

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 25, 2017
Time of Incident:	10:20 p.m.
Location of Incident:	5748 S. Justine, St., Chicago, IL
Date of COPA Notification:	January 31, 2018
Time of COPA Notification:	12:01 p.m.

On February 25, 2017, at or about 10:20 p.m., Officers Domer, Hunt and Givens were on routine patrol and curbed [REDACTED] gray Jeep for speeding westbound on 58th Street and failing to observe a stop sign. The driver, [REDACTED] (age 20), did not have a driver's license. He told officers he was driving because his father, front passenger [REDACTED] was too drunk to drive. There was also a strong marijuana smell noticed in the vehicle. Before the passengers could be removed and searched, the driver pulled away, stopped, exited, and he and rear-seat passenger [REDACTED] escaped on foot. Officers arrested [REDACTED] and drove him to the 7th District.

At the station's processing area, Mr. [REDACTED] became combative and threatened officers. At one point he bumped into Officer Domer, and Officer Domer struck Mr. [REDACTED] in the face. Mr. [REDACTED] fell to the floor, and an ambulance was called. Mr. [REDACTED] was taken to the hospital for treatment and was subsequently returned to the station by police.

Mr. [REDACTED] subsequently filed a complaint with COPA alleging that police wrongfully arrested him and used excessive force by punching and breaking his jaw, causing permanent injury.

No Body-worn camera ("BWC"), In-car camera ("ICC") or District lockup surveillance footage was recovered.¹ Mr. [REDACTED] was indicted and charged with multiple counts of aggravated unlawful use of a weapon. All charges against Mr. [REDACTED] were dismissed on August 25, 2017.²

II. INVOLVED PARTIES

Involved Officer #1:	Officer Emile J. Domer , Star #17294, Employee ID # [REDACTED] Date of Appointment: April 1, 2013, Police Officer, 7th District, DOB: [REDACTED] 1986, M, Black.
Involved Officer #2:	Officer Darien L. Givens , Star #18207, Employee ID # [REDACTED] Date of Appointment: November 4, 2013, Police Officer, 7 th District, DOB: [REDACTED] 1983, M, Caucasian.

¹ At the time of the incident, the 007th District was not yet outfitted with Body Worn Cameras. [REDACTED] also did not file his complaint until January 31, 2018, well beyond the retention period for any in-car camera footage.

² Attachment 27.

Involved Officer #3: **Officer Dominique S. Hunt**, Star #17310, Employee ID # [REDACTED] Date of Appointment: November 4, 2013, Police Officer, 7th District, DOB: [REDACTED] 1986, F, Black.

Subject #1: Complainant-Victim, [REDACTED] [REDACTED] 44, Black, [REDACTED]
[REDACTED]

III. ALLEGATIONS

Officer	Allegation	Finding
Officer E. Domer	1. Struck [REDACTED] with a closed fist during his arrest, causing injury, and in violation of Rule 8.	Exonerated
	2. Unlawfully arrested [REDACTED] in violation of Rule 1.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

- Rule 1:** Prohibits violation of any law or ordinance.
- Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. G-03-02-02: Force Options

Current Department use of force policy, G-03-02-02, allows for escalating uses of force by CPD personnel commensurate with the level of threat and resistance presented by a subject. As the level of threat or resistance rises or falls, so too is the permissible use of officer force to ensure safety and compliance with lawful commands. Respect for, and preservation of human life is to be considered by officers when determining the appropriate use of force for a given situation. An assailant, specifically, may be slapped or punched with a closed or open fist.

Federal Laws

1. The Fourth Amendment to the Constitution of the United States (U.S. Const. Amd. IV as incorporated by Ill. Const. Art. I, Sec. 6).

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

2. The Fourteenth Amendment to the Constitution of the United States (U.S. Const. Amd. XIV as incorporated by Ill. Const. Art. I, Sec. 2).

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

V. INVESTIGATION³

a. Interviews

1. Complainant-Victim [REDACTED]

In an interview with COPA on February 26, 2018,⁴ **Complainant-Victim [REDACTED]** stated that on the date and time alleged, he was improperly arrested and punched by an officer after his vehicle was stopped by CPD. Mr. [REDACTED] said his son, [REDACTED] [REDACTED] (age 20) drove the car because Mr. [REDACTED] had too much to drink. Mr. [REDACTED] confirmed he was arrested after [REDACTED] was pulled over, then drove off, away from the officers. Mr. [REDACTED] speculated police arrested him [REDACTED] because they thought he too was trying to flee. He said after being arrested and transported to the police station, he recalled being taken to the processing area but could not clearly remember the moments after. He said he knows he was hit by an officer but could not remember specific details of the act. He believed Officer Dormer hit him in the District lockup area. “He hit me one time in the face and then I woke up in the hospital.”⁵ [...] “I was in the holding cell.”⁶ Mr. [REDACTED] claimed he was hit for no reason. “He lied, he said I made a tight right fist with my finger or whatever. [...] I can’t do that I haven’t been able to use this hand like that in years.”⁷ [...] I was just standing there. I didn’t go nowhere near him.”⁸ “I remember him standing in my face, saying something, and then before you know it, lights out.”⁹ He did not recall making threatening statements to the officers before being hit, but also did not explicitly deny doing so. He claimed he only had a few drinks that evening, and that he had them hours before being arrested.

Mr. [REDACTED] recalled being sedated at the hospital, and thought he was tranquilized because he was swearing.¹⁰ He said he was treated for abrasions and scrapes on his knees and face. His face was swollen and he could not eat normally for a few months afterward because of ongoing jaw pain after the incident. Mr. [REDACTED] did not, however, seek subsequent medical care for his injuries and was not diagnosed with any face or jaw injury during the subsequent six months he was incarcerated in the Cook County jail. He admitted he did not seek medical care at Cermak Hospital

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Attachment 18.

⁵ *Id.*, at 10:12.

⁶ *Id.*, at 10:24.

⁷ *Id.*, at 10:52.

⁸ *Id.*, at 11:02.

⁹ *Id.*, at 11:57.

¹⁰ *Id.*, at 20:13.

for the jaw pain. He now strongly believes, however, he did suffer a fracture because of the persistence of his jaw pain.

b. Documentary Evidence

The **OEMC Event Query and Unit Query** showed Beat 713 initiated a traffic stop at or about 11:11 p.m. at 5748 S. Justine St., Chicago, IL.¹¹ At or about 11:14 p.m., it notes an individual(s) “took off, running.” At 11:15 a weapon was recovered. At 11:34 p.m. the vehicle had been stopped and two small children were noted in the car. At 11:37 p.m., a weapon was found inside the Jeep. Notes indicate a grey jeep was reportedly used in robberies in 008[th District].

The CPD **Arrest Report**¹² of ██████████ documented that on February 25, 2017, at or about 10:20 p.m., Officers Domer, Hunt and Givens were on routine patrol and observed a gray Jeep speeding westbound on 58th Street and having failed to make a complete stop at a stop sign. They stopped the vehicle, and the driver, ██████████ (age 20), did not have a driver’s license. He told officers he was driving because his father, front passenger ██████████ was too drunk to drive. There was also a strong marijuana smell noticed in the vehicle. A name check of ██████████ and rear passenger, ██████████, showed both had criminal histories. The occupants were ordered out of the car but ██████████ threw the car into gear and drove off, away from the officers. The car stopped at 5709 S. Justine St. and ██████████ and ██████████ jumped out and escaped on foot. ██████████ was observed throwing away an object later found to be a bag of cannabis. Passenger ██████████ then himself took control of the vehicle’s steering wheel and drove off, away from police. Officers chased and curbed the fleeing car and Officer Domer removed Mr. ██████████ and placed him in custody. Two children, ages 8 and 10, were found and removed from the rear seat by Officer Moore. Officer Moore also observed a magazine butt protruding from under the front passenger seat. The weapon was found to be loaded and ammunition was found.

██████████ was arrested and transported to the district. While in the processing area, Mr. ██████████ became combative, used profanities and threatened the arresting officers. He purportedly told Officer Givens: “I’ll beat yo ass, I’m trained, you don’t know who you fucking with.”¹³ He then told Officer Hunt: “Bitch, I’ll smack the shit out of you ho, I’ll beat your ass.” He then told Officer Domer: “Don’t walk up like you are tough. I’ll beat your ass too. Nigga’ I’m trained. I’m an assassin, I’ll hit you in your throat and you’ll be dead.” When Officers Domer and Givens then escorted Mr. ██████████ to a holding cell, he chest-bumped Officer Domer, snatched his arms, balled up his fists and took a fighting stance. Officer Domer then punched Mr. ██████████ with a closed fist to the face, and Mr. ██████████ fell to the floor. An ambulance was called and Mr. ██████████ was transported to Holy Cross Hospital. Mr. ██████████ was examined and treated, and subsequently released back to police custody the same day. The children found in the car were later retrieved from the 007th District by their mother. The firearm and ammunition were inventoried and the vehicle was impounded.

¹¹ Attachments 12, 13.

¹² Attachment 11.

¹³ Attachment 6, pg. 5.

In addition to the foregoing, the CPD mugshots taken of Mr. ██████ depicted a small area of redness on his left cheek, but do not depict lacerations or apparent trauma to the lower jaw. The images depict Mr. ██████ wearing what appears to be a hospital ID bracelet and were most probably taken after he was returned to the District from Holy Cross. The photos thus appear consistent with a moderate punch to the face, but less so with indicia of a significant maxillofacial fracture.

The **Tactical Response Report**¹⁵ drafted by Officer Domer documented he punched Mr. ██████ after Mr. ██████ “took a fighting stance” and attacked him with a “chest bump,” causing injury. The TRR likewise indicated that Mr. ██████ was intoxicated and subsequently taken to Holy Cross Hospital with a minor injury. Additional TRR comments addended by Lieutenant Erich J. Rashan documented that Mr. ██████ was unable to be interviewed because he was still hospitalized, and that Lieutenant Rashan concluded the strike was appropriate because Mr. ██████ was an assailant, that he pushed [Officer Domer] with his chest and took a “fighting stance” against him. Member presence, verbal commands and a closed hand strike were thus proper, per Lieutenant ██████ review.

The **Officer Battery Report**¹⁶ filed by Officer Domer alleged a battery against three officers by Mr. ██████ with hands/fists, and verbal threats, and no resulting injuries. The incident occurred indoors inside the District facility at 1438 W. 63rd St., on February 25, 2017. The report is otherwise unremarkable.¹⁷

No **City of Chicago Fire Department Ambulance Report** was recovered in this case.¹⁸

c. Physical Evidence

1. Medical Records

Relevant medical records were obtained from Holy Cross Hospital.¹⁹ The records documented that at or about 12:40 a.m. on February 26, 2017, EMS 49 paramedics and CPD transported ██████ to the emergency department where he was admitted for a “behavioral emergency.” Triage notes documented Mr. ██████ was handcuffed, very uncooperative and combative with hospital staff. He was reported as having sustained scrapes to his face while the police tried to subdue him. No loss of consciousness was noted. Mr. ██████ was also noted to be very drunk, with labs documenting ETOH 317 mg/dL.²⁰ Labs were negative for cannabis. Mr. ██████ was using profanity to staff “in almost every sentence” and was so out of control that he was placed into four-

¹⁴ Attachments 37 and 38.

¹⁵ Attachment 7.

¹⁶ Attachment 9.

¹⁷ Attachments 31 and 32. Officer Battery Reports filed by Officers Darien Givens and Dominique Hunt mirror that of Officer Domer and are otherwise unremarkable.

¹⁸ Attachment 22.

¹⁹ Attachment 19.

²⁰ Equaling a blood alcohol concentration of approximately >.31. The legal BAC driving limit in Illinois is .08%. Mr. ██████ serum alcohol level was so high, that attending physician Greg Escellan, M.D. had to be telephoned. (ETOH >300-400 mg/dL may cause fatal respiratory depression.)

point locked physical restraints, plus chemically restrained, dosed with boluses of 5 mg. Haldol and 2 mg. Ativan IM, for staff safety. Bruising was noted on his forehead and left cheek, and an abrasion noted on the right knee. Mr. [REDACTED] also told staff he had a psychiatric history and took Zoloft and risperdal and received related psychiatric care at the Belvidere or Beverly Clinic. He reported he was not suicidal.

X-rays and a CT scan of the head were negative. "CT scan of the facial bones demonstrates no evidence of acute facial bone fractures. Preorbital and premaxillary soft tissue swelling is identified mostly in the left side of the face." X-rays of the right knee showed no fractures or dislocations.

The patient was treated by observation in the ER until he was clinically sober, at which point he was re-assessed and discharged back to police custody.

VI. ANALYSIS

1. Officer E. Dormer

COPA recommends a finding of **EXONERATED** for **Allegation #1** that on the date and time alleged, **Officer Emile Domer** improperly punched [REDACTED] in the 7th District lockup processing area, fracturing his jaw and in violation of Rule 8. The objective evidence and statements proffered by Mr. [REDACTED] contradict his allegation, or, at best, do not support the claim by a preponderance of evidence. That Mr. [REDACTED] was struck by Officer Domer is undisputed. The intensity and/or justifiability of the punch, however, remains outstanding.

Contrary to Mr. [REDACTED] claim that Officer Domer used excessive force, the objective evidence belies his assertion, and favors the officers. The ER records corroborated officers' reports Mr. [REDACTED] was heavily intoxicated and acting in a threatening manner – supporting Officer Domer's characterization of Mr. [REDACTED] as an "assailant" versus an "active resister." The records confirmed Mr. [REDACTED] had an extremely high BAC and was so out of control and threatening to hospital staff that he had to be physically restrained by each arm and leg, and tranquilized. This corroborates officers' reports about Mr. [REDACTED] earlier, violent behavior at the lockup facility, and the purported basis for Officer Dormer's striking him.

Per CPD policy, because he acted as an assailant, it was wholly reasonable for Officer Dormer to strike Mr. [REDACTED] with a closed fist to the face to stop him from attacking him or the other officer(s). This non-lethal, moderate intensity maneuver was consistent with G-03-02-02, and was justifiable for a Department member facing similar circumstances.

Finally, Mr. [REDACTED] outstanding jaw fracture claim is likewise contradicted by the Holy Cross Hospital records. Despite X-rays and CT scan being performed, no fractures or dislocations of the jaw, face or head were found on examination.

For each of the foregoing reasons, Officer Domer acted reasonably, within Department use of force policy and a finding of **EXONERATED** is thus warranted.

COPA recommends a finding of **UNFOUNDED** for **Allegation #2** that on the date and time alleged, **Officer Emile Domer** improperly or unlawfully arrested [REDACTED] in violation of Rule 1.

Mr. [REDACTED] was arrested because, amongst other things, he was observed moving his vehicle while intoxicated after being stopped by the police, fleeing the scene, plus a stolen handgun and

