



Log # 2021-3297

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On August 22, 2021, Sgt. Joseph Bokuniewicz (Sgt. Bokuniewicz) initiated this investigation on behalf of Lt. Thomas Ryan (Lt. Ryan). Upon review of body-worn camera (BWC) footage, Lt. Ryan alleged that on August 21, 2021, Officer Jose Romero (Officer Romero) struck a handcuffed ██████████ (██████████) in the upper chest area with his elbow and shoulder.² Additionally, ██████████ made an in-person complaint at COPA on August 22, 2021 where he alleged that Officer Romero used excessive force during his arrest and racially profiled him. Following this administrative investigation, COPA reached sustained findings regarding the allegation of excessive force and a not sustained finding regarding the racial profiling allegation.

II. SUMMARY OF EVIDENCE³

On August 21, 2021, at approximately 11:30 pm, Officer Romero and his partner Officer Benjamin Wilson (Officer Wilson) assisted Beat 564E in responding to a ShotSpotter alert⁴ in the location of E. 119th Street and S. Prairie Ave.⁵ The officers observed ██████████ near 11811 S. Prairie Ave., along with responding Officers Alejandro Velez and Derrick Martin.⁶ When officers asked ██████████ if he had a weapon, he responded yes, and added that it was in the car”.⁷

During his statement to COPA, ██████████ stated, “...the Hispanic officer grabbed me. And as he was grabbing me, I was pulling away.”⁸ ██████████ explained that after exiting his car he told officers that everything they needed was in the car.”⁹ Officer Velez recovered a handgun from the interior of the car.¹⁰ ██████████ then requested a sergeant respond to the scene.¹¹

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 Att. 1.

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 the Initiation Report, Affidavit and Interview Statement of ██████████ OEMC Report – Event Query, police reports including the Arrest Report, TRR, BWC footage and Interview statement of Officer Jose Romero.

⁴ Att. 8.

⁵ Att. 9, pg. 2.

⁶ Att. 20 at 2:03.

⁷ Att. 29, pg. 11, lines 10-11.

⁸ Att. 28, pg. 5, line 13-15.

⁹ Att. 28, pg. 6, line 9.

¹⁰ Att. 18 at 7:55.

¹¹ Att. 28, pgs. 6, line 17-18.

Sgt. Fred Coffey (Sgt. Coffey) arrived at the location and explained to ██████ that he was not under arrest but was merely being detained.¹² ██████ objected to producing his ID or Concealed Carry License (CCL), so Sgt. Coffey instructed the officers on scene to place ██████ in handcuffs.¹³ Four to five CPD members surrounded ██████ after Sgt. Coffey ordered officers to put ██████ into the CPD vehicle. Officer Romero described ██████ actions as stiffening his body, sitting backwards and pulling away.¹⁴ ██████ exclaimed, "I'm not going to get in the car", so Sgt. Coffey responded that he would be charged with resisting.¹⁵ The BWC footage depicts ██████ leaning backward as officers place him in handcuff.¹⁶

Officer Romero approached ██████ who by now was restrained in handcuffs, and attempted to assist officers in moving him toward the waiting CPD vehicle. BWC footage captured Officer Romero's use of force, including when he thrust his right forearm and shoulder against ██████ torso, resulting in Officer Romero lifting ██████ off his feet and carrying him.¹⁷ Additional BWC footage captures Officer Romero hit ██████ in the face with his elbow multiple times.¹⁸ Officer Romero was captured standing on the left side of ██████ and can be heard saying that he would tase ██████¹⁹ ██████ looks in Officer Romero's direction and responds, "Go ahead and tase me".²⁰ Then, Officer Romero grabbed ██████ shirt with his right hand, swung his right elbow toward ██████ face and made contact on the left side of ██████ face.²¹ ██████ immediately reacted, moving his head backward and to the right, away from Officer Romero's elbow. Officer Romero then used his right elbow to strike ██████ on the right side of his face. ██████ physically responded and immediately exclaimed, "He elbowed me in the face!"²²

(This space intentionally left blank)

¹² Att. 21 at 2:23 to 2:30.

¹³ Att. 21 at 2:30 to 2:35.

¹⁴ Att. 29, pg. 12, line 18-23.

¹⁵ Att. 29, pg. 12, lines 16-17.

¹⁶ Att. 19 at 4:55.

¹⁷ Att. 15 at 8:13.

¹⁸ Att. 19 at 5:30.

¹⁹ Att. 19 at 5:27.

²⁰ Att. 15 at 5:30.

²¹ Att. 19 at 5:31.

²² Att. 19 at 5:33.



Figure 1: A still image from body-worn camera footage depicting Officer Romero striking [REDACTED] with his elbow. See Att. 19 at 5:31.

During his statement to COPA, Officer Romero recounted the incident and explained why he opted to use force. Romero described [REDACTED] as an active resistor because he wasn't cooperative and because he was lifting up his legs.²³ Officer Romero explained that he thought [REDACTED] would hit him in the face when he reached for his feet.²⁴ Officer Romero explained that he pushed [REDACTED] with his shoulder, moved his forearm upward, and caught some of [REDACTED] chest and some of his mouth, adding that he felt something wet on his forearm.²⁵ Officer Romero stated he helped carry [REDACTED] to the vehicle, released [REDACTED] legs and had no further contact with him.²⁶ Officer Romero recalled that [REDACTED] became increasingly verbally aggressive and noncompliant as he was lifted and carried to the vehicle.

Officer Romero stated, "I didn't feel threatened until he lifted up his legs and started pumping his legs... because my face was [...]—towards his knees".²⁷ Officer Romero recalled he felt [REDACTED] was violent when he was thrusting his legs and his feet and could have hit someone. Officer Romero believed [REDACTED] was a threat to him.²⁸ He recalled [REDACTED] saying words to the effect of "You're little, you can't do anything, take these cuffs off, and I can show you what I can do".²⁹

²³ Att. 29, pg. 23, lines 21 – 24.

²⁴ Att. 29, pg. 13, lines 5-8.

²⁵ Att. 29, pg. 14, lines 19-24, and pg. 15, lines 1-8.

²⁶ Att. 29, pg. 27, lines 4-5.

²⁷ Att. 29, pg. 21, lines 17-19.

²⁸ Att. 29, pg. 19, lines 11-13.

²⁹ Att. 29, pg. 19, lines 15-24.

Officer Romero explained that the elbow strike to [REDACTED] face was not intentional. Officer Romero described his actions as an attempt to grab [REDACTED] to reposition himself to lift him, and he crossed his arm over [REDACTED] chest.³⁰ Officer Romero further described his actions as, “I grabbed his shirt, I did hit him in the face, I admit to it. And I mean, he was close and, I mean, it did catch him in the face. I’m not going to deny it.”³¹ Officer Romero added that he did not intend to strike [REDACTED] with his elbow and further stated that he did not intentionally try to hit him.³²

Lt. Ryan reviewed Officer Romero’s TRR and found that Office Romero’s use of force against [REDACTED] was not in compliance with CPD policy and directives.³³

[REDACTED] also alleged that he was profiled by Hispanic officers because the Latin Kings were terrorizing Black people in that area.³⁴ He recalled that non-Black persons were in the area when officers arrived but believed that officers did not interview or conduct an investigatory stop of other suspects. Officer Romero denied racially profiling [REDACTED].³⁵

III. ALLEGATIONS

Officer Jose Romero:

1. Using excessive force during the arrest of [REDACTED]
 - Sustained, in violation of rules 2, 3, 6, 8 and 9.
2. Racially profiling [REDACTED]
 - Not Sustained.

IV. CREDIBILITY ASSESSMENT

During the interview, after viewing his BWC footage, Officer Romero explained his actions regarding using force to lift and move [REDACTED] however he stated he did not recall any further use of force. Only after viewing Officer Wilson’s BWC footage during his COPA statement did Officer Romero admit to his additional actions. COPA finds that Officer Romero’s reticence to admit to his own actions lessens his credibility.

V. ANALYSIS³⁶

a. Excessive force

³⁰ Att. 29 pg. 29, lines 7-9.

³¹ Att. 29, pg. 31, lines 1-4.

³² Att. 29, pg. 32, lines 3- 22.

³³ Att. 9, pg. 3.

³⁴ Att. 28, pg. 29, lines 19-24.

³⁵ Att. 29, pg. lines 15-18.

³⁶ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

Department members are expected to resolve situations without using force, unless required under the circumstances, to serve a lawful purpose.³⁷ Members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, or prevent an escape.³⁸ The amount of force used by the member must be evaluated considering the totality of the circumstances faced by the member, at the time of the incident.³⁹

CPD force options outline responses and levels of force, principles of force mitigation and the expectations for members when employing force options.⁴⁰ A subject's actions and levels of resistance can include that of an active resister – a person who attempts to create distance between himself or herself and the member's reach with the attempt to avoid physical control and/or defeat arrest.⁴¹ It can also include that of an assailant - a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.⁴² Force mitigation tactics include member presence, verbal direction, control techniques, and tactical positioning.⁴³ Force used as punishment or retaliation is prohibited.⁴⁴ In general, Department members must refrain from using force against a person who is secured and restrained with handcuffs, unless certain narrow exceptions apply.⁴⁵

COPA finds that Officer Romero's use of force was not objectively reasonable, necessary, or proportional under the totality of the circumstances. Here, Officer Romero used unnecessary and unjustified force against [REDACTED]. The available BWC footage shows that, while [REDACTED] had actively resisted at some points during this encounter, he was restrained in handcuffs and under the control of multiple other officers when Officer Romero charged at him and struck [REDACTED] with his shoulder. Officer Romero then used his elbow to strike [REDACTED] about the face repeatedly; even though he was still in handcuffs, being held by multiple other officers, and not even standing on his feet. This was in direct contravention of CPD's policy which prohibits officers from striking subjects restrained in handcuffs.

Additionally, Officer Romero admitted that the direct mechanical blow (i.e. his elbow to [REDACTED] face), while [REDACTED] was in handcuffs, was contrary to standard procedure and practice. The force used by Officer Romero was not objectively reasonable, necessary, or proportional, given the totality of the circumstances. While it is not clear whether Officer Romero's use of excessive force was intentional, or retaliatory, his use of force was excessive and in violation of CPD policy.

³⁷ Att. 33, General Order G03-02 II(C), De-escalation, Response to Resistance, And Uses of Force (effective April 15, 2021 – present).

³⁸ Att. 33, G03-02 III(B).

³⁹ Att. 33, G03-02 III(B)(1).

⁴⁰ Att. 34, G03-02-01, Force Options, (effective 29 February 2020).

⁴¹ Att. 34, G03-02-01 IV(B)(2).

⁴² Att. 34, G03-02-01 IV(C).

⁴³ Att. 34, G03-02-01 III.

⁴⁴ Att. 33, G03-02 III (D).

⁴⁵ Att. 34, G03-02-01 II(G).

The evidence gathered establishes that it is more likely that Officer Romero's conduct did not comply with CPD policy and directives. For these reasons COPA finds that the allegation is supported by a preponderance of the evidence that Officer Romero used excessive force during [REDACTED] arrest and should be sustained, in violation of Rules 2, 3, 6, 8 and 9.

b. Racial Profiling

[REDACTED] alleged that Officer Romero racially profiled him during this police encounter. [REDACTED] asserts he was detained and questioned because he is Black. Officer Romero's actions, combined with his experience and knowledge of the area, in addition to his response to the ShotSpotter alert, followed CPD policy. He provided a clearly articulated purpose for his actions. His presence at the scene was to assist fellow officers in investigating the suspicion of criminal activity. There is no objective verifiable evidence to support the allegation that Officer Romero violated CPD's prohibition against racial profiling or other bias-based policing. For these reasons COPA finds that there is insufficient evidence to prove or disprove [REDACTED] racial profiling allegation by a preponderance of the evidence, and therefore this allegation is not sustained.

VI. DISCIPLINARY RECOMMENDATION

a. Police Officer Romero

i. Complimentary and Disciplinary History⁴⁶

Officer Romero's complimentary history is comprised of 70 awards. His disciplinary history includes a sustained finding for a 2021 incident when he directed profanity at a civilian, resulting in a violation noted.

ii. Recommended Discipline

COPA has found that Office Romero violated Rules 2, 3, 6, 8 and 9 when he used excessive force during [REDACTED] arrest. While any excessive force is concerning, Officer Romero's repeated use of force against a restrained subject is particularly serious. In mitigation, COPA has considered Officer Romero's complimentary history. Conversely, Officer Romero has a recent sustained finding related to directing profanity at a civilian, which, in conjunction with this investigation, establishes a pattern of disrespect and maltreatment towards civilians. It is for these reasons that COPA finds that progressive discipline is appropriate and recommends a penalty of a **5-day suspension and retraining on CPD's use of force policy.**

⁴⁶ Att. 31.

Approved:



January 22, 2024

Steffany Hreno
Director of Investigations

Date

Appendix ACase Details

Date/Time/Location of Incident:	August 21, 2021, at 11:30PM near 11811 S. Prairie Avenue, Chicago, IL. 60628
Date/Time of COPA Notification:	August 22, 2021, at 2:53 AM
Involved Member #1:	Jose Romero, Star #15368, Employee ID #122842, Date of Appointment March 16, 2018, Unit of Assignment 005, Male, [REDACTED] Hispanic
Involved Individual #1:	[REDACTED] Male, Black

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

- General Order G03-02: Use of Force (effective 29 February 2020 – 28 June 2023).
- Special Order S04-13-09 Investigatory Stop System (effective 10 July 2017 to current).

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.⁴⁷ 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.”⁴⁸

⁴⁷ 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).

⁴⁸ *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