

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 17, 2019
Time of Incident:	8:00 PM
Location of Incident:	████████████████████ Avenue
Date of COPA Notification:	July 24, 2019
Time of COPA Notification:	12:21 PM

On March 17, 2019 at approximately 8:00 PM, Officers Siska and Sebek, working in the 22nd District as Beat 2262A, were dispatched to a call for service; a battery in progress/domestic disturbance, in the vicinity of ██████████. Officers arrested ██████████ on-scene. Mr. ██████████ alleges that Officers used excessive force when taking him into custody by throwing him to the ground, without justification, which caused him chest pains.

I. INVOLVED PARTIES

Involved Officer #1:	Sebek, Steven, star # 5134, employee ID# ██████████, Date of Appointment: December 5, 2005, Police Officer, Unit of Assignment: 022, DOB: ██████████ 1981, gender: Male, Race: White
Involved Officer #2:	Siska, Joseph, star # 6121, employee ID# ██████████, Date of Appointment: June 4, 2007, Police Officer, Unit of Assignment: 022, DOB: ██████████ 1983, gender: Male, Race: White
Involved Individual #1:	██████████ DOB: ██████████ 1973, gender: Male Race: White

II. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Sebek, Steven	1. It is alleged that on March 17, 2019 at approximately 8:00pm at or near ██████████ ██████████ Ave, you used excessive force against ██████████ without justification.	Exonerated

	<p>2. It is alleged that on March 17, 2019 at approximately 8:00pm at or near [REDACTED] Ave, you failed to activate your body worn camera during official law enforcement activity with [REDACTED]</p>	<p>Sustained/ 2 Days Suspension</p>
<p>Officer Siska, Joseph</p>	<p>1. It is alleged that on March 17, 2019 at approximately 8:00pm at or near [REDACTED] Ave, you used excessive force against the Complainant without justification.</p>	<p>Unfounded</p>

III. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G01-01 – CPD Vision Mission Statement, and Core Values
2. G02-01 – Human Rights
3. G03-02 – Use of Force

Federal Laws

1. Fourth Amendment, United States Constitution

State Laws

1. 50 ILCS 710/1-5/7-5¹

IV. INVESTIGATION

¹ In making an arrest, officers need not retreat or desist when someone resists, force justified with reasonable belief that conduct necessary to effect the arrest and defend self or another from bodily harm.

a. Interviews

COPA conducted an interview with [REDACTED] on November 4, 2019, at approximately 10:08 AM. [REDACTED] related the he was arrested by members of the Chicago Police Department in the vicinity of [REDACTED]

Mr. [REDACTED] stated during his interview that on March 17, 2019, he was out drinking with some of my friends at Bourbon Street for St. Patrick day.

His son's mother lives close to Bourbon Street, so he decided to stop by and see him, which he admits he should not have done, because he was not invited. While there, he had an altercation with one of the mother's cousins. They held him on the ground and called the police.

When the police arrived, they asked Mr. [REDACTED] to leave. At first, he refused, but then he decided to comply and started walking down the street. He admits that as he was walking away, he continued to turn back and make unknown comments. As he got half way down the street, he made another unknown comment, which resulted in officers re-approaching him and handcuffing him. A few more words were exchanged and then an officer slammed him to the ground.

Mr. [REDACTED] further related that he asked the officer why was he thrown to the ground, to which the officer responded saying he was resisting arrest. Mr. [REDACTED] was placed in the back of a police car and, while enroute to the police station, he was taken to the hospital because he was complaining of being in pain.

Mr. [REDACTED] alleged that the force used was used without justification.

COPA conducted an **Interview with Officer Joseph Siska**³, Star No. 6121 on March 4, 2020 at approximately 10:14 AM. Officer Siska was assigned to the 22nd Chicago Police District and assigned to Beat 2262A, with his partner, Officer Sebek. Officers responded to a call for service through dispatch⁴ in the vicinity of [REDACTED] for a disturbance/battery in progress.

On arrival. Officer Siska observed a family gathering going on at a residence. There were people on the front steps of the house. Mr. [REDACTED] was outside yelling back and forth at people from the residence. They were saying he had to leave. He was there over a custody dispute with his ex-wife. The people on the porch told Officer Siska that Mr. [REDACTED] was pushing Ms. [REDACTED] around and they had to forcibly remove him from the residence. They told Officer Siska that they wanted him gone. At this time, Mr. [REDACTED] was still yelling and swearing at people as he started walking away. Other officers were speaking to Mr. [REDACTED] ex-wife to find out if she wanted him arrested or not.

² Att. 12, Audio Interview of [REDACTED]

³ Attachment 26

⁴ Attachment 8, OEMC Event Query

Mr. █████ kept walking away, coming back, yelling and swearing. Officer Siska observed him fall from what he assumed was a result of being drunk. Mr. █████ fell down, got back up and continued yelling and swearing. Other officers were still deliberating on what Ms. █████ wanted to do. Officer Siska approached Mr. █████ to detain him and he was placed in handcuffs, as Officer Siska believed he was going to arrest Mr. █████. Officer Sebek had him leaning against the squad car, waiting for a transport and Mr. █████ was turning and yelling. Officer Sebek performed an emergency take-down in the grass and he and Officer Siska held him there until the transport arrived. Although Officer Siska stated he did not observe Officer Sebek perform the emergency take-down. He only saw the “tail-end” of it, but remembers his partner, Officer Sebek, saying something to the effect of “calm down”⁵ or something similar. Next, he observed Mr. █████ and Officer Sebek on the ground.

Officer Siska observed a small cut on Mr. █████ forehead area prior to any interaction with the police. He suspected the wound was from falling down or from the physical interaction with relatives prior to police arrival.

COPA conducted an **Interview with Officer Steven Sebek**⁶, Star No. 5134 on March 4, 2020 at approximately 10:45 AM. Officer Sebek is currently assigned to the Force Review Unit, but on March 17, 2019 he was assigned to the 22nd Chicago Police District and assigned to Beat 2262A with his partner, Officer Siska. On that date, he and his partner responded to a call for service, through dispatch,⁷ in the vicinity of █████ for a disturbance/battery in progress.

Officer Sebek and his partner pulled up in front of the house where he saw a handful of people outside, including Mr. █████. At one point, Lieutenant Kinnane was speaking with Mr. █████. Officer Sebek was listening to statements from the other parties who were all outside in the front yard. Officer Sebek could hear Mr. █████ yelling and being belligerent.

While Officer Sebek did not directly speak to any parties, Lieutenant Kinnane and Sergeant Connors did most of the talking and he just observed. Officer Sebek learned that Mr. █████ had showed up to the house and wanted to see his son. The family could tell he was highly intoxicated, so they did not want him anywhere near his son, so they told him to leave. Mr. █████ refused because he kept wanting to see his son. He and the mother of his son (Ms. █████) began arguing in the front yard. At some point during the argument, he shoved her and one of her relatives pushed him away, at which point he fell to the ground.

The officers told him to leave several times, but he kept yelling and swearing at them. Mr. █████ began to walk northbound, away from the house. He kept turning around and yelling, screaming and swearing. Eventually the officers learned, from either their Sergeant or Lieutenant, that Ms. █████ was going to sign complaints. The officers then began to walk towards Mr. █████ to place him in handcuffs. As the officers were walking towards him, he was so intoxicated that he fell to the ground. Mr. █████ was then placed in custody as he was standing back up. While he was in cuffs, Mr. █████ continued to tense up, stiffening up and pulling away from Officer Sebek.

⁵ Attachment #26, Id at 10:48

⁶ Attachment 25

⁷ Attachment 8, OEMC Event Query

Mr. █████ kept turning towards Officer Sebek, yelling and swearing. Officer Sebek had to forcibly walk him towards the police vehicle. Mr. █████ continued moving around, stiffening up and not following verbal commands. He was actively resisting⁸.

Officer Sebek escorted him to their vehicle to wait for a transport vehicle to arrive. As Mr. █████ was against the squad car, he continued stiffening up, at one-point jerking toward him and raising up his elbows. Officer Sebek then performed an emergency take down, based on those Mr. █████ resistance. Officer Sebek did not know if he was going to spit on him, elbow him or actively resist in some other manner that would put Officer Sebek at risk of harm. After performing the emergency take-down, Officer Sebek held him there until the transport vehicle arrived.

During the interview, Officer Sebek was asked if he was issued a body worn camera on March 17, 2019, Officer Sebek response was “yes”⁹. When asked was it activated during the call for service at █████ Ave, his response was “it was not.”¹⁰

b. Digital Evidence

The Body Worn Camera (BWC) footage of Officer Siska’s camera¹¹

The BWC video shows Officer Siska is activated at the moment Mr. █████ is on the ground. The BWC does not capture how Mr. █████ came to be on the ground. Officer Siska is heard saying “time to go to jail. Just put him in cuffs. Fuck this. It’s time to go. This ain’t going to end, so we’re going to end it now”¹² Officer Sebek is observed assisting Mr. █████ from the ground. Mr. █████ says “so what now you’re going to arrest me?”¹³ Officer Siska responds “yep.”¹⁴

Officer Sebek escorts Mr. █████ to an unmarked squad car where he is observed performing a pat down. Mr. █████ is observed making several “jerking” motions while Officer Sebek is guiding him back against the squad car. Mr. █████ then says “What are you going to do, shoot me, shoot me 16-times?”¹⁵ Officer Sebek gives him a slight push back to the squad car and says “I’m going to throw your ass on the ground”¹⁶ Mr. █████ then makes another jerking motion, his right elbow is raised, at which time Officer Sebek performs an emergency takedown.

Mr. █████ remains on the ground, yelling “Do what you have to do. 16 times. You’re going to jail. You don’t know the people I know, you piece of shit! You threw me on the

⁸ Attachment 27, CPD Force Options Model

⁹ Attachment 25, Id at 4:30

¹⁰ Attachment 25, Id at 4:39

¹¹ Attachment 21

¹² Attachment 21, Id at 8:10:47

¹³ Attachment 21, Id at 8:10:49

¹⁴ Attachment 21, Id at 8:10:49

¹⁵ Attachment 21, Id at 8:11:13

¹⁶ Attachment 21, Id at 8:11:15

ground.”¹⁷ A marked unit pulls up and Officer Sebek assists Mr. [REDACTED] from the ground and escorts him to the marked unit. He is transported to the 022nd District where he is to be processed.

c. Documentary Evidence

The **Office of Emergency Management and Communication (OEMC) Event Query #1907614011**¹⁸ documented a call for service (Battery in Progress) in the vicinity of [REDACTED] Ave. Beat 2262A (Officers Sebek and Siska) arrested one (1) male under RD# JC189390.

CPD Attendance and Assignment¹⁹ (A&A) sheet for March 17, 2019, identifying Beat2262A as Officers Sebek and Siska.

Chicago Police Tactical Response Report²⁰ authored by Officer Sebek, indicating R/O’s placed the subject in custody for domestic battery. R/O’s walked subject to R/O’s vehicle at which time the subject repeatedly stiffened up and pulled away from R/O’s custody, subject turned toward R/O in an aggressive manner. R/O in fear of receiving a battery too the subject to the ground and held the subject until the transport vehicle arrived.

Chicago Police Department Original Case Incident Report²¹ indicating that R/O’s responded to a call of a battery in progress. Upon arrival multiple citizens pointed at [REDACTED] relating to officers that he was highly intoxicated and refusing to leave. Immediately after R/O’s placed Mr. [REDACTED] in custody, they noticed a small red scrape on his head. R/O’s were waiting for transport vehicle when Mr. [REDACTED] began to stiffen up and push back. Mr. [REDACTED] continued this behavior, one time turning toward Officer Sebek. Officer Sebek, fearing a possible battery, performed an emergency takedown to keep Mr. [REDACTED] under control. Once the transport vehicle arrived, Mr. [REDACTED] was transported to the 022nd district for processing.

Chicago Police Department Arrest Report²² showing that Mr. [REDACTED] received two charges; 720 ILCS 5.0/31-1-A, resisting/obstruction peace officer and 720 ILCS 5.0/12-3.2-A-2, domestic battery.

V. 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;

¹⁷ Attachment 21, Id at 8:11:41

¹⁸ Attachment 8

¹⁹ Attachment 29

²⁰ Attachment 10

²¹ Attachment 9

²² Attachment 28

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 reviewed complied with Department policy. *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 has found to be more probably true than not). 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

VI. ANALYSIS

COPA makes a finding of **EXONERATED** for Allegation 1 against Officer Sebek, that he used excessive force against Mr. [REDACTED] without justification.

The Body worn camera footage and interviews with Mr. [REDACTED] and Officer Sebek were taken into account. The interaction between Officer Sebek and Mr. [REDACTED] occurred when officers responded to a call of a battery in progress. Initially, officers instructed Mr. [REDACTED] to leave, to which he refused to comply with those commands.

Upon learning that Ms. [REDACTED] wanted to sign complaints for domestic battery against Mr. [REDACTED] Mr. [REDACTED] was taken into custody. While being detained, Mr. [REDACTED] can be seen on BWC becoming belligerent, not following verbal commands, and at one point, attempting to jerk away from Officer Sebek while raise his right elbow. Officer Sebek reasonably believed Mr. [REDACTED] was a threat to cause an immediate battery to him. Therefore, in reasonable fear that he may receive an immediate battery, Officer Sebek performed a lawful emergency take down.

In compliance with CPD Use of Force Option, an emergency take-down is allowed with an active resister; movements to avoid physical control. Mr. [REDACTED] was observed not following verbal commands and several times attempted to jerk away from Officer Sebek.

Based on the foregoing, Officer Sebek was within CPD policy to use the necessary force to effect an arrest. Therefore, this allegation is **EXONERATED**.

COPA makes a finding of **SUSTAINED** for Allegation 2 against Officer Sebek, in that he failed to activate his body worn camera during official law enforcement activity.

Upon receipt of compliant, policy requires COPA to obtain and review accused Officers' body worn camera footage. Upon review, it was determined that Officer Sebek was issued a body worn camera on March 17, 2019, however there was no file to retrieve.

During an officer interview with COPA on March 4, when Officer Sebek was asked if he issued a body worn camera on March 17, 2019, Officer Sebek responded affirmatively. When asked if he had activated it during the call for service at [REDACTED] Ave, he responded that he had not.

Based on the foregoing, Officer Sebek was NOT within CPD policy when he failed to activate his body worn camera while performing official law enforcement duties, Therefore, this allegation is **SUSTAINED**.

COPA makes a finding of **UNFOUNDED** for Allegation 1 against Officer Siska, that he used excessive force against Mr. [REDACTED] without justification.

The Body worn camera and interviews of Mr. [REDACTED] and Officer Siska were taken into account. The interaction between Officer Siska and Mr. [REDACTED] occurred when officers responded to a call for service, specifically, a battery in progress. Initially, officers instructed Mr. [REDACTED] to leave, but Mr. [REDACTED] refused to comply with those commands.

Upon learning that Ms. [REDACTED] wanted to sign complaints for domestic battery, Mr. [REDACTED] was taken into custody. While being detained, Mr. [REDACTED] was observed on Officer Siska's BWC being belligerent, not following verbal commands, and at one point attempted to jerk away from Officer Sebek while raising his right elbow. However, at no point does Officer Siska assist in the emergency take down. In reasonable fear that he may receive an immediate battery, Officer Sebek performed an emergency take down, **not** Officer Siska.

In compliance with CPD Use of Force Option, an emergency take-down is allowed with an active resister.

Based on the foregoing, Officer Siska did not violate any CPD policy, nor did he use any force without justification. Therefore, this allegation is **UNFOUNDED**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Steven Sebek

Appendix A

Assigned Investigative Staff

Squad#:	Twelve
Investigator:	John Robinson
Supervising Investigator:	Andrew Dalkin
Deputy Chief Investigator:	Angela Hearts-Glass