



Log # 2022-4358

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On October 12, 2022, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD).² ██████████ alleged that on May 18, 2021, Officer David Flores kned ██████████ back and pushed ██████████ face to the ground. ██████████ additionally alleged that Officer Jonathan Kizer slammed a squadrol door against ██████████ foot.³ Upon review of the evidence, COPA served additional allegations that Officer David Flores, Officer Andrius Tkachuk, and Officer Kevin Gomez failed to complete an Investigatory Stop Report. Additionally, COPA served an additional allegation that Officer Kevin Gomez and Officer Jonathan Kizer directed verbal abuse at ██████████ COPA also served an allegation that Officer Jonathan Kizer deactivated his body worn camera prior to the end of the incident.

Following its investigation, COPA reached sustained findings regarding the allegations of failing to complete an Investigatory Stop Report for Officer David Flores, Officer Kevin Gomez and Officer Andrius Tkachuk. Additionally, COPA reached sustained findings for Officer Kevin Gomez and Officer Jonathan Kizer directing verbal abuse at ██████████ Also, COPA reached a sustained finding regarding Officer Jonathan Kizer's slamming a squadrol door against ██████████ foot.

II. SUMMARY OF EVIDENCE⁴

On May 18, 2021, Officer David Flores, Officer Kevin Gomez, and Officer Andrius Tkachuk pulled over a vehicle driven by ██████████ due to ██████████ failure to wear a seatbelt.⁵ At a gas station, Officer Tkachuk approached ██████████ and asked for his license. ██████████ handed him a card, which appeared to be a photocopy of a driver's license. Officer Tkachuk asked if he had insurance on the vehicle and ██████████ responded by saying this was his aunt's car. Officer Tkachuk

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 ██████████ attorney was unresponsive to COPA's requests to formally interview ██████████

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 BWC footage, police reports, and officer interviews.

⁵ Att. 10 Arrest Report, Page 4

asked whether there was weed on the center console. ██████ appeared to show him the item that Officer Tkachuk was inquiring about. Officer Tkachuk asked ██████ to step out of the car.⁶

Officer Tkachuk patted down ██████ who then walked to behind his vehicle. Officer Tkachuk and Officer Gomez attempted to detain and handcuff ██████. In response, ██████ started running away from the officers. Soon after, Officer Tkachuk and ██████ ran into a parked minivan. ██████ then briefly succeeded in getting away from the officers.⁷

Officer Flores, who was in the police vehicle looking up ██████ information on their PCAD, joined in the pursuit of ██████ who was then taken down by the three officers in a parking lot.⁸ Officer Flores pushed down on ██████ upper back near his neck and put his knee on ██████ back.⁹ Officer Tkachuk and Officer Gomez held down ██████ arms at the same time. Officer Justin Sherrod and Officer Bruce Burns Jr. appeared on the scene and assisted with the detainment and handcuffing of ██████.¹⁰

Officer Gomez handcuffed ██████ left arm while ██████ was held down on the ground. Officer Gomez then left and walked to ██████ vehicle. Officer Gomez opened ██████ front driver door and appeared to take an item from the vehicle.¹¹ Officer Gomez then walked back to where ██████ was being handcuffed by police officers on the hood of the police squadrol. Officer Gomez told ██████ "Now you're going to jail, bitch."¹²

Multiple police officers, including Officer Tkachuk, then attempted to escort ██████ into the back of the police squadrol. ██████ resisted getting in this vehicle.¹³ Officer Jonathan Kizer assisted several police officers in placing ██████ into the squadrol.¹⁴

After ██████ was in the back of the squadrol, Officer Kizer attempted to close the back door with ██████ foot blocking the way. Officer Kizer stated while doing this, "Move your foot, stupid. You a [sic] dumbass."¹⁵ After speaking with ██████ inside the squadrol, he told ██████ "Put your feet in before I smash your toes."¹⁶ ██████ moved his feet inside the squadrol and the squadrol door was closed by officers. While walking away, Officer Kizer said, "He a [sic] stupid ass."¹⁷ ██████ was then transported to the 6th District by Beat 0671 for processing.¹⁸

⁶ Att. 3 Officer Tkachuk BWC 1:30 to 3:00

⁷ Att. 4 3:00 to 3:22; Att. 1 Officer Gomez BWC 2:55 to 3:10

⁸ Att. 2 Officer Flores BWC 2:40 to 4:30

⁹ Att. 2 Officer Flores BWC 2:40 to 4:30

¹⁰ Att. 26 Officer Burns BWC 2:00 to 2:30

¹¹ Att. 1 3:40 to 5:18

¹² Att. 1 3:40 to 5:18

¹³ Att. 3 5:50 to 6:15

¹⁴ Att. 17 Officer Kizer BWC 2:05 to 2:34

¹⁵ Att. 18 Officer Kizer BWC#2 0:00 to 0:30 and Att. 26 6:40 to 8:00

¹⁶ Att. 18 Officer Kizer BWC#2 0:00 to 0:30 and Att. 26 6:40 to 8:00

¹⁷ Att. 26 7:00 to 7:52

¹⁸ Att. 10 Arrest Report, Page 4

III. ALLEGATIONS

Officer David Flores:

1. Kneeing ██████████ back
 - Exonerated
2. Pushing ██████████ face to the ground
 - Not Sustained
3. Failing to complete an Investigatory Stop Report
 - Sustained, Violation of Rules 2 and Rule 6

Officer Andrius Tkachuk:

1. Failing to complete an Investigatory Stop Report
 - Sustained, Violation of Rules 2 and Rule 6

Officer Kevin Gomez:

1. Directing verbal abuse at ██████████
 - Sustained, Violation of Rules 2, 8 and 9
2. Failing to complete an Investigatory Stop Report
 - Sustained, Violation of Rules 2 and Rule 6

Officer Jonathan Kizer:

1. Slamming a squadrol door against ██████████ foot
 - Sustained, Violation of Rules 2, 6, 8, 9
2. Directing verbal abuse at ██████████
 - Sustained, Violation of Rules 2, 8, and 9
3. Deactivating his body worn camera prior to the end of the incident
 - Not sustained

IV. CREDIBILITY ASSESSMENT

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

V. ANALYSIS¹⁹

a. Kneeing ██████████ Back and Pushing ██████████ Face to the Ground.

COPA finds the allegation that Officer David Flores kneed ██████████ back is **exonerated**.. Based on the Chicago Police Department's Force Options Model, ██████████ whose movement was to avoid physical control, was an active resister.²⁰ As ██████████ was an active resister, Officer Flores and

¹⁹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁰ Att. 41, General Order G03-02-01 Response to Resistance and Force Options, IV, B, 2 (effective April 15, 2021 to June 27, 2023)

the other officers were authorized to do an emergency takedown. Officer Flores' actions were part of this emergency takedown and there was no excessive force seen in the BWC footage. In Officer Flores' statement, he said that he put his knee on ██████ back as a control tactic and that he had no choice other than to put his knee on ██████ back.²¹ Indeed, in reviewing Officer Flores' BWC it is likely he placed his knee on ██████ back to prevent ██████ from fleeing the scene.²² Furthermore, Officer Flores' TRR states:

“Offender kept stiffening his arm preventing R/O from placing his arm towards his back. Due to offender's actions and his unwilling to cooperate with R/O, R/O applied pressure on his back by placing a knee on his lower back and also placed his left arm on offender's right shoulder.”²³

As result, COPA finds that Officer Flores was justified in his actions and this allegation is exonerated.

COPA also finds the allegation that Officer David Flores pushed ██████ face to the ground is **not sustained**. Officer Flores told COPA he did not recall pushing ██████ face into the ground.²⁴ Absent testimonial evidence, COPA relied on reviewing available BWC footage. Based on that video footage, it is possible that ██████ face was pushed into ground, but it is not clearly depicted. Even if ██████ face was pushed into the ground, more information would be needed to determine if this was a violation of CPD policy. Because there is insufficient evidence to prove the allegation by a preponderance of the evidence, COPA finds the allegation that Officer Flores pushed ██████ face into the ground is not sustained.

b. Directing Verbal Abuse at ██████

COPA finds the allegation that Officer Kevin Gomez directed verbal abuse at ██████ is **sustained**. The BWC shows that Officer Gomez said to ██████ “Now you're going to jail, bitch.”²⁵ The Chicago Police Department's Rules and Regulations' Rule 9 states that officers cannot engage in any unjustified verbal altercation with any person, while on or off duty. Rule 8 prohibits disrespect or maltreatment of any person, and Rule 2 prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. In Officer Gomez's statement, Officer Gomez confirmed that he said “Now you're going to jail, bitch” to ██████²⁶ Thus, this allegation is sustained.

²¹ Att. 38, Page 7 Lines 23 to 24; Page 8, Line 1, Page 12, Lines 14-22

²² Att. 2 2:40 to 4:30

²³ Att. 4 Officer Flores TRR

²⁴ Att. 38, Page 13, Lines 3 to 4

²⁵ Att.1 5:14 to 5:17

²⁶ Att. 40, Page 18, line 20 to 22

c. Failing to Complete an ISR in Violation of Special Order S04-13-09

COPA finds the allegation that Officers Andrius Tkachuk, Kevin Gomez, and David Flores failed to complete an Investigatory Stop Report is **sustained** for all three officers. Special Order S04-13-09 states that sworn members who conduct an Investigatory Stop ... are required to submit an Investigatory Stop Report into the Investigatory Stop Database.²⁷ A search of the Clearnet ISR database show no records for an ISR was submitted for this Investigatory Stop.²⁸ In Officer Flores' statement, he said, "I'm assuming we intended to do one (ISR), but, again, we had an officer down. There was too much going on and we probably just missed out on that."²⁹ Officer Flores also later confirmed that an ISR should have been completed for this incident.³⁰ In Officer Tkachuk's statement, he stated, "I don't recall completing one (ISR). I was aware that one needed to be completed, but like I mentioned – the duration of the evening and the –the duration of the early morning, was spent in the hospital."³¹ In Officer Gomez's statement, he said that "I don't recall at this time if I did (completing an ISR)" Officer Gomez later conceded an ISR should have been completed for this incident.³² As none of the officers completed an ISR when one should have been completed, this allegation is sustained for all three officers. Thus, this allegation is sustained.

d. Slamming a Squadrol Door Against ██████████ Foot

COPA finds the allegation that Officer Jonathan Kizer slammed a squadrol door against ██████████ foot is **sustained**. The CPD's Rules of Conduct establish a list of acts which are expressly prohibited for all members, including Rule 8, which states that officers may not engage in any behavior that would result in disrespect toward or maltreatment of any person, and Rule 9, which prohibits officers from engaging in any unjustified verbal or physical altercation with any person.³³ Additionally, CPD policy specifies that all uses of force employed by officers must be "objectively reasonable, necessary, and proportional," depending on the circumstances of the situation.³⁴ In Officer Kizer's statement, he stated that he initially did not know that ██████████ feet were blocking the squadrol doors.³⁵ Based on the BWC footage, it appears that Officer Kizer was likely aware that he was closing the squadrol door on ██████████ foot.³⁶ As slamming a door against ██████████ foot is maltreatment and an unjustified physical altercation of ██████████ this allegation is sustained for Officer Kizer. Thus, this allegation is sustained.

²⁷ Att. 42 Special Order S04-13-09 (effective July 10, 2017-present)

²⁸ Att. 12, Att. 13, Att. 14, Att. 15. These attachments show no ISR records for all three officers in connection with this incident. Additionally, there were no ISR records found in connection with ██████████

²⁹ Att. 38, Page 18, Lines 22 to 24; Page 19, Lines 14 to 16

³⁰ Att. 38, Page 18, Lines 22 to 24; Page 19, Lines 14 to 16

³¹ Att. 37, Page 24, Lines 10 to 14

³² Att. 40. Page 20, Lines 22 to 24; Page 21, Lines 5 to 8

³³ Att. 43 Rules and Regulations of the Chicago Police Department, (V) Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present).

³⁴ Att. 44 G03-02, (III)(B), Use of Force (effective April 15, 2021 to June 27, 2023)

³⁵ Att. 39, Page 15, Lines 17 to 20

³⁶Att. 18 0:00 to 0:30 Att. 26 6:40 to 7:00 This BWC footage shows Officer Kizer closing the squadrol door while saying "move your foot stupid."

e. Directing Verbal Abuse at ██████████

COPA finds the allegation that Officer Jonathan Kizer directed verbal abuse at ██████████ is **sustained**. The Chicago Police Department's Rules and Regulations Rule 9 states that officers cannot engage in any unjustified physical or verbal altercation with any person, while on or off duty. Rule 8 prohibits disrespect or maltreatment of any person. In Officer Kizer's statement, he indicated that he didn't know he said, "Move your foot, stupid" and didn't "recall" calling ██████████ a "dumbass."³⁷ On the body worn camera footage of the incident, Officer Kizer clearly states, "Move your foot, stupid," and, "You a [sic] dumb ass."³⁸ This type of language is a clear violation of Department Rules. Therefore, this allegation is sustained for Officer Kizer. Thus, this allegation is sustained.

f. Deactivating His Body Worn Camera Prior to the End of the Incident

COPA finds the allegation that Officer Jonathan Kizer deactivated his body worn camera prior to the end of the incident is **not sustained**. In Officer Kizer's statement, he said "I didn't intentionally deactivate the body cam. When -- when we went hands-on with the -- with Mr. ██████████ his leg was pressed against my body cam [...] and it deactivated that way."³⁹ He was asked why he did not immediately restart his BWC, and he said, "Because given the circumstances of getting him to comply and get inside of the wagon, I didn't realize it had deactivated. I didn't hear the buzz or beep or anything like that to know that it was deactivated at the time."⁴⁰ Based on the body worn camera footage of this incident which shows the physical contact between Officer Kizer and ██████████ Officer Kizer's may not have been aware of the deactivation and may not have personally deactivated his camera. As such, this allegation is not sustained.⁴¹

VI. DISCIPLINARY RECOMMENDATION

a. Officer David Flores

i. Complimentary and Disciplinary History⁴²

Officer Flores does not have any record of recent discipline. Officer Flores does have 50 complimentary awards, including 40 honorable mentions.

ii. Recommended Discipline

COPA has considered the officer's complimentary and lack of disciplinary history. Officer Flores failed to document the incident in an ISR as required by Department policy. COPA recommends a Violation Noted.

³⁷ Att. 39, Page 16, lines 10 to 21

³⁸ Att. 26 6:40 to 7:00

³⁹ Att. 39, Page 9, Lines 8 to 10, Line 12

⁴⁰ Att. 39, Page 9, Lines 8 to 19

⁴¹ Att. 17 2:20 to 2:34

⁴² Att. 45.

b. Officer Andrius Tkachuk

i. Complimentary and Disciplinary History⁴³

Officer Tkachuk's disciplinary record includes one sustained finding for an operations violation and one SPAR for a preventable accident – resulting in a violation noted and reprimand. Officer Tkachuk's complimentary history shows 114 awards, including 91 honorable mentions.

ii. Recommended Discipline

COPA has considered the officer's complimentary and his disciplinary history. Officer Tkachuk failed to document the incident in an ISR as required by Department policy. COPA recommends a 1-day Suspension.

c. Officer Kevin Gomez

i. Complimentary and Disciplinary History⁴⁴

Officer Gomez's disciplinary record includes one sustained finding for an operations violation and two SPARs for failure to perform a duty – resulting in a violation noted and reprimand. Officer Gomez's complimentary history shows 115 awards, including 96 honorable mentions.

ii. Recommended Discipline

COPA has considered the officer's complimentary and disciplinary history. Officer Gomez failed to document the incident in an ISR as required by Department policy. He also directed verbal abuse at [REDACTED] when he stated, "Now you're going to jail, bitch." Verbal abuse is a violation of Department policy and is conduct unbecoming of a police officer. Such conduct diminishes the Department's credibility and undermines public trust in the Department. COPA recommends a 5-day Suspension.

d. Officer Jonathan Kizer

i. Complimentary and Disciplinary History⁴⁵

Officer Kizer does not have any record of discipline in the last five years. Officer Kizer does have 113 complimentary awards, including 98 honorable mentions.

ii. Recommended Discipline

⁴³ Att. 45..

⁴⁴ Att. 45..

⁴⁵ Att. 45

COPA has considered the officer’s complimentary and lack of disciplinary history. Officer Kizer slammed a squadrol door on [redacted] foot. There was no known injury to Mr. [redacted] Officer Kizer directed verbal abuse at [redacted] when he stated, “Move your foot, stupid,” and, “You a dumb ass.” Verbal abuse is a violation of Department policy and is conduct unbecoming of a police officer. Such conduct diminishes the Department’s credibility and undermines public trust in the Department. COPA recommends a 10-day Suspension.

Approved:

[redacted signature]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

October 27, 2023

Date

Appendix ACase Details

Date/Time/Location of Incident:	05/18/2021/9:50pm/7601 S State St, Chicago, IL 60620
Date/Time of COPA Notification:	10/12/2022/11:30am
Involved Member #1:	Officer David Flores, Star#13480, Employee# [REDACTED] Date of Appointment: 01/17/2017. Unit of Assignment: 006 (detailed to 610), Male, White Hispanic
Involved Member #2:	Officer Andrius Tkachuk, Star#17034, Employee# [REDACTED], Date of Appointment: 06/27/2016, Unit of Assignment: 006, Male, White
Involved Member #3:	Officer Kevin Gomez, Star#9909, Employee# [REDACTED], Date of Appointment: June 27, 2016, Unit of Assignment: 006, Male, White Hispanic
Involved Member #4:	Officer Jonathan Kizer, Star#15307, Employee# [REDACTED], Date of Appointment: October 31, 2016, Unit of Assignment: 006 (Detailed to 212), 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

- Rules and Regulations of the Chicago Police Department, (effective April 16, 2015 to present).
- G03-02(III)(B), Use of Force (effective April 15, 2021 to June 27, 2023)
- General Order G03-02-01 Response to Resistance and Force Options, (effective April 15, 2021 to June 27, 2023)

- Special Order S04-13-09 (effective July 10, 2017-present)

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.⁴⁶ 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.”⁴⁷

⁴⁶ 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).

⁴⁷ *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