



Log # 2022 - 0002547

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On June 20, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report<sup>2</sup> from Sergeant Steve Pulia reporting alleged misconduct by a member of the Chicago Police Department (CPD). The complainant, ██████████ alleged that on June 20, 2022, Officer August Moss used his fingers and hands to poke ██████████ in his chest area and pushed ██████████ backwards during a dispute.<sup>3</sup> Upon review of the evidence, COPA served additional allegations that Officer Moss arrested ██████████ without justification.<sup>4</sup> Following its investigation, COPA reached Not Sustained and Exonerated findings.

### II. SUMMARY OF EVIDENCE<sup>5</sup>

Officer Murray was on routine patrol at or near 1631 S Central Park Ave when he observed a disturbance between ██████████ and a tow truck driver, ██████████ was repossessing ██████████ vehicle for missed payments.<sup>6</sup> Officer Murray informed ██████████ the officers were present to maintain peace and not involve themselves in the civil matter between ██████████ and ██████████ attempted to prevent ██████████ from towing his vehicle and demanded the vehicle be released. Officer Murray instructed ██████████ to step away from ██████████ multiple times, and ██████████ became increasingly irate with Officer Murray each time he was instructed to step away from ██████████<sup>7</sup> ██████████ was highly agitated and appeared to make contact with Officer Murray.<sup>8</sup> Officer Murray stated that ██████████ made contact with him, which was considered a battery.<sup>9</sup> Officer Moss stated that he believed ██████████ was being disrespectful and intentionally brushed

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<sup>1</sup> 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.

<sup>2</sup> Att. 6.

<sup>3</sup> 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.

<sup>4</sup> Att. 30, this case was reopened at the recommendation of the Office of the Inspector General.

<sup>5</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including police reports, body worn cameras (BWCs), and officers' interviews.

<sup>6</sup> Att. 1, Case Incident Report.

<sup>7</sup> Att. 7, BWC of Officer Murray, at 08:37 to 09:02.

<sup>8</sup> Att. 7, at 08:59, there was a sound heard that indicated ██████████ made some sort of contact with Officer Murray.

<sup>9</sup> Att. 24, Audio Interview of Officer Murray Statement, at 8:10.

Officer Murray's shoulder.<sup>10</sup> Officer Moss identified this offense committed by ██████ as a battery to an officer.<sup>11</sup>

██████ continued to attempt to get ██████ to release his vehicle. Officer Murray instructed ██████ and the citizens surrounding ██████ to step back so ██████ could do his job.<sup>12</sup> ██████ disregarded Officer Murray's instructions and continued to attempt to engage ██████. Officer Moss placed himself between Officer Murray and ██████ as they were engaged in a verbal altercation. When Officer Moss inserted himself between Officer Murray and ██████, Officer Moss placed his hand on ██████ chest and pushed him back.<sup>13</sup> Officer Moss explained that he pushed ██████ back to create space.<sup>14</sup> In response, ██████ pushed Officer Moss' hand down, which caused his BWC to fall to the ground.<sup>15</sup> Officer Moss stated that ██████ committed another battery because ██████ made physical contact with him.<sup>16</sup> Officer Moss and ██████ engaged in a verbal altercation, and Officer Moss appeared to poke ██████ while pushing ██████ back a second time as they were standing face-to-face.<sup>17</sup>

██████ requested that a sergeant respond to the scene to make a complaint against Officer Moss.<sup>18</sup> Sergeant Pulia arrived on the scene and informed the officers that the incident was considered a civil issue and that the citizens needed to resolve the incident on their own.<sup>19</sup> Officer Moss told Sergeant Pulia that ██████ committed battery against an officer, Officer Murray, during the incident. Sergeant Pulia informed the officers that ██████ would be placed in custody for his actions.<sup>20</sup> ██████ informed Sergeant Pulia that he wanted to make a complaint against Officer Moss.<sup>21</sup> Sergeant Pulia informed ██████ that he would file ██████ complaint, but ██████ would be arrested for the battery committed against Officer Murray.<sup>22</sup> Officer Moss completed a Tactical Response Report (TRR) documenting his use of force against ██████ during the incident.<sup>23</sup> ██████ was placed into custody and transported to the 10<sup>th</sup>

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<sup>10</sup> Att. 27, Audio Transcripts of Officer Moss' Statement, pg.11, Ins. 21 to 23.

<sup>11</sup> Att. 27, pg. 12, Ins. 5 to 16.

<sup>12</sup> Att. 7, at 09:13 to 09:20.

<sup>13</sup> Att. 7, at 09:20 to 09:25.

<sup>14</sup> Att. 27, pg. 11, Ins. 6-8.

<sup>15</sup> Att. 7, at 09:20 to 09:35.

<sup>16</sup> Att. 27, pg. 16, Ins. 15 to 22.

<sup>17</sup> Att. 7, at 09:59, the poke could have been a push; Att. 27, pgs. 17, Ins. 8 to 20, Officer Moss was not able to recall whether he poked ██████

<sup>18</sup> Att. 7, at 13:02 to 13:33 and 14:02 to 14:17.

<sup>19</sup> Att. 7, at 14:33 to 14:58.

<sup>20</sup> Att. 7, at 14:58 to 15:28; Att. 27, pg. 20 to 21, Ins. 8 to 19, Officer Moss stated he utilized his discretion to not arrest ██████. Upon Sergeant Pulia informing the officers on scene that ██████ had to be arrested for committing a battery against Officer Murray, Officer Moss stated that he no longer had the ability to utilize his discretion.

<sup>21</sup> Att. 7, at 17:26 to 17:55.

<sup>22</sup> Att. 7, at 20:33 to 21:03.

<sup>23</sup> Att. 14, Officer Moss' TRR Report.

<sup>24</sup> CO-0152800, ██████ stated that he no longer wanted to cooperate with the investigation.

District for processing.<sup>25</sup> [REDACTED] was charged with Battery, but the chargers were Stricken Off with Leave to Reinstate.<sup>26</sup>

### III. ALLEGATIONS

#### Officer August Moss:

1. Poked [REDACTED] at or near his chest area without justification.
  - Not Sustained
2. Pushed [REDACTED] without justification.
  - Exonerated
3. Arrested [REDACTED] without justification.
  - Exonerated

### IV. CREDIBILITY ASSESSMENT

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

### V. ANALYSIS<sup>27</sup>

#### a. Poking Allegation

COPA finds the allegation that Officer August Moss poked [REDACTED] at or near his chest area without justification, **Not Sustained**. Officer Moss was not able to recall poking [REDACTED] and the BWC was not clear if he was poking or attempting to push [REDACTED] back. [REDACTED] no longer wished to cooperate with the investigation. Based on the available information, there is insufficient evidence to prove/disprove the allegations. Therefore, the allegation is Not Sustained.

#### b. Pushing Allegation

COPA finds the allegation that Officer August Moss pushed [REDACTED] at or near his chest area without justification, **Exonerated**. Officer Moss was observed pushing [REDACTED] but stated that he did so for officer safety. [REDACTED] disregarded multiple commands from officers to stay away from [REDACTED] and repeatedly attempted to position himself in close range of [REDACTED] to prevent him from leaving with his vehicle. [REDACTED] became irate with the officers, and the officers repeatedly instructed [REDACTED] to stay away from [REDACTED]. Officer Moss pushed [REDACTED]

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<sup>25</sup> Att. 1.

<sup>26</sup> Att. 31, Court outcome, the charges were dismissed, and the state has the option to bring the case back up again. If they do not within 120-160 days, the cases are considered dismissed.

<sup>27</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

back to create distance and documented his use of force in a TRR. BWC documented that [REDACTED] was uncooperative and refused to listen to verbal directions. There was also a crowd around [REDACTED] and they were also irate along with [REDACTED]. Officer Moss used minimal force on [REDACTED] who was uncooperative. [REDACTED] was not injured during the incident. Based on clear and convincing evidence, this allegation is Exonerated.

**C. Arrested without justification.**

COPA finds the allegation that Officer August Moss arrested [REDACTED] without justification, **Exonerated**. The officers warned [REDACTED] who was irate, several times to step away from [REDACTED] who was doing his job. [REDACTED] was irate, and BWC documented that he made some sort of contact with Officer Murray and pushed Officer Moss' hand down. While Officer Moss wanted to use officer's discretion and resolve the incident without arresting [REDACTED] Sergeant Paulia instructed officers to arrest [REDACTED] for Battery. [REDACTED] no longer wished to cooperate with the investigation. Based on clear and convincing evidence, this allegation is Exonerated.

Approved:

[REDACTED]

1-23-24

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LaKenya White  
*Director of Investigations*

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Date

Appendix A**Case Details**

Date/Time/Location of Incident:	June 20, 2022 / 5:00 pm / 1631 S Central Park Avenue
Date/Time of COPA Notification:	June 20, 2022 / 7:01 pm.
Involved Member #1:	Officer August Moss, Star #10908, Employee ID # [REDACTED], DOA: July 27, 2018, Unit: 010, Male, White.
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.
- Rule \_\_:** *[Insert text of any additional rule(s) violated]*

**Applicable Policies and Laws**

- 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.<sup>28</sup> 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.”<sup>29</sup>

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<sup>28</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 is found to be more probably true than not).

<sup>29</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> 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