



Log # 2022-0515

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On February 12, 2022, the Civilian Office of Police Accountability (COPA) received a web complaint from Chicago Police Department (CPD) Officer James Mose alleging misconduct on the part of Officer Hector Briseno. Officer Mose wrote that while in the 8th District prisoner processing area, Officer Mose believed that Officer Briseno held an arrestee, ██████████ by his handcuffed wrists. ██████████ moved his body, causing himself to hit his head or face on an object inside the processing area.² Officer Mose added that he did not believe that Officer Briseno actually caused ██████████ to hit his head or face, but he (Officer Mose) was not completely sure.

II. SUMMARY OF EVIDENCE³

On February 12, 2022, at approximately 6:00 am, ██████████ was arrested and charged with criminal trespass to his ex-girlfriend's residence and simple assault against his ex-girlfriend's stepfather. ██████████ was placed into custody and transported to the 8th District police station. While ██████████ was in the processing room at the station, he banged his head on the metal frame of a glass partition, causing a minor laceration to his face.⁴

In her statement to COPA, Officer Yezeny Salmeron explained that she was in the lock-up area completing the paperwork regarding ██████████ arrest when she heard him screaming and banging in the holding cell.⁵ Officer Salmeron said, "He was saying stuff like that he wanted to kill himself. He would repeat phrases, and similar phrases like that."⁶ Officer Salmeron checked on ██████████. At that time, ██████████ was unrestrained and alone inside a holding cell where he tied one end of his shirt around his neck and the other end to a vertical metal post connected to a partition inside the holding cell. Officer Salmeron stood outside the cell and appeared to have a verbal interaction with ██████████ but she did not attempt to unlock or enter the cell. Officer Salmeron explained that to open the main door to the lock-up, as well as the door to the holding cell, a CPD-issued key card is needed. Officer Salmeron explained that because she was new to the 8th District, she had not yet been issued a key card, and therefore could not open the door 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 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.

³ 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, surveillance video footage, police reports, a statement from ██████████ and statements from the involved officers.

⁴ Atts. 4 to 8.

⁵ Att. 69.

⁶ Att. 69 at 6:10.

the cell.⁷ Officer Salmeron then pointed her handheld flashlight towards the far end of the processing room while simultaneously activating the flashlight's strobe light function in an apparent attempt to summon help from other officers. ██████ then stepped onto the holding cell toilet in what appeared to be his attempt to gain enough elevation to possibly hang himself.⁸

Officer Salmeron again utilized the strobe function on her flashlight in another attempt to attract the attention of officers to come assist.⁹ Officer Briseno subsequently approached the holding cell.¹⁰ Officer Briseno unlocked the door to the holding cell and he, followed by Officer Salmeron, entered. Officer Salmeron activated her BWC as she entered the holding cell.¹¹ After Officer Briseno entered the holding cell, ██████ said, "I'll take my own life, nigga. I don't need you to take my fucking life, nigga." As Officer Briseno walked closer to ██████ pulled the knot he made on the shirt around his neck tighter, turned and faced Officer Briseno, balled his fists, and said to Officer Briseno, "What's that? You want to fight? I'll choke myself while we fucking fight, nigga. What's up?" Officer Briseno took out his handcuffs, holding them in his right hand, and handed his flashlight to Officer Salmeron with his left hand.¹² Facing Officer Briseno, ██████ said to him, "What's up?" Officer Briseno replied, "You're not going to fight no one." Officer Briseno extended his left arm towards ██████ and his left hand contacted ██████ upper chest area, just below the shirt still tied around his neck. ██████ used both of his hands to shove Officer Briseno's left arm away.¹³ Officer Briseno then grabbed both of ██████ arms as ██████ appeared to try to push Officer Briseno away from him. Officer Salmeron grabbed ██████ left arm with both hands while Officer Briseno grabbed ██████ right arm.¹⁴

After a few moments, the officers pulled ██████ arms behind his back, and Officer Briseno was able to handcuff ██████ wrists together. As he was being handcuffed, ██████ repeatedly said, "I just wanted to see my kid."¹⁵ As Officer Briseno handcuffed ██████ Officer Salmeron untied the shirt from the vertical metal post. ██████ continued to cry and repeatedly said that he only wanted to see his kid as the officers walked him out of the holding cell. Officer Mose appeared at the entrance door to the processing area, and Officer Briseno informed Officer Mose that ██████ "tried to kill himself." Officer Mose told Officer Briseno, "Let the sergeant know. Keep him handcuffed like that and then handcuff him to the chair."¹⁶

Officer Briseno, while standing behind ██████ and holding onto the handcuffs, asked ██████ "What are you? You're an Ambrose?" ██████ turned his upper body in a counterclockwise manner, faced Officer Briseno, and replied, "Yeah, nigga, what's up, nigga? Let's go outside, nigga." ██████ continued to turn his body to face Officer Briseno while Officer

⁷ Att. 69 at 6:25.

⁸ Att. 23 from :00 to 1:09.

⁹ Att. 23 at 1:10.

¹⁰ Att. 23 at 1:33.

¹¹ Att. 23 at 1:52.

¹² Att. 23 at 2:00.

¹³ Att. 23 at 2:09.

¹⁴ Att. 23 at 2:12.

¹⁵ Att. 23 at 2:24.

¹⁶ Att. 23 at 2:49.

Briseno held onto the handcuffs behind his back. As ██████ continued to turn his upper body in a counterclockwise direction to face Officer Briseno, ██████ struck the right side of his head against the metal frame of a glass partition in the main processing area.¹⁷ ██████ cried out in apparent pain and said, “That’s a lawsuit, for real, man. That’s a lawsuit” ██████ continued to yell and complained about the injury to his eye as additional officers approached.¹⁸

In his statement to COPA, Officer Briseno explained that he held onto the handcuffs as ██████ continued to move his body. Officer Briseno explained that when ██████ moved, he struck his head on the cubicle’s partition. Officer Briseno stated that emergency medical services were immediately requested for ██████. Officer Briseno repeatedly denied that he did anything to force or cause ██████ to strike his head against the partition.¹⁹

When asked specifically if Officer Briseno purposely caused ██████ injury, Officer Salmeron replied, “No.”²⁰ Officer Salmeron further stated that ██████ moved his own body forward, striking his head on the glass partition and causing a self-inflicted injury.²¹

In his statement to COPA, Officer Mose stated, “From my point of view, I’m, like I said, I’m not a hundred percent, I don’t believe it was the officer’s fault, I’m not a hundred percent because I can’t see his hand on the handcuffs, because I know personally that if you’ve got a good control on those handcuffs, you can kind of control the subject.” Officer Mose further explained that because he was not sure if he had or had not witnessed an incident of excessive force, he felt that the right thing to do was to report it just in case.²²

Immediately after striking his head, ██████ yelled, “Look at the fuck you did to my eye! You got a lawsuit coming, you.” Officer Briseno replied, “You did that to yourself.” ██████ then said, “You did it yourself, nigga. It’s right there on camera, right there. Boom! Boom! It’s perfect. I can’t wait for this lawsuit, nigga!”²³

The officers and ██████ remained in the processing area waiting for emergency medical services to respond. At one point Officer Briseno asked ██████ why he banged his head against the wall, and ██████ replied, “Don’t worry about it, nigga. That’s what the fuck I do in county, and I’m gonna do it here, nigga. Don’t fucking worry about it.” Officer Briseno then asked, “Then why are you blaming me then?” ██████ responded, “You keep asking me some subliminal ass questions like I give a fuck.”²⁴

The Chicago Fire Department’s (CFD) Patient Care Report documented that on February 12, 2022, at 7:12 am, CFD Ambulance #75 arrived at the 8th District station and found ██████

¹⁷ This portion of the incident was also captured on surveillance video footage from a fixed camera in the processing area. Att. 57 at 06:54:30.

¹⁸ Att. 23 at 2:58.

¹⁹ Att. 32 at 42:37, 1:00:00, and 1:05:59.

²⁰ Att. 69 at 24:35.

²¹ Att. 69 from 25:01 to 25:51.

²² Att. 67 at 13:24.

²³ Att. 23 at 4:15.

²⁴ Att. 23 at 11:54.

handcuffed and in shackles.²⁵ The paramedics documented that ██████ was screaming and throwing his body around at the police. CPD personnel told paramedics that ██████ was uncooperative, and while in processing he began to hit his head against the wall, causing a laceration to his right eyebrow. The bleeding from the laceration was controlled, and ██████ refused to answer the paramedics' questions. ██████ also refused to allow the paramedics to assess him.

Medical Records obtained from Holy Cross Hospital documented that ██████ was brought to the Emergency Department by CFD, while in police custody, for a laceration to his eye and a mental health evaluation.²⁶ Hospital personnel were informed that ██████ who was in custody for a domestic dispute, struck his head against a wall in his cell. ██████ complained of pain to the right side of his head. He denied any vision loss and was uncertain if he lost consciousness after hitting his head. ██████ informed hospital personnel that that he was upset because he was not allowed to see his child. ██████ denied having any suicidal or homicidal ideation. ██████ was examined and found to have minimal soft tissue swelling to the right lateral forehead. ██████ was treated and medically cleared to be returned to the lock-up.

III. ALLEGATIONS

Officer Hector Briseno:

1. Employing excessive force against ██████ by causing him to strike his head.
 - Not Sustained

IV. CREDIBILITY ASSESSMENT

This evidence revealed in this investigation caused COPA to question the credibility of the detainee, ██████. In his statement to COPA,²⁷ ██████ stated that he was placed into a holding cell until he calmed down. ██████ explained that he acted aggressively towards the officers during his arrest because he was angry that the officers did not arrest his girlfriend's stepfather for shooting at him. ██████ stated that while he was in the holding cell he punched, kicked, and threw his body against the door of the cell. A Hispanic male officer entered the cell, forced him face down onto the floor, and handcuffed him. After ██████ wrists were handcuffed behind his back, the Hispanic male officer told him to get to his knees so that he could help lift him to his feet. ██████ complied, and as he began to stand up from the floor of the holding cell, the officer swung him aggressively into the metal doorframe. ██████ stated that his right eye struck the corner of the metal doorframe and immediately bled and swelled. ██████ stated that he was then walked out of the holding cell and his mugshot was taken. ██████ stated that he was never given any medical aid and he was never taken to the hospital. As explained below, much of this narrative is directly refuted by available video recordings and medical records. This investigation did not reveal any evidence that caused COPA to doubt the credibility of the CPD members who provided statements.

²⁵ Att. 63; pgs. 13-17.

²⁶ Att. 63.

²⁷ Att. 3.

V. ANALYSIS²⁸

COPA finds that **Allegation #1** against Officer Briseno, that he employed excessive force against ██████████ by causing him to strike his head, to be **Not Sustained**. The complainant, Officer Mose, admitted that he was not sure if what he saw amounted to misconduct on the part of Officer Briseno. Officer Mose explained that he filed this complaint because he believed it to be the right thing to do as well as a precaution. Officer Salmeron, who was also present, stated that ██████████ caused his own injury. The recording from Officer Salmeron's BWC also showed that ██████████ moved his body and leaned forward, striking his head against the partition attached to a cubicle in the processing room.

During his interview with COPA, ██████████ provided an account of the incident that was inconsistent with the video evidence. The video evidence showed that ██████████ was never forced to the floor face down in the holding cell. The video evidence also showed that ██████████ was not swung into a metal doorframe after being lifted to a standing position in the holding cell. ██████████ stated that his right eye struck the corner of the metal doorframe and immediately bled and swelled, and he was then walked out of the holding cell and his mugshot was taken. However, contrary to ██████████ account, the video evidence showed that he immediately sat on a chair in the open area of the processing room, where he remained until the paramedics arrived. ██████████ also claimed that he was never given any medical aid and that he was never taken to the hospital. But the video evidence showed the paramedics responding to the processing room because of his injury. Furthermore, the paramedics documented this in the CFD Patient Care Report, and medical records from Holy Cross Hospital showed that CFD, with the assistance of CPD officers, transported ██████████ to the hospital for treatment. After he was treated by Holy Cross Hospital personnel, ██████████ was medically cleared to be returned to CPD custody.

While ██████████ account is unreliable, the incident was captured on both BWC footage and processing-room surveillance footage. The video footage shows Officer Briseno holding ██████████ by the handcuffs that were applied to his wrists, behind his back, as ██████████ turned and began to walk when his head struck the partition. As Officer Mose told COPA, and experienced police officer could be able to direct a handcuffed subject's movements by manipulating the subject's handcuffs. Here, there is no evidence to show, by a preponderance of evidence, that Officer Briseno deliberately caused ██████████ to strike the partition. However, there is also not clear and convincing evidence that ██████████ struck the partition either deliberately (by his own volition) or by accident. Therefore, the allegation that Officer Briseno used excessive force by causing ██████████ to strike his head is Not Sustained.

²⁸ For a definition of COPA's findings and standards of proof, *see* Appendix B.

Approved:



1/2/2024

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

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Appendix ACase Details

Date/Time/Location of Incident:	February 12, 2022 / 6:55 am / 3420 W. 63 rd Street / Chicago, Illinois 60629.
Date/Time of COPA Notification:	February 12, 2022 / 7:44 pm.
Involved Officer #1:	Officer Hector Briseno / Star #5260 / Employee ID # [REDACTED] / DOA: June 25, 2018 / Unit: 008 / Male / Hispanic.
Subject:	[REDACTED] / Male / Hispanic.

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.

Applicable Policies and Laws

- G03-02: De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 28, 2023).
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021, to June 28, 2023).

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.²⁹ 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.”³⁰

²⁹ 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).

³⁰ *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 Information

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