



Log # 2021-1002

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 20, 2021, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Lieutenant (Lt.) John Doherty.² Lt. Doherty alleged that on March 29, 2021, Officer Kyle Escalona used excessive force while effecting the arrest of [REDACTED] when he wrapped his arm around [REDACTED]'s neck.³ Following its investigation, COPA reached a Not Sustained finding regarding the allegation of excessive force against Officer Escalona.

II. SUMMARY OF EVIDENCE⁴

On March 19, 2021, at 9:19 pm, Chicago Police Department (CPD) officers responded to a domestic battery call at [REDACTED], the residence of off-duty CPD Officer [REDACTED].⁵ Officer [REDACTED] had reported that a fight was happening inside the family home and that [REDACTED] was a CPD officer. Upon arrival, Officer Escalona, Officer Edward Gao, Officer David Gasca, Officer Alvin Stanley, and Officer Robert O'Connell observed [REDACTED] standing in the front room of the home arguing with [REDACTED], Officer [REDACTED] was also arguing with his [REDACTED], [REDACTED], who was on the floor bleeding from her nose and mouth.⁶ Officer [REDACTED] later said that [REDACTED] and [REDACTED] arrived home from the store, and he and [REDACTED] argued.⁷ Officer [REDACTED] explained that [REDACTED] also began arguing with [REDACTED], and [REDACTED] suddenly became violent, striking [REDACTED] about the face and body, dragging her up the stairs, and strangling her to

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² At the time of this incident, John Doherty held the rank of lieutenant. He has since been promoted to the rank of captain and has obtained a different star number and unit of assignment. At the time of this incident, his star number was 172 and his unit of assignment was the 4th District (004). Since his promotion to captain, his star number is now 12, and his unit of assignment is the 22nd District (022). He will be referred to as Lt. Doherty in this report, reflecting his rank at the time of the incident.

³ One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

⁴ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body-worn camera (BWC) footage, police reports, and officer interviews.

⁵ Officer Steven [REDACTED] a witness in this incident and off duty at the time of this incident, resigned from CPD on June 15, 2022.

⁶ Att. 4, pg. 6. *See also* Att. 6, pg. 6.

⁷ Att. 13 at 8:20.

the point where she briefly lost consciousness.⁸ Officers then attempted to detain [REDACTED] who ignored verbal commands, put his arms behind his body in order to prevent officers from handcuffing him, stiffened his body, flailed his arms, attempted to back into kitchen counters, and pushed and pulled away from officers.⁹ Throughout the interaction, officers told [REDACTED] to calm down and to put his hands behind his back, but he continued to actively resist their attempts to place him in handcuffs.¹⁰

BWC footage of the incident depicts that Officers Escalona and Gasca initially attempted to grab [REDACTED]'s arms, but he raised his hands and moved away.¹¹ Officers then attempted to turn [REDACTED] around and secure his hands behind his back, but [REDACTED] continued to resist the officers' actions and threw his body weight to the left in an attempt to remove Officer Escalona's hold on him.¹² Officers told [REDACTED] to calm down, but he continued to resist by flailing his arms and avoiding the officers' hands. Officers then told [REDACTED] to get down onto the ground, and they began to try and lower him to the floor; however, [REDACTED] resisted the officers' attempts to bring him to the ground by stiffening, bucking, and flailing his body.¹³ Officers Escalona, Gasca, Gao, and O'Connell were eventually able to place [REDACTED] first onto his knees and then onto the floor on his back as he continued to resist handcuffing and attempted to punch one of the officers.¹⁴ Officer Gasca then delivered three strikes to [REDACTED]'s arm. Officers also gave [REDACTED] verbal warnings of impending Taser deployment, and [REDACTED] was then successfully handcuffed. Throughout the entirety of the struggle between [REDACTED] and the officers, [REDACTED]'s parents were standing in the kitchen's entryway, and they repeatedly yelled at him to calm down and to stop resisting. When officers brought [REDACTED] to a seated position, he told them that he could not stand up because he has asthma and that he was struggling to breathe.¹⁵

[REDACTED] was taken to the 4th District police station. Offenses cited on CPD reports included domestic battery – bodily harm against [REDACTED]; three counts of battery against Officers Escalona, Gasca, and O'Connell; four counts of resisting/obstructing a peace officer; and possession of a controlled substance.¹⁶ [REDACTED] was later taken to South Shore Hospital at 4:29 am after he said that he had asthma, where he was treated and released.

Following review of the officers' BWC footage and Tactical Response Reports, Lt. Doherty noted that during the attempted takedown of [REDACTED] by the officers, a brief placement of Officer Escalona's arm near [REDACTED]'s upper chest and neck area required

⁸ Att. 4, pg. 6. *See also* Att. 6, pg. 6.

⁹ *See* Atts. 2, 23, and 24.

¹⁰ *See* Atts. 2, 23, and 24.

¹¹ Att. 3 at 2:15.

¹² Att. 3 at 2:20.

¹³ Att. 3 at 2:30.

¹⁴ Att. 9 at 2:24.

¹⁵ Att. 9 at 4:48.

¹⁶ Att. 4. *See also* Atts. 6 and 7.

additional investigation, and a Log Number was obtained.¹⁷ An Initiation Report authored by Lt. Doherty was submitted on March 20, 2021.¹⁸ The report documented that as Officer Escalona was attempting to control the movement of ██████████'s upper body while he was actively resisting arrest, Officer Escalona's left arm moved up towards ██████████'s neck while he struggled, and Officer Escalona was knocked off balance.¹⁹ The report also documents that when Officer Escalona regained his balance, ██████████'s neck area was clear.²⁰

██████████ declined to be interviewed in this matter.²¹ His criminal case stemming from this incident was disposed on October 14, 2020.²²

III. ALLEGATIONS

Officer Kyle Escalona, Star #9171:

1. Using excessive force in his attempt to place ██████████ ██████████ into custody when he wrapped his arm around ██████████'s neck.
 - **Not Sustained.**

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question any of the individuals (sworn or unsworn) who provided statements.

V. ANALYSIS²³

It has been alleged that Officer Escalona used excessive force in his attempt to place ██████████ into custody when he wrapped his arm around ██████████'s neck.

Under CPD policy, the main issues in evaluating every use of force are whether the amount of force used by the officer was (1) objectively reasonable in light of the totality of the circumstance faced by the officer; (2) necessary; and (3) proportional to the threat, actions, and level of resistance offered.²⁴ The analysis of the reasonableness of an officer's actions must be grounded in the perspective of a reasonable officer on the scene, in the same or similar circumstances, and not with benefit of the 20/20 hindsight.²⁵ The factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the person is

¹⁷ Att. 23, pg. 8. *See also* Att. 2, pg. 8 and Att. 24, pg. 8.

¹⁸ Att. 1.

¹⁹ Att. 1.

²⁰ Att. 1.

²¹ Case Management System notes CO-0162642, CO-0166004, CO-0178158.

²² Att. 5.

²³ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁴ Att. 27, G03-02(III)(B), Use of Force (effective February 29, 2020, to April 15, 2021).

²⁵ *See Plumhoff v. Rickard*, 572 U.S. 765, 775 (2014).

posing an imminent threat to the officer or others; (2) the risk of harm, level of threat, or resistance presented by the person; (3) the person's proximity or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; and (5) the availability of other resources.²⁶ In all uses of force, the goal of an officer's response is to act with the "foremost regard for the preservation of human life and the safety of all persons involved."²⁷ Specifically regarding chokeholds and contact with the neck and upper chest areas, General Order G03-02-01 defines a chokehold as applying direct pressure to a person's trachea or airway with the intention of reducing the intake of air.²⁸ Chokeholds or other maneuvers for applying direct pressure on a windpipe or airway are only justified as a use of deadly force.²⁹ However, a hold or control technique involving contact with the neck, but which is not intended to reduce the intake of air, would not be considered a chokehold.³⁰ Similarly, Illinois law relates that a peace officer may not use a chokehold or any restraint above the shoulders with the risk of asphyxiation unless deadly force is justified.³¹

In both his Tactical Response Report and his interview with COPA, Officer Escalona admitted that during the struggle to handcuff ██████████ coupled with both the dynamics of the situation and ██████████'s violent movements, he unintentionally moved his left arm to ██████████'s neck and upper chest area in an attempt to control his upper body.³² Officer Escalona described ██████████ as actively resisting, "out of control," and appearing to be under the influence of drugs or alcohol.³³ He then related that ██████████ struck him and then shoved his partner.³⁴ Officer Escalona explained that at that time, ██████████ went from an active resistor to an assailant.³⁵ Also, while Lt. Doherty marked Officer Escalona's use of force as "out of compliance" with CPD policy,³⁶ when Lt. Doherty was interviewed by COPA, he noted that Officer Escalona was involved in a violent and dynamic situation, and Officer Escalona's placement of his hand or arm around ██████████'s neck may have been accidental.³⁷ Lt. Doherty also noted that he did not believe Officer Escalona had the intent to obstruct ██████████'s airway or to obstruct the flow of blood to ██████████'s brain.³⁸

²⁶ Att. 27, G03-02(III)(C)(1).

²⁷ Att. 27, G03-02(II)(A).

²⁸ Att. 28, G03-02-01(IV)(C)(2)(d)(1), Force Options (effective February 29, 2020, to April 15, 2021).

²⁹ Att. 28, G03-02-01(IV)(C)(2)(d)(1).

³⁰ Att. 28, G03-02-01(IV)(C)(2)(d)(2).

³¹ Att. 26, 720 ILCS 5/7-5.5(a), Prohibited Use of Force by a Peace Officer.

³² Att. 25, pg. 5, and Att. 29.

³³ Att. 29 at 11:30.

³⁴ Att. 29 at 9:20. BWC footage shows that ██████████ formed a fist with his left hand and swung his arm towards the officers, although it is not clear if his punch landed, and multiple officers grabbed his arm as he swung. See Att. 9 at 2:11 to 2:13.

³⁵ Att. 29 at 14:13.

³⁶ See Att. 1, pg. 1, and Att. 23, pg. 3.

³⁷ Att. 25 at 04:31 to 06:50.

³⁸ Att. 25 at 04:31 to 06:50.

Officer Escalona's arm placement is depicted on BWC footage, where Officer Escalona stood behind ██████████ mid-struggle and attempted to reach around the front of ██████████'s chest. The BWC footage shows that Officer Escalona is considerably taller than ██████████ and the officer was reaching downward while holding ██████████. Officer Escalona's left arm then moved up to ██████████'s upper chest and neck area.³⁹ Officer Escalona's right hand grasped ██████████'s right shoulder, while his left hand reached around to the right side of ██████████'s neck; Officer Escalona's left arm remained around ██████████'s neck for approximately thirteen seconds as ██████████ continued to struggle against the officers. As officers attempted to push and pull ██████████ to the floor, ██████████ twisted his head and his upper body to the left, and while Officer Escalona's hand remained on the right side of ██████████'s neck, his elbow and forearm did not appear, at least momentarily, to be constricting the front of ██████████ throat or airway. As ██████████ moved forward and leaned towards the floor, Officer Escalona released his grasp on ██████████'s neck.⁴⁰

Both Officer Escalona's explanation of the incident and the available BWC footage show that Officer Escalona's arm placement was likely not a chokehold as defined by the CPD directive in force at the time of this incident. Based on the relative position and relative height of the officer and the subject, the short duration of the hold, and the explanation offered by Officer Escalona, COPA finds that there was no intentional, direct pressure on ██████████'s airway for the purpose of reducing his intake of air. Further, under the CPD directive in effect at the time of the incident, a hold or control technique involving contact with the neck area, but which is not intended to reduce the intake of air, would not be considered a chokehold.⁴¹

Thus, based on Officer Escalona's and Lt. Doherty's statements to COPA, the available BWC footage, CPD's directives regarding appropriate uses of force when presented with active resistance, and the lack of other evidence of excessive force, COPA finds by a preponderance of evidence that Officer Escalona's contact with ██████████'s neck was not intended to reduce ██████████'s intake of air and was not a chokehold. However, given that Officer Escalona's hand or arm wrapped around ██████████'s neck for approximately 13 seconds, COPA cannot find by clear and convincing evidence (a higher standard of proof) that Officer Escalona's actions were lawful and proper. As such, COPA finds that **Allegation #1** against Officer Kyle Escalona is **Not Sustained**.

³⁹ Att. 9 at 2:15.

⁴⁰ Att. 9 at 2:15 to 2:30.

⁴¹ Att. 28, G03-02-01(IV)(C)(2)(d)(2). COPA notes that CPD policy has since been revised, and Officer Escalona's actions could be evaluated differently under the revised policy. The new version of the relevant directive has eliminated the former directive's language that excludes "[h]olding and control techniques involving contact with the neck, but which are not intended to reduce the intake of air" from the definition of a "chokehold." Under the updated directive, a "chokehold" is more simply defined as "applying any direct pressure to the throat, windpipe, or airway of another." See General Order G03-02(IV)(A)(4), De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023). However, COPA must evaluate Officer Escalona's actions under the directive(s) in force at the time of the incident.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

9-29-2023

Date

Appendix ACase Details

Date/Time/Location of Incident:	March 19, 2021 / 9:19 pm / [REDACTED] [REDACTED]
Date/Time of COPA Notification:	March 20, 2021 / 2:55 pm
Involved Member #1:	Officer Kyle Escalona / Star #9171 / Employee # [REDACTED] / DOA: June 16, 2017 / Unit: 004 / White Hispanic / Male
Involved Member #2:	Lt. John Doherty Jr. / Star #172 / Employee # [REDACTED] / DOA: December 7, 1987 / Unit: 022 / White / Male
Involved Individual #1:	[REDACTED] / White Hispanic / Male

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- **General Order G03-02:** De-Escalation, Response to Resistance, and Use of Force (effective February 2020).
- **General Order G03-02-01:** Response to Resistance and Force Options (effective February 2020).
- **720 ILCS 5/7-5.5:** Prohibited Use of Force by a Peace Officer.

Appendix B

Definition of COPA’s Findings and Standards of Proof

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 a proposition is proved.⁴² For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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.”⁴³

⁴² 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 is found to be more probably true than not).

⁴³ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation