



Log # 2023-0005760

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 7, 2023, the Civilian Office of Police Accountability (COPA) received a CPD initiated complaint from Lt. Daniel Bartoli on behalf of ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on December 7, 2023, PO Girmaiy Tzul knelt on his neck without justification.² Following its investigation, COPA reached an **Exonerated** finding for this allegation.

II. SUMMARY OF EVIDENCE³

On December 7, 2023, at approximately 4:44 pm, officers arrived at 701 N. Sacramento, a city of Chicago auto impoundment facility, after being dispatched for a service call of a person with a gun threatening to shoot employees.⁴ When officers arrived, they encountered ██████████ who matched the description given to OEMC. ██████████ had become irate when he attempted to retrieve his car but was missing some of the required documentation.⁵ According to the facility's manager, ██████████ then threatened to shoot all of the employees and blow the facility up.⁶

As Officers Bolger and Tzul approached ██████████ and issued verbal commands, he cursed at them, stiffened up, and swung at Officer Bolger with his left arm.⁷ ██████████ continued to fight both officers, including attempting to kick officer Tzul before Officer Bolger called out "taser taser taser," and subdued ██████████⁸ While on the ground, ██████████ continued to resist by not give up his hands when ordered to do so and kept them under his stomach.⁹ Officer Tzul placed his knee between the shoulder blades of ██████████ allowing his partner to place ██████████ in handcuffs but did not appear to apply any significant pressure, nor did his knee go above the mid-back.¹⁰ ██████████ was ultimately taken into custody and transported to ██████████ Hospital for evaluation and taser

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 BWC, third-party video, police reports, and officer interviews.

⁴ Att. 2, Original Case Incident Report

⁵ Att. 2

⁶ Att. 2

⁷ Att. 4, Auto Impound Video at 3:30 to 3:45

⁸ Att. 4, at 3:30 to 4:00; and Att. 5, PO Bolger BWC at 2:58

⁹ Att. 4, at 3:52 to 4:30

¹⁰ Att. 4, at 4:00 to 4:05

prong removal.¹¹ [REDACTED] was charged with two counts of aggravated battery of a peace officer and one assault charge for his treatment of the employees.¹²

Notably, COPA did not serve allegations for Officer Bolger's use of a taser as it was clearly within policy.¹³

III. ALLEGATIONS

Girmaiy Tzul:

1. Kneeling on [REDACTED] neck without justification.
 - Exonerated

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of Officer Tzul who provided COPA a statement. [REDACTED] did not provide COPA with a statement.

V. ANALYSIS¹⁴

a. Force Allegation

COPA finds the allegation against Officer Tzul for placing his knee on [REDACTED] neck without justification is **Exonerated**. CPD members are permitted to use force to overcome resistance.¹⁵ When a member encounters a citizen who is using or threatening the use of force against another person or themselves which is likely to cause injury, that citizen is an assailant.¹⁶ If the citizen's actions are aggressively offensive with or without weapons,¹⁷ members are permitted to respond with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; taser deployment; direct mechanical strikes; and impact weapons and munitions.¹⁸ In this case, [REDACTED] was clearly an assailant as he attempted to batter two Department members repeatedly. Furthermore, when officers finally were able to detain [REDACTED] he continued to resist them while on the ground, forcing Officer Tzul to place his knee between the shoulder blades of [REDACTED] to effectuate the handcuffing and arrest.

For the reasons above, COPA does not find this level of force to be excessive but rather reasonable and proportional to the level of resistance and aggression displayed by [REDACTED]—

¹¹ Att. 2

¹² Att. 1, Arrest Report

¹³ [REDACTED] aggravated battery of two peace officers qualified him as an assailant under the Department's use of force model. Therefore, officers were within policy to use a taser.

¹⁴ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹⁵ *See* G03-02-01 generally.

¹⁶ G03-02-01 IV(C), Response to Resistance and Force Options (effective June 28, 2023, to current).

¹⁷ The weapons can include a deadly weapon, but the citizen's actions did not constitute an imminent threat death or great bodily harm.

¹⁸ G03-02-01 IV(C)(1), Response to Resistance and Force Options (effective June 28, 2023, to current).

Appendix ACase Details

Date/Time/Location of Incident:	December 7, 2023 / 4:42 PM / 701 N Sacramento Blvd.
Date/Time of COPA Notification:	December 7, 2023 / 6:54 PM
Involved Officer #1:	Girmaiy Tzul, Star# 14935, Employee# [REDACTED], Date of Appointment: March 28, 2022, Male, Black
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

- G02-01: Protection of Human Rights (effective June 23, 2022 – present)
- G03-02-01: Response to Resistance and Force Options (effective June 28, 2023 – 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.¹⁹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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.”²⁰

¹⁹ 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).

²⁰ *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