)** completed by Officer Carrera, Officer Carrera did not sustain any pain or injuries. (Att. 13)

According to the **TRR** completed by Officer Gomez, ██████████ did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer Gomez responded with member presence, verbal commands, take down/emergency handcuffing, taser (contact stun), and kicks. (Att. 14)

According to the **OBR** completed by Officer Gomez, Officer Gomez did not sustain any pain or injuries. (Att. 15)

According to the **TASER Evidence Sheet**, Officer Gomez utilized the taser on 16 August 2015, at 0415 hours for one (1) second. (Att. 16)

According to the **Chicago Police Department Inventory Sheet** one (1) Smith & Wesson handgun and five (5) .38 SPL Bullets were recovered from ██████ possession. (Att. 18)

According to the **Chicago Police Department OEMC** on 16 August 2015, at 0355 hours, a female caller "█████ stated that a black male wearing a green shirt, army pants and blue shoes jumped over the fence in front of her residence. "█████ also stated that the male does not live at the residence and she does not know who the male is. Beat 1022R reported that the offender was in custody and a weapon was recovered at 0417 hours. Beat 1024R transported ██████ to Mount Sinai Hospital at 0438 hours. (Att. 19 – 22, 26 – 27)

According to the **Medical Report** from Mount Sinai, ██████ was admitted to the emergency room on August 16, 2015, at approximately 5:47 am in police custody. It is reported that ██████ informed the medical personnel that he was attacked by multiple police officers and suffered from the trauma to his head and face. ██████ stated that he lost consciousness but was not sure as to how long. ██████ complained of pain to his neck and face. According to the CAT scan, at some point in time ██████ sustained an acute fracture of the bilateral nasal bones. ██████ reported that he gave ██████ a referral to maxillofacial for apparent old skeletal injuries. ██████ added that ██████ did not have tenderness of facial areas that correlate to CT abnormalities. ██████ was diagnosed with contusion to face and hand. (Att. 25)

During his interview with COPA on June 30, 2016, **Accused Officer Jose Carrera, star 11353**, stated that he was conducting a routine patrol in the vicinity of the alleged incident when he received a call, via department radio, of a burglary in progress. Officer Carrera stated that when he arrived at the location, he observed a black male, now known as ██████ matching the description given by OEMC. Officer Carrera stated that ██████ was standing on the front porch of the location of the alleged incident. Officer Carrera added that there was a 10-foot wrought-iron locked gate that prevented him and Officer Gomez from walking onto the front porch.

Officer Carrera stated that he and Officer Gomez asked ██████ to come to them. Officer Carrera added that ██████ informed them that his friends resided at the address of the alleged incident. ██████ walked down the stairs and stated words to the effect of, "What do you want?" Officer Carrera asked ██████ to exit the gate. ██████ refused and walked up the stairs of the front porch. Officer Carrera climbed over the locked gate and approached ██████ Officer Carrera stated that as he approached ██████ walked towards the south corner of the front porch, kneeled down and appeared to be grabbing an object.

As ██████ was coming up from the ground, Officer Carrera observed a pistol in ██████ right hand. Officer Carrera immediately placed ██████ in a "bear hug." ██████ fully extended himself up and tried to swing Officer Carrera off of his back. Officer Carrera stated that at some point Officer Gomez jumped over the locked gate. Officer Carrera stated that ██████ waved the gun in Officer Gomez' direction. Officer Gomez grabbed the gun and removed it from ██████ right hand.

Officer Carrera proceeded to conduct an emergency takedown. As Officer Carrera conducted an emergency takedown, ██████ pushed off of Officer Carrera. Officer Carrera released his hold on ██████ and ██████ fell down the stairs. At some point, Officer Carrera and Officer Gomez grabbed ██████ and attempted to handcuff him. ██████ flailed his arms and Officer Gomez employed a drive stun with a taser to ██████ body. The officers were then able to place handcuffs on ██████ wrists.

Officer Carrera stated that a female, who resided in the building, came outside and opened the locked gate so that the officers and ██████ could exit. Officer Carrera stated that while at the scene, the female who called the police stated that she did not recognize ██████

Officer Carrera stated that Officer Cornelius Davis, star 16503 and Officer Migdaliz Vazquez, star 18880 (Beat 1024R), arrived on the scene and transported ██████ to Mt. Sinai Hospital for medical treatment. Officer Carrera added that ██████ sustained cuts and bruises to his face as a result from the fall. Officer Carrera stated that Officers Davis and Vazquez arrived to the scene after the incident. After observing photographs of ██████ Officer Carrera stated that he observed the injuries to ██████ after the incident.

Officer Carrera denied observing Officer Gomez kick ██████ about his body. Officer Carrera stated that he observed Officer Gomez taser ██████ after giving ██████ directions to place his hands behind his back, as ██████ was resisting and flailing his arms. Officer Carrera denied observing Officer Gomez commit any additional acts. Officer Carrera denied removing his weapon from his holster. Officer Carrera denied utilizing any equipment on his duty belt. Officer Carrera denied committing the acts alleged against him. (Atts. 40, 41)

During his interview with COPA on June 30, 2016, **Accused Officer Roberto Gomez, star 11353** stated that on the date of the alleged incident he responded to a call via Department radio regarding a burglary in progress. Officer Gomez stated that the dispatcher described the offender as a black male wearing green camouflage shorts and a green shirt. Officer Gomez continued that upon arrival he observed an individual standing on the front steps of the residence matching the description given by OEMC. Officer Gomez stated that there was a 6-foot wrought-iron locked gate that prevented him and Officer Carrera from walking onto the front porch.

Officer Gomez stated that he and Officer Carrera asked ██████ to come to them. Officer Gomez added that ██████ refused exit the locked gate and stated words to the effect of, "Go fuck yourself." Officer Gomez stated that as Officer Carrera climbed over the gate ██████ walked up the steps towards a corner on the porch. Officer Gomez stated that ██████ picked up an object, now known to be a gun, and Officer Carrera grabbed ██████ around his body.

Officer Gomez stated that as Officer Carrera struggled with ██████ Officer Gomez climbed over the locked gate. Once Officer Gomez climbed over the locked gate, he observed a gun in ██████ right hand. Officer Gomez stated that ██████ pointed the gun in his direction. Officer Gomez added that he was able to disarm ██████ by "yanking" the gun from his right hand. Officer Gomez stated that ██████ continued to struggle with Officer Carrera. At some point, ██████ fell down the steps and struck his face on a wrought-iron railing.

Officer Gomez stated that he and Officer Carrera approached ██████ while he was on the ground and attempted to handcuff him. ██████ continued to "fight" officers by throwing his elbows and flailing his arms to prevent the officers from placing the handcuffs on him. Officer Gomez stated that he kicked ██████ on his shoulder during the handcuffing process in an attempt to get ██████ to comply. Mr. Gomez added that after ██████ failed to comply he conducted a drive stun to ██████ back area between his shoulder blades. Officer Gomez stated that after the drive stun, he and Officer Carrera successfully handcuffed ██████

Officer Gomez stated that he made notification regarding the discharge of his taser via Department radio and requested a sergeant. Officer Gomez added that he secured ██████ weapon by unloading it and placing it

in a bag. Officer Gomez stated that Sgt. Elvis Ortega, star 1092, Officer Cornelius Davis, star 16503 and Officer Migdaliz Vazquez, star 18880, arrived on the scene after [REDACTED] had been handcuffed. Officer Gomez stated that Sgt. Ortega directed Officers Davis and Vazquez to transport [REDACTED] to Mount Sinai Hospital for medical treatment. Officer Gomez added that Sgt. Ortega directed him and Officer Carrera to report to the 010th District Station to complete Department reports regarding [REDACTED] arrest.

Officer Gomez described [REDACTED] weapon as a .32 Smith and Wesson revolver, silver in color and loaded with 5 rounds. Officer Gomez stated that he noticed the scent of alcohol on [REDACTED] person. Officer Gomez stated that he observed a laceration to [REDACTED] face. Officer Gomez added that [REDACTED] sustained his injury after striking his face on the railing.

Officer Gomez stated that he and Officer Carrera were able to escort [REDACTED] out of the gate by unlocking it from the inside of the gate. Officer Gomez stated that the lock was inaccessible from outside the gate as there was a crisscross pattern wrought-iron material near the lock area.

Officer Gomez stated that he never unholstered his duty weapon. Officer Gomez added that he unholstered his taser. Officer Gomez stated that he kicked [REDACTED] on his shoulder after he fell to the ground because he was flailing his arms and "throwing" elbows. Officer Gomez denied kicking [REDACTED] in his face. Officer Gomez stated that he tased [REDACTED] because he was resisting arrest and flailing his arms. Officer Gomez denied falsely arrested [REDACTED] (Atts. #36, 42)

COPA Supervisor

Inv. Lakeisha Davis, #130

CONCLUSION:

Accused 1: Officer Roberto Gomez. #11353

Allegations 1-5: Unfounded

As to **Allegation 1** that Officer Gomez punched [REDACTED] in his face, COPA recommends a finding of **Unfounded**. In his interview with COPA, [REDACTED] stated that the officers arrived at the scene, instructed him to open the gate and he complied. [REDACTED] claimed that one of the officers grabbed him by his wrist and punched him about his face.

In contrast, Officer Gomez denied punching about his face. Officer Carrera also denied observing Officer Gomez punch [REDACTED] about his face. In their interviews with COPA, Officer Carrera and Officer Gomez explained that when they arrived to the scene, they instructed [REDACTED] to unlock the gate and [REDACTED] refused. Officer Carrera jumped over the fence and approached [REDACTED] and observed [REDACTED] walk over to a corner of the front porch and pick up a handgun. Officer Carrera placed [REDACTED] in a "bear hug" from behind to attempt to control [REDACTED] Officer Gomez jumped over the fence and disarmed [REDACTED] According to both officers [REDACTED] struggled and attempted to defeat his arrest. As a result Officer Gomez employed a dry stun with his taser to gain compliance.

██████████ and ██████████ interviews with COPA provide little assistance. ██████████ related in her interview that she did not witness the physical contact between ██████████ and the arresting officers. ██████████ gave a general statement over the phone but refused to give a formal interview. However, portions of their statements undermine ██████████ credibility and support the officer's version of events. For example, ██████████ reported that she heard Officers request ██████████ to open the gate and heard ██████████ respond that the mother of his child lived at the house. Moreover, while ██████████ watched the action through a window ██████████ stated to ██████████ that the officers jumped the fence and an object fell from ██████████ hands. Additionally, ██████████ heard officers say, "Yeah he has a gun." ██████████ reported to R/I that she observed ██████████ jump the fence while in possession of a gun and further, resisted the officer's attempts to arrest.

Officer Carrera and Officer Gomez explained that during the struggle with ██████████ ██████████ fell down the steps, striking his face on the railing and the steps, causing injuries to his face. According to the medical records and evidence technician photographs, ██████████ did sustain injuries to his face. However, as stated above both officers denied that ██████████ was ever punched in the face. ██████████ testimony is not credible and in contrast the officers' versions of events are corroborated by the witness statements. Therefore, based on a preponderance standard this allegation is unfounded.

However, the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes such as punches are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, ██████████ attempted to throw Officer Carrera as Officer Carrera placed ██████████ in a bear hug. Additionally, ██████████ was in possession of a gun at the time, and even after ██████████ was disarmed, he continued to throw elbows and struggle with officers who finally used a taser to control him. Officer Gomez's TRR specifically says he was in fear of receiving a battery up and until the point he employed his taser. Given the circumstances, these officers showed restraint in choosing less lethal options to complete the arrest despite the danger to them.

As to **Allegation 2** that Officer Gomez kicked ██████████ about his face, COPA recommends a finding of **Unfounded**. In his interview with COPA, ██████████ stated that one of the arresting officers kicked him about his face.

In his interview with COPA, Officer Gomez stated that he and Officer Carrera approached ██████████ while he was on the ground and attempted to handcuff him. ██████████ continued to "throw" his elbows and flail his arms to prevent the officers from placing the handcuffs on him. Officer Gomez stated that he kicked ██████████ on his shoulder during the handcuffing process in an attempt to get ██████████ to comply. Mr. Gomez added that after ██████████ failed to comply he conducted a drive stun to ██████████ back area between his shoulder blades. According to the TRR completed by Officer Gomez, ██████████ was an imminent threat of battery when he raised a handgun at Officer Gomez.

As laid out in Allegation 1, according to the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes, including punches and kicks are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, ██████████ was in possession of a gun at the time, and even after ██████████ was disarmed, he continued to throw elbows and struggle with officers who finally used a taser to control him. A kick to the head of ██████████ would be considered deadly force given Officer Gomez described ██████████ as on the ground; however a strike to the shoulder may be within policy.

The instant allegation is that Officer Gomez kicked ██████ in the face. Given the inconsistencies between ██████ statements and that of both the officers and the witnesses, ██████ account is less credible than the officers. Additionally, Officer Gomez denied kicking ██████ in the head but admitted to kicking ██████ to gain compliance, therefore bolstering his credibility. In his words, ██████ was fighting officer's attempts to control and cuff ██████. Therefore, ██████ was an assailant during the course of the interaction and Officer Gomez was justified in using a direct mechanical strike. Based on a preponderance of the evidence this allegation is unfounded.

As to **Allegation 3** that Officer Gomez tased ██████ without justification, COPA recommends a finding of **Unfounded**. In his interview COPA, ██████ claimed that when the officers arrived to the scene he complied with their request of opening the gate. ██████ also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face and kicked him about his face. According to ██████ informed her that the arresting officer jumped over the fence to detain ██████. ██████ also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." ██████ also stated that ██████ informed her that she observed an object fall from ██████ person after he was tased.

In his interview with COPA, Officer Carrera stated that he observed ██████ pick up a silver handgun from the corner of the front porch and immediately placed ██████ in a bear hug. Officer Gomez observed ██████ holding the same handgun in his hand as Officer Carrera struggled with ██████. Officer Gomez added that during the struggle, ██████ pointed the handgun in his direction. Officer Gomez stated that he tased after first attempting a direct mechanical strike (kick) to ██████ as ██████ fought with Officer Carrera. Based on the available evidence, and as explained above, Officer Gomez was within the Use of Force Policy when he used the taser to deliver a drive stun to ██████.

As to **Allegation 4** that Officer Gomez pointed a weapon at ██████ without justification, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ alleged that the arresting officer pointed a handgun at him. As stated above, based on the credible statements of both Officers Gomez and Carrera and the observations of ██████ and ██████ the evidence shows that ██████ possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officer's version of events makes sense under the conditions. First, both officers had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer Carrera placed the defendant in a bear hug upon seeing ██████ pick up a gun. It would make no sense for Officer Carrera to do that with a gun drawn as it would expose the gun to ██████. Additionally, when Gomez made it over the fence Carrera was engaged in a bear hug with ██████ it would make little sense for Officer Gomez to draw a weapon and expose his partner Carrera to that danger. The evidence shows that they employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer Gomez falsely charged ██████ with possession of a weapon, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ denied having been in possession of the handgun. Officers Gomez and Carrera report ██████ grabbed a gun from the porch. ██████ related that she heard one of the officers' state "Yeah he has a gun." ██████ also related that ██████ informed her that she observed an object fall from ██████ person after he was tased. Based on the available evidence, Officer Gomez was within the Department Policy to charge ██████ with possession of a weapon.

Accused 2: Officer Jose Carrera

Allegations 1 - 5: Unfounded

As to **Allegation 1** that Officer Carrera punched ██████ in his face, COPA recommends a finding of **Unfounded**. As articulated in allegation 1 against Officer Gomez, the evidence supports the officers' account that ██████ grabbed a gun as Officer Carrera jumped the fence. Officer Carrera put ██████ in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer Gomez used his taser to drive stun ██████ and gain compliance. Based on ██████ actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as punches would have been within policy had they been used. However, Officers Gomez and Carrera deny punching ██████ at all. The evidence certainly meets the preponderance standard that Officers did not punch ██████

As to **Allegation 2** that Officer Carrera kicked ██████ about his face, COPA recommends a finding of **Unfounded**. As articulated in allegation 2 against Officer Gomez, the evidence supports the officers' account that ██████ grabbed a gun as Officer Carrera jumped the fence. Officer Carrera put ██████ in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer Gomez used his taser to drive stun ██████ and gain compliance. Based on ██████ actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as kicks would have been within policy had they been used. Officers Gomez admitted to kicking ██████ in the shoulder but not the head. Officer Carrera denied kicking ██████ at all. The evidence certainly meets the preponderance standard that Officer Carrera did not kick ██████

As to **Allegation 3** that Officer Carrera tased ██████ without justification, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ claimed that when the officers arrived to the scene he complied with their request of opening the gate. ██████ also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face, kicked him about his face and tased him. According to ██████ informed her that the arresting officer jumped over the fence to detain ██████ also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." ██████ also stated that ██████ informed her that she observed an object (NFI) fall from ██████ person after he was tased.

In his statement to COPA, Officer Carrera denied using his taser, stating that he had ██████ in a bear hug after ██████ picked up a handgun. Officer Carrera stated that Officer Gomez tased ██████ Based on the available evidence, Officer Carrera did not discharge his taser.

As to **Allegation 4** that Officer Carrera pointed a weapon at ██████ without justification, COPA recommends a finding of **Unfounded**. In his interview with COPA, ██████ alleged that the arresting officer pointed a handgun at him. As stated above, based on the credible statements of both Officers Gomez and Carrera and the observations of ██████ and ██████ the evidence shows that ██████ possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officer's version of events makes sense under the conditions. Officer Carrera had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer Carrera placed the defendant in a bear hug upon seeing ██████ pick up a gun. It would make no sense for Officer Carrera to do that with a gun drawn as it would expose the gun to ██████ The evidence shows that the officers employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer Carrera falsely charged ██████ with possession of a weapon, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ denied having been in possession of the handgun. Officers Gomez and Carrera report ██████ grabbed a gun from the porch. ██████ related that she heard one of the officers' state "Yeah he has a gun." ██████ also related that ██████ informed her that she observed an object fall from ██████ person after he was tased. Based on the available evidence, Officer Carrera was within the Department Policy to charge ██████ with possession of a weapon.

SUMMARY OF INCIDENT:

On August 16, 2015, police responded to a call of a man climbing over a fence, officers approached [REDACTED] and instructed him to come outside of the fence of the residence for the purpose of a field interview. [REDACTED] refused to follow the instructions and reached for a firearm. [REDACTED] was tased, arrested and transported to the 010th District Station.

ALLEGATIONS:

On October 14, 2015, Intake Aide Denise Stewart received a letter from **Complainant** [REDACTED] and registered a complaint on his behalf. It is alleged that on 16 August 2015, at approximately 0410 hours, in the vicinity of 1911 S. Trumbull Ave., **Officer Roberto Gomez, star 11353 and Officer Jose Carrera, star 12997:**

- 1) Punched [REDACTED] on his face, in violation of Rule 8.
- 2) Kicked [REDACTED] on his face, in violation of Rule 8.
- 3) Tased [REDACTED] without justification, in violation of Rule 8.
- 4) Pointed a weapon at [REDACTED] without justification, in violation of Rule 38.
- 5) Falsely charged [REDACTED] with possession of a weapon, in violation of Rule 2.

APPLICABLE RULES AND LAWS:

Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

Rule 38: Prohibits unlawful or unnecessary use or display of a weapon.

INVESTIGATION:

In his letter submitted to COPA, **Complainant** [REDACTED] reported that on September 16, 2015,¹ at 5:00 am, he was beaten by several unidentified Chicago Police Officers. [REDACTED] stated that while he was knocking on the door of the mother of his children, several unidentified officers arrived and asked him to open the gate. [REDACTED] reported that when he opened the gate the officers punched him about his face and tased him. [REDACTED] stated that he was transported to the hospital for medical treatment and later transported to the police station. [REDACTED] denied having a firearm in his possession. [REDACTED] stated that he sustained injuries to his face.

In an interview COPA on November 5, 2015, **Complainant** [REDACTED] stated similar information as he reported in his letter to COPA. [REDACTED] added that on August 15, 2015, he attended a party with [REDACTED]

¹ According to Department reports, [REDACTED] was arrested on 16 August 2015.

██████████ drove ██████████ home on August 16, 2015, at approximately 1:00 am and returned to the party. ██████████ stated that he returned to ██████████ residence at approximately 4:00 am. ██████████ stated that ██████████ resides on the first floor of a two-story building with a black six foot wrought iron fence.

██████████ stated that while he was on the front porch, Officers Carerra and Gomez arrived. ██████████ added that Officers Carerra and Gomez had their weapons drawn and instructed him to open the gate. ██████████ stated that he opened the gate and one of the officers grabbed him by his left wrist and punched him about the left side of his face without cause. ██████████ stated that he fell to the ground and one of the officers kicked him about his face and tased him. ██████████ stated that he was later told that someone called to report a break in.

██████████ stated that he does not reside with ██████████ but ██████████ knew that he was coming back after the party. ██████████ stated that he later learned that ██████████ signed a complaint stating that ██████████ had attempted to unlawfully enter the residence. ██████████ stated that ██████████ informed him that she signed the complaints not knowing that he was the person under arrest and further that she did not call the police. ██████████ stated that he consumed two alcoholic beverages while at the party and denied being intoxicated. Additionally, ██████████ stated that he did not resist arrest and denied having a firearm in his possession. ██████████ stated that he was falsely charged by the accused officers. (Atts. 4, 7, 9)

In her interview with COPA on March 22, 2017² Witness ██████████ stated that she and ██████████ have a son in common and that they have not been in a relationship for approximately seven years. ██████████ related that on August 15, 2015, she took her son to ██████████ family reunion. ██████████ stated that she observed ██████████ consume alcoholic beverages while at the family reunion. ██████████ had no knowledge as to the type of alcoholic beverages ██████████ had consumed or how many alcoholic beverages he consumed. ██████████ stated that as she was leaving the family reunion she informed ██████████ not to come to her residence because he was intoxicated. ██████████ related that she knew ██████████ was intoxicated because he was staggering.

██████████ stated that she left the family reunion with her son and her cousin, ██████████ (NFI). ██████████ explained that after "██████████ dropped her off at home, she went to bed. ██████████ stated that several hours later as she was asleep in her bedroom, which is located on the first floor and near the front of the residence, she heard the front gate rattling. ██████████ related that her god-sister, ██████████ was asleep in the living room, which is located in the front of the residence. ██████████ stated that she and ██████████ observed an unidentified male, now known as ██████████ attempting to jump over the six foot wrought iron gate in front of her residence. ██████████ added that it was too dark outside to see ██████████ face.

██████████ stated that she called the police and informed the dispatcher that an unidentified male was trespassing on her property. ██████████ stated that moments later, she observed the police lights and heard a male officer state words to the effect of, "open the gate." ██████████ heard ██████████ explain that the mother of his child resided at the location. ██████████ stated that while ██████████ was looking out of the window near the front porch, ██████████ stated that the officers had jumped over the wrought iron gate and tased ██████████. At the same time, ██████████ heard a male officer state words to the effect of, "Yeah he's got a gun." ██████████ told ██████████ that as ██████████ was tased, an object fell from his person. However, ██████████ never learned what that object was.

██████████ stated that she did not witness any contact between ██████████ and the arresting officers. ██████████ stated that she received a subpoena for ██████████ at her residence and informed ██████████ of the subpoena. Upon inquiry

² It should be noted that ██████████ appeared at COPA to give a statement after receiving a subpoena. Prior to the subpoena, the R/I made several documented attempts to contact ██████████

██████████ related that she contacted ██████████ via Facebook. ██████████ stated that she does not have any additional contact information for ██████████. Upon inquiry, ██████████ stated that she did not recall informing COPA investigators that she observed ██████████ resist the police. ██████████ related that she did not see ██████████ the night of his arrest as he was placed inside the squad car. ██████████ stated that after learning that ██████████ was the trespasser she signed the complaint forms. (Att. 48 – 49)

Attempts were made to interview **Witness** ██████████. On January 11, 2016, the R/I telephoned ██████████ and spoke with a female who identified herself as ██████████. ██████████ identified herself as ██████████ sister. ██████████ related that she observed ██████████ jumped over the fence while in possession of a gun. ██████████ stated that she called the police. ██████████ added that when the police arrived ██████████ resisted arrest. ██████████ scheduled an appoint to come to COPA and give a formal statement on January 12, 2016 but failed to appear. On September 29, 2016, the R/I telephoned ██████████ and spoke with a female who identified herself as ██████████. ██████████ stated that she no longer wanted to give a statement to COPA regarding the incident. (Att. 43, 52, 53)

According to **Department Reports** ██████████ was arrested on 16 August 2015, at approximately 0417 hours, at ██████████. ██████████ was charged with Unlawful Use of Weapon (Possession of firearm), Criminal Trespass, and two (2) counts of Aggravated Assault. It is reported that the arresting officers responded to a call of a burglary in progress at the location of the incident. Upon arrival the arresting officers observed a black male, now known as ██████████ matching the description that they received via Department radio.

The report details that Officer Carrera ordered ██████████ to open the gate and ██████████ refused. Officer Carrera then jumped the gate and observed ██████████ reach and pick-up a firearm. Officer Carrera wrapped his arms around ██████████. Officer Gomez jumped over the gate and observed ██████████ point the firearm in his direction. Officer Gomez immediately grabbed the firearm out of ██████████ hand. An emergency take down was performed and ██████████ refused to place his hands behind his back. Officer Gomez tased ██████████ and ██████████ was placed in custody. ██████████ was transported to Mount Sinai Hospital for medical treatment. It is reported that ██████████ was received in lockup with injuries to his face (NFI). (Atts. 10, 11)

According to the **Tactical Response Report (TRR)** completed by Officer Carrera, ██████████ did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer Carrera responded with member presence, verbal commands, wristlock and take down/emergency handcuffing. (Att. 12)

According to the **Officer Battery Report (OBR)** completed by Officer Carrera, Officer Carrera did not sustain any pain or injuries. (Att. 13)

According to the **TRR** completed by Officer Gomez, ██████████ did not follow verbal direction, stiffened, pulled away and was imminent threat of battery (picked up a weapon). Officer Gomez responded with member presence, verbal commands, take down/emergency handcuffing, taser (contact stun), and kicks. (Att. 14)

According to the **OBR** completed by Officer Gomez, Officer Gomez did not sustain any pain or injuries. (Att. 15)

According to the **TASER Evidence Sheet**, Officer Gomez utilized the taser on 16 August 2015, at 0415 hours for one (1) second. (Att. 16)

According to the **Chicago Police Department Inventory Sheet** one (1) Smith & Wesson handgun and five (5) .38 SPL Bullets were recovered from ██████ possession. (Att. 18)

According to the **Chicago Police Department OEMC** on 16 August 2015, at 0355 hours, a female caller "█████" stated that a black male wearing a green shirt, army pants and blue shoes jumped over the fence in front of her residence. "█████" also stated that the male does not live at the residence and she does not know who the male is. Beat 1022R reported that the offender was in custody and a weapon was recovered at 0417 hours. Beat 1024R transported ██████ to Mount Sinai Hospital at 0438 hours. (Att. 19 – 22, 26 – 27)

According to the **Medical Report** from Mount Sinai, ██████ was admitted to the emergency room on August 16, 2015, at approximately 5:47 am in police custody. It is reported that ██████ informed the medical personnel that he was attacked by multiple police officers and suffered from the trauma to his head and face. ██████ stated that he lost consciousness but was not sure as to how long. ██████ complained of pain to his neck and face. According to the CAT scan, at some point in time ██████ sustained an acute fracture of the bilateral nasal bones. ██████ reported that he gave ██████ a referral to maxillofacial for apparent old skeletal injuries. ██████ added that ██████ did not have tenderness of facial areas that correlate to CT abnormalities. ██████ was diagnosed with contusion to face and hand. (Att. 25)

During his interview with COPA on June 30, 2016, **Accused Officer Jose Carrera, star 11353**, stated that he was conducting a routine patrol in the vicinity of the alleged incident when he received a call, via department radio, of a burglary in progress. Officer Carrera stated that when he arrived at the location, he observed a black male, now known as ██████ matching the description given by OEMC. Officer Carrera stated that ██████ was standing on the front porch of the location of the alleged incident. Officer Carrera added that there was a 10-foot wrought-iron locked gate that prevented him and Officer Gomez from walking onto the front porch.

Officer Carrera stated that he and Officer Gomez asked ██████ to come to them. Officer Carrera added that ██████ informed them that his friends resided at the address of the alleged incident. ██████ walked down the stairs and stated words to the effect of, "What do you want?" Officer Carrera asked ██████ to exit the gate. ██████ refused and walked up the stairs of the front porch. Officer Carrera climbed over the locked gate and approached ██████. Officer Carrera stated that as he approached ██████ walked towards the south corner of the front porch, kneeled down and appeared to be grabbing an object.

As ██████ was coming up from the ground, Officer Carrera observed a pistol in ██████ right hand. Officer Carrera immediately placed ██████ in a "bear hug." ██████ fully extended himself up and tried to swing Officer Carrera off of his back. Officer Carrera stated that at some point Officer Gomez jumped over the locked gate. Officer Carrera stated that ██████ waved the gun in Officer Gomez' direction. Officer Gomez grabbed the gun and removed it from ██████ right hand.

Officer Carrera proceeded to conduct an emergency takedown. As Officer Carrera conducted an emergency takedown, ██████ pushed off of Officer Carrera. Officer Carrera released his hold on ██████ and ██████ fell down the stairs. At some point, Officer Carrera and Officer Gomez grabbed ██████ and attempted to handcuff him. ██████ flailed his arms and Officer Gomez employed a drive stun with a taser to ██████ body. The officers were then able to place handcuffs on ██████ wrists.

Officer Carrera stated that a female, who resided in the building, came outside and opened the locked gate so that the officers and ██████ could exit. Officer Carrera stated that while at the scene, the female who called the police stated that she did not recognize ██████

Officer Carrera stated that Officer Cornelius Davis, star 16503 and Officer Migdaliz Vazquez, star 18880 (Beat 1024R), arrived on the scene and transported ██████ to Mt. Sinai Hospital for medical treatment. Officer Carrera added that ██████ sustained cuts and bruises to his face as a result from the fall. Officer Carrera stated that Officers Davis and Vazquez arrived to the scene after the incident. After observing photographs of ██████ Officer Carrera stated that he observed the injuries to ██████ after the incident.

Officer Carrera denied observing Officer Gomez kick ██████ about his body. Officer Carrera stated that he observed Officer Gomez taser ██████ after giving ██████ directions to place his hands behind his back, as ██████ was resisting and flailing his arms. Officer Carrera denied observing Officer Gomez commit any additional acts. Officer Carrera denied removing his weapon from his holster. Officer Carrera denied utilizing any equipment on his duty belt. Officer Carrera denied committing the acts alleged against him. (Atts. 40, 41)

During his interview with COPA on June 30, 2016, **Accused Officer Roberto Gomez, star 11353** stated that on the date of the alleged incident he responded to a call via Department radio regarding a burglary in progress. Officer Gomez stated that the dispatcher described the offender as a black male wearing green camouflage shorts and a green shirt. Officer Gomez continued that upon arrival he observed an individual standing on the front steps of the residence matching the description given by OEMC. Officer Gomez stated that there was a 6-foot wrought-iron locked gate that prevented him and Officer Carrera from walking onto the front porch.

Officer Gomez stated that he and Officer Carrera asked ██████ to come to them. Officer Gomez added that ██████ refused exit the locked gate and stated words to the effect of, "Go fuck yourself." Officer Gomez stated that as Officer Carrera climbed over the gate ██████ walked up the steps towards a corner on the porch. Officer Gomez stated that ██████ picked up an object, now known to be a gun, and Officer Carrera grabbed ██████ around his body.

Officer Gomez stated that as Officer Carrera struggled with ██████ Officer Gomez climbed over the locked gate. Once Officer Gomez climbed over the locked gate, he observed a gun in ██████ right hand. Officer Gomez stated that ██████ pointed the gun in his direction. Officer Gomez added that he was able to disarm ██████ by "yanking" the gun from his right hand. Officer Gomez stated that ██████ continued to struggle with Officer Carrera. At some point, ██████ fell down the steps and struck his face on a wrought-iron railing.

Officer Gomez stated that he and Officer Carrera approached ██████ while he was on the ground and attempted to handcuff him. ██████ continued to "fight" officers by throwing his elbows and flailing his arms to prevent the officers from placing the handcuffs on him. Officer Gomez stated that he kicked ██████ on his shoulder during the handcuffing process in an attempt to get ██████ to comply. Mr. Gomez added that after ██████ failed to comply he conducted a drive stun to ██████ back area between his shoulder blades. Officer Gomez stated that after the drive stun, he and Officer Carrera successfully handcuffed ██████

Officer Gomez stated that he made notification regarding the discharge of his taser via Department radio and requested a sergeant. Officer Gomez added that he secured ██████ weapon by unloading it and placing it

in a bag. Officer Gomez stated that Sgt. Elvis Ortega, star 1092, Officer Cornelius Davis, star 16503 and Officer Migdaliz Vazquez, star 18880, arrived on the scene after [REDACTED] had been handcuffed. Officer Gomez stated that Sgt. Ortega directed Officers Davis and Vazquez to transport [REDACTED] to Mount Sinai Hospital for medical treatment. Officer Gomez added that Sgt. Ortega directed him and Officer Carrera to report to the 010th District Station to complete Department reports regarding [REDACTED] arrest.

Officer Gomez described [REDACTED] weapon as a .32 Smith and Wesson revolver, silver in color and loaded with 5 rounds. Officer Gomez stated that he noticed the scent of alcohol on [REDACTED] person. Officer Gomez stated that he observed a laceration to [REDACTED] face. Officer Gomez added that [REDACTED] sustained his injury after striking his face on the railing.

Officer Gomez stated that he and Officer Carrera were able to escort [REDACTED] out of the gate by unlocking it from the inside of the gate. Officer Gomez stated that the lock was inaccessible from outside the gate as there was a crisscross pattern wrought-iron material near the lock area.

Officer Gomez stated that he never unholstered his duty weapon. Officer Gomez added that he unholstered his taser. Officer Gomez stated that he kicked [REDACTED] on his shoulder after he fell to the ground because he was flailing his arms and "throwing" elbows. Officer Gomez denied kicking [REDACTED] in his face. Officer Gomez stated that he tased [REDACTED] because he was resisting arrest and flailing his arms. Officer Gomez denied falsely arrested [REDACTED] (Atts. #36, 42)

[REDACTED]

[REDACTED]

COPA Supervisor

Inv. Lakeisha Davis, #130

CONCLUSION:

Accused 1: Officer Roberto Gomez. #11353
Allegations 1-5: Unfounded

As to **Allegation 1** that Officer Gomez punched [REDACTED] in his face, COPA recommends a finding of **Unfounded**. In his interview with COPA, [REDACTED] stated that the officers arrived at the scene, instructed him to open the gate and he complied. [REDACTED] claimed that one of the officers grabbed him by his wrist and punched him about his face.

In contrast, Officer Gomez denied punching about his face. Officer Carrera also denied observing Officer Gomez punch [REDACTED] about his face. In their interviews with COPA, Officer Carrera and Officer Gomez explained that when they arrived to the scene, they instructed [REDACTED] to unlock the gate and [REDACTED] refused. Officer Carrera jumped over the fence and approached [REDACTED] and observed [REDACTED] walk over to a corner of the front porch and pick up a handgun. Officer Carrera placed [REDACTED] in a "bear hug" from behind to attempt to control [REDACTED] Officer Gomez jumped over the fence and disarmed [REDACTED] According to both officers [REDACTED] struggled and attempted to defeat his arrest. As a result Officer Gomez employed a dry stun with his taser to gain compliance.

██████████ and ██████████ interviews with COPA provide little assistance. ██████████ related in her interview that she did not witness the physical contact between ██████████ and the arresting officers. ██████████ gave a general statement over the phone but refused to give a formal interview. However, portions of their statements undermine ██████████ credibility and support the officer's version of events. For example, ██████████ reported that she heard Officers request ██████████ to open the gate and heard ██████████ respond that the mother of his child lived at the house. Moreover, while ██████████ watched the action through a window ██████████ stated to ██████████ that the officers jumped the fence and an object fell from ██████████ hands. Additionally, ██████████ heard officers say, "Yeah he has a gun." ██████████ reported to R/I that she observed ██████████ jump the fence while in possession of a gun and further, resisted the officer's attempts to arrest.

Officer Carrera and Officer Gomez explained that during the struggle with ██████████ ██████████ fell down the steps, striking his face on the railing and the steps, causing injuries to his face. According to the medical records and evidence technician photographs, ██████████ did sustain injuries to his face. However, as stated above both officers denied that ██████████ was ever punched in the face. ██████████ testimony is not credible and in contrast the officers' versions of events are corroborated by the witness statements. Therefore, based on a preponderance standard this allegation is unfounded

However, the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes such as punches are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, ██████████ attempted to throw Officer Carrera as Officer Carrera placed ██████████ in a bear hug. Additionally, ██████████ was in possession of a gun at the time, and even after ██████████ was disarmed, he continued to throw elbows and struggle with officers who finally used a taser to control him. Officer Gomez's TRR specifically says he was in fear of receiving a battery up and until the point he employed his taser. Given the circumstances, these officers showed restraint in choosing less lethal options to complete the arrest despite the danger to them.

As to **Allegation 2** that Officer Gomez kicked ██████████ about his face, COPA recommends a finding of **Unfounded**. In his interview with COPA, ██████████ stated that one of the arresting officers kicked him about his face.

In his interview with COPA, Officer Gomez stated that he and Officer Carrera approached ██████████ while he was on the ground and attempted to handcuff him. ██████████ continued to "throw" his elbows and flail his arms to prevent the officers from placing the handcuffs on him. Officer Gomez stated that he kicked ██████████ on his shoulder during the handcuffing process in an attempt to get ██████████ to comply. Mr. Gomez added that after ██████████ failed to comply he conducted a drive stun to ██████████ back area between his shoulder blades. According to the TRR completed by Officer Gomez, ██████████ was an imminent threat of battery when he raised a handgun at Officer Gomez.

As laid out in Allegation 1, according to the Use of Force Option GO-03-02-02 IV C(1)(a) Direct mechanical strikes, including punches and kicks are within policy when the subject can be defined as an assailant. An assailant is defined as a subject who places a member of the Department in fear of receiving a battery. In the instant case, ██████████ was in possession of a gun at the time, and even after ██████████ was disarmed, he continued to throw elbows and struggle with officers who finally used a taser to control him. A kick to the head of ██████████ would be considered deadly force given Officer Gomez described ██████████ as on the ground; however a strike to the shoulder may be within policy.

The instant allegation is that Officer Gomez kicked ██████ in the face. Given the inconsistencies between ██████ statements and that of both the officers and the witnesses, ██████ account is less credible than the officers. Additionally, Officer Gomez denied kicking ██████ in the head but admitted to kicking ██████ to gain compliance, therefore bolstering his credibility. In his words, ██████ was fighting officer's attempts to control and cuff ██████. Therefore, ██████ was an assailant during the course of the interaction and Officer Gomez was justified in using a direct mechanical strike. Based on a preponderance of the evidence this allegation is unfounded.

As to **Allegation 3** that Officer Gomez tased ██████ without justification, COPA recommends a finding of **Unfounded**. In his interview COPA, ██████ claimed that when the officers arrived to the scene he complied with their request of opening the gate. ██████ also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face and kicked him about his face. According to ██████ informed her that the arresting officer jumped over the fence to detain ██████. ██████ also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." ██████ also stated that ██████ informed her that she observed an object fall from ██████ person after he was tased.

In his interview with COPA, Officer Carrera stated that he observed ██████ pick up a silver handgun from the corner of the front porch and immediately placed ██████ in a bear hug. Officer Gomez observed ██████ holding the same handgun in his hand as Officer Carrera struggled with ██████. Officer Gomez added that during the struggle, ██████ pointed the handgun in his direction. Officer Gomez stated that he tased after first attempting a direct mechanical strike (kick) to ██████ as ██████ fought with Officer Carrera. Based on the available evidence, and as explained above, Officer Gomez was within the Use of Force Policy when he used the taser to deliver a drive stun to ██████.

As to **Allegation 4** that Officer Gomez pointed a weapon at ██████ without justification, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ alleged that the arresting officer pointed a handgun at him. As stated above, based on the credible statements of both Officers Gomez and Carrera and the observations of ██████ and ██████ the evidence shows that ██████ possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officer's version of events makes sense under the conditions. First, both officers had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer Carrera placed the defendant in a bear hug upon seeing ██████ pick up a gun. It would make no sense for Officer Carrera to do that with a gun drawn as it would expose the gun to ██████. Additionally, when Gomez made it over the fence Carrera was engaged in a bear hug with ██████ it would make little sense for Officer Gomez to draw a weapon and expose his partner Carrera to that danger. The evidence shows that they employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer Gomez falsely charged ██████ with possession of a weapon, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ denied having been in possession of the handgun. Officers Gomez and Carrera report ██████ grabbed a gun from the porch. ██████ related that she heard one of the officers' state "Yeah he has a gun." ██████ also related that ██████ informed her that she observed an object fall from ██████ person after he was tased. Based on the available evidence, Officer Gomez was within the Department Policy to charge ██████ with possession of a weapon.

Accused 2: Officer Jose Carrera

Allegations 1 - 5: Unfounded

As to **Allegation 1** that Officer Carrera punched ██████ in his face, COPA recommends a finding of **Unfounded**. As articulated in allegation 1 against Officer Gomez, the evidence supports the officers' account that ██████ grabbed a gun as Officer Carrera jumped the fence. Officer Carrera put ██████ in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer Gomez used his taser to drive stun ██████ and gain compliance. Based on ██████ actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as punches would have been within policy had they been used. However, Officers Gomez and Carrera deny punching ██████ at all. The evidence certainly meets the preponderance standard that Officers did not punch ██████

As to **Allegation 2** that Officer Carrera kicked ██████ about his face, COPA recommends a finding of **Unfounded**. As articulated in allegation 2 against Officer Gomez, the evidence supports the officers' account that ██████ grabbed a gun as Officer Carrera jumped the fence. Officer Carrera put ██████ in a bear hug in an effort to complete the arrest and protect himself. The struggle continued until Officer Gomez used his taser to drive stun ██████ and gain compliance. Based on ██████ actions, specifically grabbing the gun and continuing to swing his elbows and arms, use of direct mechanical strikes such as kicks would have been within policy had they been used. Officers Gomez admitted to kicking ██████ in the shoulder but not the head. Officer Carrera denied kicking ██████ at all. The evidence certainly meets the preponderance standard that Officer Carrera did not kick ██████

As to **Allegation 3** that Officer Carrera tased ██████ without justification, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ claimed that when the officers arrived to the scene he complied with their request of opening the gate. ██████ also claimed that the arresting officers immediately entered the gate, grabbed him by his wrist, punched him about his face, kicked him about his face and tased him. According to ██████ informed her that the arresting officer jumped over the fence to detain ██████ also stated that she heard one of the arresting officers state word to the effect of, "Yeah he has a gun." ██████ also stated that ██████ informed her that she observed an object (NFI) fall from ██████ person after he was tased.

In his statement to COPA, Officer Carrera denied using his taser, stating that he had ██████ in a bear hug after ██████ picked up a handgun. Officer Carrera stated that Officer Gomez tased ██████ Based on the available evidence, Officer Carrera did not discharge his taser.

As to **Allegation 4** that Officer Carrera pointed a weapon at ██████ without justification, COPA recommends a finding of **Unfounded**. In his interview with COPA, ██████ alleged that the arresting officer pointed a handgun at him. As stated above, based on the credible statements of both Officers Gomez and Carrera and the observations of ██████ and ██████ the evidence shows that ██████ possessed a handgun at the time officers approached. The officers deny ever upholstering their handguns. The officer's version of events makes sense under the conditions. Officer Carrera had to jump a six foot fence which would be difficult to do with a weapon in hand. Next, Officer Carrera placed the defendant in a bear hug upon seeing ██████ pick up a gun. It would make no sense for Officer Carrera to do that with a gun drawn as it would expose the gun to ██████ The evidence shows that the officers employed less lethal force even under circumstances where more force may have been justified. Officers used direct mechanical strikes and grappling techniques prior to resorting to a taser. Based on the available evidence, the allegation is unfounded.

As to **Allegation 5** that Officer Carrera falsely charged ██████ with possession of a weapon, COPA recommends a finding of **Unfounded**. In his statement to COPA, ██████ denied having been in possession of the handgun. Officers Gomez and Carrera report ██████ grabbed a gun from the porch. ██████ related that she heard one of the officers' state "Yeah he has a gun." ██████ also related that ██████ informed her that she observed an object fall from ██████ person after he was tased. Based on the available evidence, Officer Carrera was within the Department Policy to charge ██████ with possession of a weapon.

FINDINGS:

Accused 1: Officer Roberto Gomez. Star 11353
Allegations 1- 5: Unfounded

Accused 2: Officer Jose Carrera Star 12997
Allegations 1- 5: Unfounded