

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 3, 2019 / 10:53 pm / 3151 W. Harrison St., Chicago, IL 60612
Date/Time of COPA Notification:	January 29, 2020 / 12:45 pm
Involved Officer #1:	Officer Joseph Lisciandrello / Star#19362 / Employee ID# [REDACTED] / DOA: February 18, 2014 / Unit: 011 / Male / White.
Involved Individual #1:	[REDACTED] / Male / Black. ¹
Case Type:	05A – Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Joseph Lisciandrello	1. Pushing Mr. [REDACTED] without justification, in violation of Rule 6.	Sustained / 60-day suspension.
	2. Threatening Mr. [REDACTED] by stating: “Let’s do it dude, I go you all day. I’ll take my belt and everything off” or words of similar effect, in violation of Rule 8.	Sustained / 60-day suspension.
	3. Failing to comply with S03-14 by, deactivating your body worn camera while still engaged in law-enforcement-related activity, in violation of Rule 6.	Sustained / 60-day suspension.
	4. Failing to comply with G03-02-02 by, failing to properly document the facts and circumstances of the force used on Mr. [REDACTED] in violation of Rule 6.	Sustained / 60-day suspension.

II. SUMMARY OF EVIDENCE²

Mr. [REDACTED] was arrested and transported to the 011th District Station. While being transported [REDACTED] became aggressive, threatened to headbutt and eventually headbutted

¹ While COPA received a response from [REDACTED] he never provided a sworn statement. The allegations in the case are based on the Initiation Report from the Department’s Force Review Unit and COPA’s evaluation of the objective evidence collected during the preliminary investigation.

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation.

Officer Bryan Mordan.³ As ██████ was moving the headbutt Officer Mordan, Officer Joseph Lisciandrello delivered an open hand strike to ██████ face. Simultaneously, Officer Mordan was attempting to gain control of ██████ but ██████ was trying to pull his body away from Officer Mordan's control.⁴ Upon arrival at the station the officers assisted ██████ from the vehicle. As ██████ was exiting the vehicle, ██████ stated, "take the cuff's off, I'll beat your bitch ass".⁵ Officer Lisciandrello responded with "oh, I wish you would son."⁶

As ██████ was escorted into the station, Officer Lisciandrello and he continued to exchange words, during which ██████ stated, "I'm gonna smoke your bitch ass."⁷ Officer Lisciandrello responded with, "I'm gonna die tonight cause of you, let's do it ... I got you all day, I'll take my belt and everything off."⁸ Once inside of the station, Officer Lisciandrello escorted ██████ into the tactical office, while stating "no this way."⁹ ██████ responded, "I am going this way," at which time Officer Lisciandrello pushed ██████ causing ██████ to fall into a table and on to the floor injuring his nose.¹⁰ Once Officer Lisciandrello pushed ██████ Officer Lisciandrello deactivated his body worn camera.

III. LEGAL STANDARD

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 the conduct occurred and violated Department policy.¹¹ If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

³ ██████ and Officer Mordan were both seated in the rear of the Department vehicle. ██████ was seated in the rear passenger seat directly behind Officer Lisciandrello. *See* Att. 11 from 10:32 to 11:34.

⁴ *Id.*

⁵ *Id.* at 12:04.

⁶ *Id.* at 12:06.

⁷ *Id.* at 12:22.

⁸ *Id.* from 12:29 to 12:35.

⁹ *Id.* at 12:51.

¹⁰ *Id.* from 12:51 to 12:58.; *also see* Att. 22, pgs. 1 to 5. ██████ injury is also consistent with headbutting an individual.

¹¹ *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 has found to be more probably true than not).

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.¹² 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."¹³

IV. ANALYSIS AND CONCLUSION

COPA finds that Allegation #1 is **sustained**. Department members are permitted to use force to overcome resistance.¹⁴ When members encounter a citizen who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that citizen is an active resister.¹⁵ Members are permitted to respond to active resistance with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; and taser deployment. However, the force used by Department members must be reasonable and proportional to the level of resistance faced.

Here, Officer Lisciandrello reported that ██████ attempted to pull away from him and then charged back as to strike him with a headbutt. These actions would likely make ██████ at a minimum an active resister, however, even so, Officer Lisciandrello's decision to respond with a push is problematic because ██████ was handcuffed and had no way to arrest any fall that was likely to result from the push. In fact, Officer Lisciandrello's push did result in ██████ falling, being unable to arrest his own fall, and causing injury. Thus, COPA finds that the totality of the circumstance in which Officer Lisciandrello responded to the resistance from ██████ was unreasonable and not proportional to the level of resistance faced. This finding is based on the fact the ██████ was restrained in handcuffs inside the district station with no ability to flee, even if he was able to evade control and that ██████ fall in response to the force was a likely foreseeable outcome of Officer Lisciandrello's push. Officer Lisciandrello's actions violated Department policy and Rules 2, 3, 6, 8 and 9.

COPA finds that Allegations #2 and 3 are **sustained**. Department members are required to "treat all persons with courtesy and dignity which is inherently due every person as a human being" and do so while "speak[ing] . . . in a professional manner and maintain[ing] a courteous attitude in all contacts with the public."¹⁶ Additionally, members are prohibited from "engaging in any unjustified verbal . . . altercation with any person..."¹⁷ Finally, Department members will not deactivate BWC until "law-enforcement-related activity"¹⁸ has concluded; or when requested by

¹² *People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹³ *Id.* at ¶ 28.

¹⁴ See G03-02-01 generally.

¹⁵ G03-02-01 IV(B)(2), Response to Resistance and Force Options (effective April 15, 2021 to current).

¹⁶ G02-01 III (B), Human Right and Human Resources (effective October 5, 2017 to current); G02-04 II (C), Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017 to current.)

¹⁷ Section V, Rule 9 of the Rules and Regulations of the Chicago Police Department.

¹⁸ "Law-enforcement-related activity" concludes when "the member has cleared the assignment; the member leaves the scene of the incident;" an arrested subject is "is secured in the processing room and the member is only conducting administrative functions..." or "custody has been transferred to another Department member ..."; instructed to by the

a victim of or witness to a crime or a member of the community wishing to report a crime; or interacting with a confidential informant.¹⁹

Here, Officer Lisciandrello's verbal threats are undisputed. While Officer Lisciandrello's threats were in response to threat from ██████ Officer Lisciandrello's threats served no reasonable purpose and rather likely inflamed the interaction that increased the likelihood of force. Officer Lisciandrello's verbal threats were in violation of Department policy and Rules 6 and 9. Additionally, despite Officer Lisciandrello's assertion, he was still engaged in responding to ██████ actions and a use of force when the BWC was deactivated. This deactivation is in defiance of Department policy and Rules 2, 3, and 6.

COPA finds that Allegation #4 is **unfounded**. Department members are required to document the "facts and circumstances concerning any" use of force in a TRR.²⁰ Here, Officer Lisciandrello completed a TRR that details ██████ actions and his response in the station. While additional description of ██████ actions, specifically the abrupt pull and charge, would have been beneficial to COPA's investigation, Officer Lisciandrello's TRR complies with Department requirements.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Joseph Lisciandrello²¹

i. Complimentary and Disciplinary History

Officer Lisciandrello's complimentary history is comprised of 136 achievements, including one Military Service Award, one Life Saving Award, one Superintendent's Honorable Mention, two Special Commendations, and 112 Honorable Mentions. He has no recent disciplinary history.

ii. Recommended Penalty

Officer Lisciandrello's actions are not in dispute. While COPA understands that a handcuffed ██████ hurled threats at Officer Lisciandrello, the officer's verbal response was unwarranted and served no legitimate interest. COPA believes that Officer Lisciandrello's threats likely inflamed the interaction and increased the likelihood of force being needed. Additionally, Officer Lisciandrello's push of ██████ is concerning given the circumstances in which the push occurred combined with the fact that ██████ had no ability to arrest the fall that resulted from the push. Further, Officer Lisciandrello's deactivation of his BWC directly impacted COPA's ability to fully assess the force used in the station. It is for these reasons that COPA recommends a **60-day suspension**.

Approved:

"highest-ranking on-scene Bureau of Patrol supervisor...." S03-14 III(B)(1), Body Worn Cameras (effective April 30 2018 to current.)

¹⁹ S03-14 III(B)(1)(a-d).

²⁰ G03-02-02 II(B).

²¹ Att. 26.



July 5, 2023

Angela Hearts-Glass
Deputy Chief Investigator

Date