



Log # 2024-5218

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

### I. EXECUTIVE SUMMARY

On May 23, 2024, the Civilian Office of Police Accountability (COPA) received an initiation report complaint from Lt. Kelly Cusack reporting alleged misconduct by a member of the Chicago Police Department (CPD). Lt. Cusack alleged that on May 22, 2024, Officer Oscar Benavides placed his hand on or around [REDACTED] neck without justification.<sup>2</sup> COPA did not serve any additional allegations. Following its investigation, COPA reached a **Not Sustained** finding regarding the allegation that Officer Oscar Benavides placed his hand on or around [REDACTED] neck without justification.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On May 22, 2024, at approximately 10:00 pm, Officer Phillip Khuu and Officer Christopher Schickel received a call from dispatch that an individual dumped a book bag with a gun in the hallway of a location at [REDACTED].<sup>4</sup> As the officers approached this address, they observed [REDACTED] with a book bag, enter the backseat of a black SUV.<sup>5</sup> The officers saw that this vehicle was parked in front of a fire hydrant and approached the driver, telling him that this was the reason for the stop.<sup>6</sup> The officers asked [REDACTED] to exit the vehicle, believing that [REDACTED] was in possession of an unlawful firearm.<sup>7</sup>

[REDACTED] exited the vehicle and then attempted to flee.<sup>8</sup> Officer Khuu and Officer Schickel performed an emergency takedown on [REDACTED].<sup>9</sup> [REDACTED] was eventually handcuffed by the officers.<sup>10</sup> During the takedown, Officer Khuu observed a black firearm inside of [REDACTED] front

---

<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> 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>3</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 BWC footage, police reports, and officer interviews.

<sup>4</sup> Att. 2, Arrest Report of [REDACTED] Pg. 3

<sup>5</sup> Att. 2, Pg. 3

<sup>6</sup> Att. 2, Pg. 3

<sup>7</sup> Att. 2, Pg. 3

<sup>8</sup> Att. 15, Office Khuu's BWC at 6:15 to 6:35

<sup>9</sup> Att. 15, at 6:35 to 7:00

<sup>10</sup> Att. 15, at 7:20 to 7:35

waistband.<sup>11</sup> The firearm was recovered and secured by the officers.<sup>12</sup> Sgt. Erik Ruhnke instructed Officer Oscar Benavides to relocate ██████ to Officer Benavides's Department vehicle.<sup>13</sup> Officer Benavides took ██████ arm and then ██████ after attempting to flee again, fell to the ground.<sup>14</sup> Officer Benavides and Officer Phillip Khuu pulled ██████ to his feet and then escorted him down the street towards Benavides's patrol car.<sup>15</sup> ██████ again, pulled away from the officers.<sup>16</sup> In an attempt to regain control of him, the officers pushed him against a patrol car.<sup>17</sup> As ██████ was up against the patrol car, it appeared that Officer Benavides's hand shifted up and was around ██████ neck area.<sup>18</sup> Sgt. Ruhnke gave verbal commands to Officer Benavides to watch his hand placement.<sup>19</sup> Sgt. Ruhnke and Officer Khuu both physically intervened to remove Officer Benavides's hand from ██████<sup>20</sup> Sgt. Ruhnke said words to the effect of, "you're out," to Officer Benavides and then ██████ said words to the effect of, "he just choked me."<sup>21</sup>

█████ was put in the backseat of a patrol car and driven to the 3<sup>rd</sup> district for processing.<sup>22</sup> ██████ was charged with five counts, including aggravated U UW and resisting/obstructing an officer.<sup>24</sup>

### III. ALLEGATIONS

#### Officer Oscar Benavides:

1. Placed his hand on or around ██████ neck without justification.
  - Not Sustained

### IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

---

<sup>11</sup> Att. 2, Pg. 3

<sup>12</sup> Att.2, Pg. 3

<sup>13</sup> Att. 13, Officer Benavides's BWC at 2:05 to 2:13; and Att. 15, at 9:25 to 9:35

<sup>14</sup> Att. 13, at 2:13 to 2:15

<sup>15</sup> Att. 13, at 2:15 to 2:25

<sup>16</sup> Att. 14, Officer Jason Rodriguez BWC at 2:28 to 2:34

<sup>17</sup> Att. 14, Officer Jason Rodriguez BWC at 2:28 to 2:34

<sup>18</sup> Att. 26, PO Zaragoza BWC at 2:30 to 2:35

<sup>19</sup> Att. 39, Sgt. Ruhnke's To From report from this incident

<sup>20</sup> Att. 39, Att. 38 Officer Khuu's To From report from this incident. Att. 26 at 2:30 to 2:40

<sup>21</sup> Att. 26, at 2:35 to 2:41

<sup>22</sup> Att. 26, at 2:45 to 2:51; Att. 14 at 4:00 to 10:00 and Att. 2

<sup>23</sup> Att. 12, ██████ medical records. These records indicate that ██████ had pain to his right elbow and right hand but denied a head injury or other complaints.

<sup>24</sup> Att. 2

COPA believes that the CPD members attempted to provide the most accurate recollection of the incident. COPA was unable to interview ██████████ per his attorney.<sup>25</sup>

## V. ANALYSIS<sup>26</sup>

### a. Placed his hand on or around ██████████ neck without justification

COPA finds Allegation #1, that Officer Benavides placed his hand on or around ██████████ neck without justification, is **Not 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.<sup>27</sup> 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.<sup>28</sup> CPD members are trained to view the use of force according to a spectrum of possible encounters based on whether the subject involved is a cooperative person, a passive resister, an active resister, or an assailant, with greater levels of force being permitted as the subject's behavior becomes more dangerous.<sup>29</sup> An active resister is described as a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest.<sup>30</sup> In this case, ██████████ was clearly an active resister as he attempted to flee from officers and defeat his arrest.<sup>31</sup>

While Officer Benavides's general use of force was within policy, the placement of Officer Benavides's hand around ██████████ neck area required an additional review. CPD policy prohibits "chokeholds or other restraints above the shoulders with risk of positional asphyxiation."<sup>32</sup> Indeed, G03-02-01 prohibits officers, in a post-use of force scenario, from restraining a person above the shoulders, including the head or neck area.<sup>33</sup> In this case, COPA received several To/From memos from two involved officers, in addition to the Department reports, BWC, and officer statements.<sup>34</sup> In Sgt. Ruhnke's To From, he said Officer Benavides's hand placement had "risen up on the arrestee's neck" and that he gave verbal commands to watch the hand placement "before physically

<sup>25</sup> CMS Note, CO-1398921: On September 11, 2024, COPA spoke with ██████████, the attorney for ██████████ who said that her client could not provide a statement with COPA while his case was pending.<sup>25</sup> CO-1388921 As of August 12, 2025, Mr. ██████████ case is still active.<sup>25</sup>

<sup>26</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>27</sup> Att. 51, Rules and Regulations of the Chicago Police Department, (V) Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present).

<sup>28</sup> Att. 52, G03-02(III)(B), De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023 to present).

<sup>29</sup> Att. 53, G03-02-01(IV)(A to C), Response to Resistance and Force Options (effective June 28, 2023 to present)

<sup>30</sup> Att. 53, G03-02-01(IV)(A to C), Response to Resistance and Force Options (effective June 28, 2023 to present)

<sup>31</sup> Att. 13, Att. 15, Att. 18, Att. 26

<sup>32</sup> Att. 52

<sup>33</sup> Att. 53, G03-02-01(V)(C), "Post-Use of Force Positioning, Monitoring, and Rendering Medical Aid"

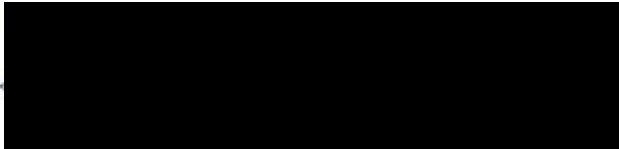
<sup>34</sup> Att. 38, To From Officer Khuu; and Att. 39, To From Sgt. Ruhnke

interceding ending the contact between the arrestee's neck."<sup>35</sup> Sgt. Ruhnke clarified his comments in his statement to COPA, saying Officer Benavides's hand was "towards [REDACTED] neck and in the neck area," and that he did not like the positioning of Benavides's hand.<sup>36</sup> In Officer Khuu's statement, he indicated that Officer Benavides's hand was on [REDACTED] "collarbone area around his neck."<sup>37</sup> Officer Khuu also said Officer Benavides's hand may have touched the "lower neck."<sup>38</sup>

However, according to Officer Benavides, his hand slipped up towards [REDACTED] neck area because [REDACTED] was flailing and attempting to evade control.<sup>39</sup> In his statement to COPA, Officer Benavides said he believed his hand was on the base of [REDACTED] neck for approximately three seconds.<sup>40</sup> Officer Benavides further added that his contact with [REDACTED] started in his chest area – but due to [REDACTED] resistance, it unintentionally moved up towards the base of his neck.<sup>41</sup>

COPA does not dispute that Officer Benavides's hand was around [REDACTED] neck. However, Department rules prohibit restraint in the neck area *after* the use of force and prohibit the use of chokeholds and/or restraints with risk of positional asphyxiation.<sup>42</sup> In this case, it is unclear, based on the limited views on BWC and the lack of a statement from [REDACTED] whether Officer Benavides's conduct violated CPD rules. In sum, COPA does not have enough evidence to meet the preponderance standard to sustain an allegation that Officer Benavides's use of force, specifically the placement of his hands, was in violation of CPD policy. Therefore, COPA finds this allegation is **Not Sustained**. However, given the serious nature of force above the neck area, COPA recommends Officer Benavides receive additional training on use of force, specifically above the shoulders.

Approved:



9-23-2025

\_\_\_\_\_  
Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

<sup>35</sup> Att. 39

<sup>36</sup> Att. 43, Sgt. Ruhnke's statement, Pg. 15, Lns. 8 to 10; and Att. 43, Pg. 15, Ln. 18

<sup>37</sup> Att. 42, Officer Khuu's statement transcription, Pg. 19, Lns. 23 to 24

<sup>38</sup> Att. 42, Pg. 23, Lns. 19 to 24, Pg. 24, Ln. 8

<sup>39</sup> Att. 24, Officer Benavides's TRR

<sup>40</sup> Att. 50, Pg. 19, Ln. 24, Pg. 20, Lns. 1 to 10. Att. 50, Pg. 12, Lns. 24, Officer Benavides' also said it was "maybe two second tops."

<sup>41</sup> Att. 50, Pg. 18, Lns. 21 to 24, Pg. 19, Lns. 1 to 7

<sup>42</sup> Att. 52, (IV)(D); Att. 53, G03-02-01(V)(C)

---

*[Name]*  
*Chief Administrator*

---

Date

**Appendix A**

**Case Details**

Date/Time/Location of Incident:	May 22, 2024 / 10:10 pm / ██████████ ██████████, Chicago, IL 60619
Date/Time of COPA Notification:	May 23, 2024 / 12:17 pm
Involved Member #1:	Officer Oscar Benavides / Star#4839 / Employee# ██████████ / Date of Appointment: September 27, 2018 / Male / Hispanic
Involved Individual #1:	██████████ / 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, (V) Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present)
- General Order 03-02, De-Escalation, Response to Resistance, and Use of Force (effective June 28, 2023 to present).
- General Order 03-02-01, Response to Resistance and Force Options (effective June 28, 2023 to 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.<sup>43</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>44</sup>

---

<sup>43</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>44</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