

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	January 24, 2022
Time of Incident:	4:49 pm.
Location of Incident:	3850 W. North Ave, Chicago, Illinois.
Date of COPA Notification:	January 24, 2022
Time of COPA Notification:	7:37 pm.

On January 24, 2021, Officers Vincent Caramusa and Dustin Dela Cruz responded to an assault in progress. Upon arrival, the officers met with the [REDACTED], [REDACTED] and [REDACTED] related that an unknown male Hispanic (now known as [REDACTED]) entered the grocery store, went to the meat section, grabbed a large butcher knife with his right hand, and began to walk toward [REDACTED] aggressively. [REDACTED] followed [REDACTED] around the meat section with the knife. [REDACTED] then placed the knife down and began walking around the front of the store. The officers located [REDACTED] in the front of the store. [REDACTED] resisted arrest when the officers placed him into custody. An emergency takedown was performed, and [REDACTED] was taken into custody on signed complaints.

**I. INVOLVED PARTIES**

Involved Officer #1: Vincent Caramusa	Officer Vincent Caramusa, Star #6298, Employee [REDACTED], Appointment Date April 16, 20218, Unit 025, Male, White, Birth Date [REDACTED], 1988.
Involved Individual #1:	[REDACTED], DOB [REDACTED], 1989, Male, Hispanic

**I. ALLEGATIONS**

Officer	Allegation	Finding/ Recommendations
Officer Vincent Caramusa	1. On January 24, 2022, at approximately 4:46 pm, Officer Caramusa used excessive force while placing [REDACTED] into custody without justification.	Not Sustained

## II. APPLICABLE RULES AND LAWS

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### Rules

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1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty
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### General Orders

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1. General Order G03-02, De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to present)

## III. INVESTIGATION<sup>1</sup>

### a. Interviews

In a **statement** to COPA on March 10, 2022, **Accused Officer Vincent Caramusa<sup>2</sup>** stated that he was in uniform equipped with his body-worn camera and with his partner, Dustin Dela Cruz, when they received a call regarding an assault in progress at a grocery store. Upon arrival, the officers met with the manager, who stated that a male Hispanic went behind the counter at the meat section, grabbed a large butcher's knife, and chased an employee with it. The male Hispanic put the knife down and walked back towards the front of the store, and the manager called the police. Officer Caramusa stated that the manager wanted a report regarding the incident, and ██████ removed from the store.

The officers walked to the front of the store and encountered ██████ who was highly intoxicated. ██████ was aggressive, used foul language, smelled of alcohol, had red eyes, and slurred speech. The officers asked him to leave, and ██████ said, "No. Hell no. I am not going,"<sup>3</sup> Officer Caramusa stated that ██████ walked toward him. Officer Caramusa put his hand up and asked ██████ not to walk up on him like that. Officer Caramusa stated that ██████ already showed a propensity for violence; therefore, he did not know what ██████ would do. ██████ had his hands in his pocket and was told to remove them. When ██████ and the officers began to walk towards the exit, ██████ walked towards Officer Caramusa. Officer Caramusa grabbed ██████ arm and performed an emergency takedown.

Officer Caramusa explained at that moment, ██████ became an active resister and tried to defeat the arrest. Officer Caramusa said he was under duress and tried to deescalate the incident by repeatedly telling ██████ that he was not under arrest. ██████ was fighting, flailing his arms, and stiffening his body. Officer Caramusa stated he tried to prevent ██████ from moving. He briefly had his hand on ██████ chest, not of his actions but because ██████

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Atts. 21,24

<sup>3</sup> Att. 24, Page 11, Line 2

was moving. Officer Caramusa stated that his hands shifted toward [REDACTED] lower neck area and upper chest for a brief second. He never performed a chokehold or restricted [REDACTED] airway. Officer Caramusa stated that he immediately shifted and removed his hand from that area once he realized where his hand was and placed his hand on [REDACTED] chest. He and his partner, Officer Dela Cruz, successfully placed [REDACTED] into custody and walked to the police vehicle. The incident took about thirty seconds.

Officer Caramusa stated that the incident was a simple emergency takedown and cuffing. There were no strikes and nothing extreme. Officer Caramusa stated that [REDACTED] never complained he was hurt or being choked.

In a second **statement** to COPA on March 10, 2022, **Witness Officer Dustin Dela Cruz**<sup>4</sup> stated that he was in uniform, equipped with his body-worn camera, and with his partner, Officer Vincent Caramusa, when they received a call regarding an assault in progress at a grocery store. Officer Dela Cruz essentially stated the same thing as Officer Caramusa. He added that as he and his partner, Officer Caramusa, approached [REDACTED] and positioned themselves tactically, he was not compliant and escalated the incident to where they had to use control tactics to place him into custody.

Officer Dela Cruz stated that initially, [REDACTED] was a passive resister; however, after they allowed him to leave the store premises, he walked toward Officer Caramusa, closing the distance. Officer Caramusa gave [REDACTED] a verbal command to step back and extend his left hand out. [REDACTED] continued to approach Officer Caramusa despite the verbal command, and an emergency takedown was performed.

#### **b. Digital Evidence**

**The Body-Worn Camera Video**<sup>5</sup> footage from Officer Vincent Caramusa showed the officers entering the grocery store and walking towards the back of the store. The officers met with a male Hispanic, now known as [REDACTED] [REDACTED] who walked them to the back of the store. [REDACTED] introduced the officers to [REDACTED] who spoke Spanish. [REDACTED] translated for [REDACTED]. The officers spoke to [REDACTED] the victim of [REDACTED] said he wanted a report and [REDACTED] removed from the store. [REDACTED] stated that he was not hurt and did not need medical attention.

Officer Caramusa walked toward [REDACTED] and told him that he needed to leave the store and remove his hands from his pocket. Officer Caramusa explained that all the manager wanted was for him to leave the store. [REDACTED] said no. [REDACTED] walked toward Officer Caramusa, who stated don't walk close to him and explained to [REDACTED] that he was not under arrest and that the manager wanted him to leave the store. Officer Dela Cruz is observed asking [REDACTED]

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<sup>4</sup> Att. 22

<sup>5</sup> Att. 5

to remove his hands from his pocket. ██████ walked up to Officer Caramusa, who performed an emergency takedown and handcuffing. ██████ is resisting and moving around on the floor. Officer Caramusa is heard saying, stop fighting, multiple times.

At 5:32, Officer Caramusa left hand is observed on ██████ chest, and then it goes toward ██████ neck area for a brief second. Officer Caramusa continued to yell, stop fighting, and explain to ██████ that he wanted to be a tough guy when they only wanted him to leave. ██████ is handcuffed and briefly sitting on the floor when he is picked up off the floor and walked out of the store to the back seat of the police vehicle.

A screenshot from the body-worn camera of Officer Caramusa.<sup>6</sup>



**The Body-Worn Camera Video**<sup>7</sup> footage from Officer Dustin Dela Cruz essentially shows the exact footage as Officer Caramusa's body-worn camera.

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<sup>6</sup> A still image from the body-worn camera of Officer Caramusa when he briefly placed his left hand by ██████ neck area.

<sup>7</sup> Att. 4

### c. Documentary Evidence

The **Initiation Report**<sup>8</sup> by Lieutenant Francisca Vergara, #698, stated that as she was investigating a TRR<sup>9</sup> from Officer Vincent Caramusa involving an arrest at approximately 05:30, she observed Officer Caramusa left hand placed on the subject's chest for control, then hand positions to neck area for a brief second. Even though this appeared for a brief period of time and no outcry of injury, choking, or the arrestee made an excessive force accusation to a supervisor or officers on the scene, she feels this may be a violation of GO 03-02-08 due to the position of the hand and the position of the offender. Forwarded to COPA for further investigation.

The **Original Case Incident Report**<sup>10</sup> indicates that there was an assault in progress at 3850 W. North Avenue. The officers arrived on the scene and spoke with [REDACTED] [REDACTED] and Victim [REDACTED] who spoke Spanish, stated that while working, he observed [REDACTED] walking around and entering the store's meat section, which is reserved for employees only. He observed [REDACTED] grab a large knife with his right hand, aggressively yell at him, and begin walking quickly toward [REDACTED] with the knife in his right hand. [REDACTED] was in fear of his life and feared that he would get injured by [REDACTED] ran away, with [REDACTED] following closely behind him with the knife still in his hand. [REDACTED] eventually placed the knife down and went back into the store, walking around, and [REDACTED] was able to recover the knife on the floor.

[REDACTED] refused medical attention and did not indicate any signs of injury to the officers. The officers also spoke with Manager [REDACTED] He said [REDACTED] related the same story to him and requested that [REDACTED] be removed from the store for assaulting [REDACTED] He further stated that [REDACTED] refused to comply with his order when he asked [REDACTED] to leave the store multiple times. [REDACTED] stated that [REDACTED] was rude and belligerent.

The officers could locate [REDACTED] in the store and ordered him to leave the store, which he refused. [REDACTED] was aggressive and tense towards the officers, and they observed that he had glossy red eyes and slurred speech, indicating that he might be intoxicated. [REDACTED] disregarded verbal commands to stay back. [REDACTED] took a step toward Officer Caramusa, extending his left hand to maintain a safe distance. [REDACTED] took another step toward Officer Caramusa, closing the distance between Officer Caramusa and [REDACTED] He then conducted an emergency takedown and handcuffing with the assistance of Officer Dela Cruz. [REDACTED] was an active resister toward arresting officers.

[REDACTED] was placed into custody undersigned complaints by [REDACTED] for aggravated assault with a knife and transported to the 025<sup>th</sup> District. Beat. 2534, Officer Contreras assisted arresting officers with translating information for [REDACTED] Surveillance camera footage was recorded on a body-worn camera.

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<sup>8</sup> Att. 11

<sup>9</sup> Tactical Response Report

<sup>10</sup> Att. 6

The **Arrest Report** for ██████████ indicates that he was charged with aggravated assault with a deadly weapon and resisting and obstructing a police officer.

The **Tactical Response Report for Officer Caramusa (TRR)**<sup>12</sup> indicates he was on duty, in uniform, and with a partner at the time of the incident. ██████████ did not follow verbal directions, stiffened his body, and pulled away. Officer Caramusa responded with member presence, verbal direction, control techniques, escort holds, wristlock, handcuffs/physical restraints, and takedown.

#### IV. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>13</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. 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>14</sup>

#### V. ANALYSIS AND CONCLUSION

Under the Department's use of force policy, officers may only use force that is "objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure

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<sup>11</sup> Atts. 2,3

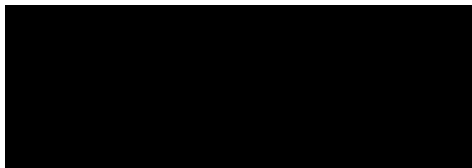
<sup>12</sup> Att. 20

<sup>13</sup> 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).

<sup>14</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

the safety of a member or third person, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape."<sup>15</sup> Officers who encounter active resisters may respond using holding techniques, control instruments, takedowns, stuns, tasers, and OC spray.<sup>16</sup> However, the use of chokeholds, carotid artery restraints, and other maneuvers for applying direct pressure on a windpipe or airway is prohibited unless necessary to protect against an imminent threat to life.<sup>17</sup>

Here, the video and testimonial evidence shows Officer Caramusa attempted to use de-escalation techniques before using force on [REDACTED] however, refused to leave the store, ignored verbal commands to take his hands out of his pockets, and repeatedly walked toward Officer Caramusa despite the officer's warnings to stay back. Given these circumstances and the fact that [REDACTED] had reportedly threatened a store employee with a butcher's knife, COPA finds it reasonable for Officer Caramusa to perform a takedown on [REDACTED] However, once [REDACTED] was on the ground, the body-worn camera video shows Officer Caramusa briefly placing his left hand on or near [REDACTED] neck. Officer Caramusa denied he used a chokehold or restricted [REDACTED] breathing, and the video corroborates his assertion that the contact with [REDACTED] neck was brief and inadvertent. However, due to the camera angle and [REDACTED] movements on the ground, the video does not clearly capture the amount of force Officer Caramusa applied or how. As a result, COPA lacks clear and convincing evidence that Officer Caramusa's actions complied with Department policy, and the allegation is **Not Sustained**.



4/3/2023

Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

Date

<sup>15</sup> General Order G03-02 (III)(B).  
<sup>16</sup> General Order G03-02-01 (IV)(B).  
<sup>17</sup> General Order G03-02 (IV)(D)(2)-(4).