

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	July 17, 2020/8:30 P.M./1100 S. Columbus Drive
Date/Time of COPA Notification:	July 18, 2020/1:22 P.M.
Involved Officer #1:	Kerry, Pozulp, Star No. 7776, Employee No. [REDACTED] Date of Appointment: October 31, 2005, Rank: Police Officer, Unit of Assignment: 001, DOB: [REDACTED], 1982, Male, White
Case Type:	Unnecessary Physical Contact/Verbal Abuse/Body Worn Camera

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Kerry Pozulp	1. It is alleged that on or about July 17, 2020 at approximately 8:30 P.M. at or near 1100 S. Columbus Drive Officer Kerry Pozulp Star No. 7776 committed misconduct by pushing [REDACTED] [REDACTED] with an impact weapon without justification.	Sustained
	2. It is alleged that on or about July 17, 2020 at approximately 8:30 P.M. at or near 1100 S. Columbus Drive Officer Kerry Pozulp Star No. 7776 committed misconduct by stating words to the effect of “fuck” to [REDACTED] [REDACTED]	Not Sustained
	3. It is alleged that on or about July 17, 2020 at approximately 8:30 P.M. at or near 1100 S. Columbus Drive Officer Kerry Pozulp Star No. 7776 committed misconduct by using threatening language to the effect of “you’re going to need help” to [REDACTED] [REDACTED]	Exonerated
	4. It is alleged that on or about July 17, 2020 at approximately 8:30 P.M. at or near 1100 S. Columbus Drive Officer Kerry Pozulp Star No. 7776 committed misconduct by restricting the movement of a member of the press without justification.	Exonerated

¹ COPA 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.

5. It is alleged that on or about July 17, 2020 at approximately 8:30 P.M. at or near 1100 S. Columbus Drive Officer Kerry Pozulp Star No. 7776 committed misconduct by failing to activate Body Worn Camera in compliance with Special Order S03-14.	Sustained
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II. BACKGROUND

In the wake of George Floyd's death at the hands of police officers in Minneapolis, Minnesota on May 26, 2020, large scale protests and demonstrations erupted around our nation calling for police reform. Chicago experienced a period of significant civil unrest in the weeks that followed Mr. Floyd's death resulting in thousands of police and civilian encounters, many of which were fraught with emotion and hostility. Thereafter and throughout much of the summer, Chicago continued to experience intermittent protest and demonstrations centered around social justice, police reform and racial inequity. One of those protests occurred at the Christopher Columbus statue and ultimately erupted into civil unrest, injury to officers who were hit with thrown projectiles, and civilians who were victim to excessive force. These encounters were captured on videos that went viral on social media platforms and were circulated around the world. While these videos were vital pieces of evidence, they often failed to positively identify the involved officer or civilian. Significant investigative resources were expended in order to obtain such information and move these cases to conclusion.

This investigation alleges misconduct by the involved Department member against the complainant who was present during a protest gathering at the Christopher Columbus statue in Grant Park. The complainant supported his complaint by providing video to the Civilian Office of Police Accountability (COPA). The following is a summary of the evidence COPA obtained and the ultimate outcome of this investigation.

III. SUMMARY OF EVIDENCE

Complainant [REDACTED] [REDACTED] alleges Officer Kerry Pozulp of the Chicago Police Department pushed Mr. [REDACTED] with an impact weapon without justification, used profanity and threatening language toward Mr. [REDACTED] and restricted the movement of Mr. [REDACTED]—a member of the local press—without justification during a protest gathering at the Christopher Columbus statue formerly located in Grant Park. COPA additionally alleges Officer Pozulp failed to activate his Body Worn Camera during the encounter. In his interview with COPA, Mr. [REDACTED] stated that as he was leaving the protest event for the evening, he walked across S. Columbus Drive and passed Officer Pozulp who, he stated, uttered a partially inaudible statement that included the word "fuck." Mr. [REDACTED] alleged that as the interaction continued, the officer physically pushed him down the sidewalk, using his baton to do so. He also stated threatening words to the effect of, "You're going to need help," and forced him—a member of the press—to leave the area without justification.²

In addition to Mr. [REDACTED] interview, COPA's investigation included the interview of Officer Pozulp, as well review and analysis of documents related to the incident, including CPD

² Attachment 1.

Attendance & Assignment records,³ Office of Emergency Management & Communications Event Query Reports,⁴ Arrest Reports,⁵ Original Case Incident Reports and Supplemental Reports stemming from the Columbus Statue protest⁶, Mr. █████ CPD-issued press credentials, relevant provisions of the City of Chicago Municipal Code, and Officer Pozulp's disciplinary and complimentary histories.⁷ COPA also reviewed and analyzed video evidence, including cell phone videos taken by Mr. █████⁸ and Ms. █████⁹, a bystander to the incident. Finally, COPA reviewed Officer Pozulp's Body Worn Camera (BWC) footage,¹⁰ as well as the BWC videos of numerous other officers in the area.

Based upon the facts and evidence reviewed in this case, COPA has determined that on July 17, 2020, at approximately 8:30 P.M., Officer Kerry Pozulp was located in the vicinity of 1100 S. Columbus Drive. He was on foot, patrolling the perimeter of a provisional operations site that the Chicago Police Department (CPD) and Chicago Fire Department (CFD) set up to treat police officers injured during the protest, and to store confiscated bicycles and other objects used as weapons during the unrest in the park. The approximately half-block section of South Columbus Drive contained more than twenty emergency vehicles with flashing lights, including two police SUVs parked on South Columbus Drive near East Roosevelt Road, positioned perpendicular to traffic lanes, blocking off the area to vehicular and pedestrian traffic. Numerous ambulances and squadrols were also present. The area contained dozens of police personnel and no observed civilian traffic. There was a large pile of bicycles confiscated during the conflict, as well as a long row of parked police bicycles.

Video from the incident shows many of the officers in the area had removed their protective equipment, including helmets and tactical vests, and multiple officers wore medical bandages. Officers utilized a partially opened fire hydrant to wash away pepper spray from their faces. During the protest, just prior to this incident, long rows of police officers had been posted on the walking path leading into the area for purposes of removing arrestees and injured persons from the site of the physical conflict. At the time in question, Mr. █████ a member of the local press who had covered the events that evening, walked out of the park. He headed toward his bicycle, located several hundred feet north on Columbus Drive, preparing to depart the scene. Officer Pozulp told COPA that a sergeant instructed him to keep the area clear of civilians.

Mr. █████ and Officer Pozulp encountered each other near the middle of South Columbus Drive, with Mr. █████ traveling westbound across the street toward the CPD and CFD provisional site. Mr. █████ and Officer Pozulp briefly argued about Mr. █████ transit through the area, with Mr. █████ stating he was only attempting to leave, and Officer Pozulp stating he could not walk through the provisional CPD/CFD site. Mr. █████ notified the officer he was a member of the press and Officer Pozulp instructed Mr. █████ to leave the site, directing him to walk around. The argument continued as the two walked southbound on the eastern sidewalk of South Columbus

³ Attachment 11.

⁴ Attachment 12.

⁵ Attachment 13.

⁶ Attachment 14.

⁷ Attachment 6.

⁸ Attachment 3.

⁹ Attachment 4.

¹⁰ Attachment 5.

Drive, with Officer Pozulp—baton in hand—guiding and pushing Mr. █████ down the sidewalk. Mr. █████ began walking backward, retreating, while Officer Pozulp used his baton to prod Mr. █████ forward.

As Officer Pozulp followed Mr. █████ down the sidewalk, Mr. █████ began recording the interaction on his cell phone. He called out for help to other officers in the vicinity, to which Officer Pozulp replied words to the effect of, “You’re going to need help. I’m about to lock you up.” Mr. █████ responded, “I’m going, I’m going,” and the two men parted ways. In his interview with COPA, Officer Pozulp stated that the site where the encounter began was a secure area set up by CPD and CFD to treat injured officers, many of whom had removed tactical vests and helmets during treatment. Mr. █████ confirmed to COPA that police had blocked off South Columbus Drive, and he witnessed other pedestrians being turned away from the area.

IV. ANALYSIS AND CONCLUSION

a. Allegation 1 – Misuse of An Impact Weapon

Video evidence captures Officer Pozulp with baton in hand as he is directing Mr. █████ from the restricted area. As Mr. █████ retreats, bystander cell phone video shows Officer Pozulp pushing Mr. █████ with both arms, including making brief contact with Mr. █████ person with the baton held in his left hand. Officer Pozulp then continues to chase Mr. █████ down the sidewalk with baton in hand. Throughout all the video evidence on record, Mr. █████ appears to be a cooperative subject who is compliant with Officer Pozulp’s verbal directions. Although Mr. █████ voices his disagreement with Officer Pozulp’s right to redirect him, he simultaneously follows the officer’s commands and begins to walk away from the secure area. Chicago Police Department General Order G03-02-01(IV)(A)¹¹ authorizes officers to use only *police presence* and *verbal response* when dealing with a cooperative subject. The order explicitly states, “Police presence alone is the only force option authorized for use with subjects who are fully cooperative.” Therefore, Officer Pozulp was prohibited from pushing Mr. █████ with his baton. Doing so violated the General Order as well as Rule 6 – Disobedience of an order or directive, whether written or oral. Based upon the foregoing, Allegation 1 is **Sustained**.

b. Allegation 2 – Use of Profanity

COPA uncovered no evidence to corroborate Mr. █████ assertion that Officer Pozulp made a partially inaudible statement toward him that included use of the word, “fuck.” In his interview with COPA, Officer Pozulp denied using the word during his interaction with Mr. █████ COPA uncovered no independent evidence—whether video footage or witness testimony—to confirm this allegation. COPA also has no evidence to establish that either Mr. █████ or Officer Pozulp lack credibility. As such, there is insufficient evidence to prove or disprove this allegation. COPA therefore concludes that Allegation 2 is **Not Sustained**.

¹¹ General Order G03-02-01 Force Options

c. Allegation 3 – Use of Threatening Language

Officer Pozulp's statement to Mr. [REDACTED] captured on cell phone video, "You're going to need help," is immediately followed with another statement from Officer Pozulp, "I'm about to lock you up." This indicates Mr. [REDACTED] may have been subject to police detention and/or legal consequences for traversing the restricted area. Indeed, Mr. [REDACTED] entrance into the secure area may lawfully have subjected him to such consequences, had he not followed Officer Pozulp's instructions to turn around. Although Officer Pozulp's statement to Mr. [REDACTED] was potentially intimidating and not the most appropriate word choice given the tensions that had arisen between the police and the protesters, it did not violate CPD policy. Therefore, COPA concludes Allegation 3 is **Exonerated**.

d. Allegation 4 – Restricting The Movement of A Member of The Press

Mr. [REDACTED] cell phone video, bystander cell phone video, and Officer Pozulp's body worn camera video show the area where the encounter occurred was a provisional CPD and CFD operations site containing numerous police vehicles, CFD vehicles, at least one ambulance, and dozens of officers on foot. The police are routinely required to establish secure provisional operations sites for purposes of coordinating police activities, treating injured persons, and securing evidence, and they are justified in doing so. In this case, the police had established a secure area on South Columbus Drive, near the primary protest site, for the treatment of police officers and other police functions. Mr. [REDACTED] traveled on foot through that area as he proceeded away from the protest site. In his interview with COPA, Mr. [REDACTED] pointed to his status as an active member of the press, and the fact that he declared his press credentials to Officer Pozulp, as evidence the officer erred in directing Mr. [REDACTED] out of the restricted area.

Chicago Municipal Code Section 4-328-020, "Issuance of New Media Credentials," states in relevant part, "The superintendent of police has power to issue news media credentials making the holder, upon properly displaying such credential prominently and in plain view on their person, eligible to gain access to areas reserved for the news media for the purpose of gathering and editing spot news or photographing news events in Chicago." The plain language of the Code makes clear that mere possession of CPD-issued news media credentials does not authorize a member of the press to roam unrestricted through CPD operations sites; instead, the Code only authorizes such members to gain access to "areas reserved for the news media." Further, the Code makes clear that even access to areas reserved for press is not guaranteed by possession of the press credential, but only that possession makes the member "eligible" to gain such access.

Mr. [REDACTED] told COPA that when he encountered Officer Pozulp, he had already decided to end his coverage of the protest and was leaving the area. Mr. [REDACTED] also stated he personally observed police officers turning other pedestrians away from the same area Officer Pozulp prohibited him from traversing. Moreover, Mr. [REDACTED] acknowledged that CPD set up a media area in another location, and that he had been directed to that location prior to the incident. Had Mr. [REDACTED] been restricted from engaging in journalistic activities within a reserved news media area, such restriction may well constitute misconduct; however, that is not what occurred in this case. Here, Mr. [REDACTED] was no longer engaged in journalistic duties nor located in a reserved news media area, but instead traversed a provisional CPD/CFD operations site closed off to pedestrians. Thus,

the record demonstrates Officer Pozulp was justified in restricting Mr. ██████ movement from the secure area by verbally directing him to leave the secure area and instructing him to walk around. Based upon the foregoing, Allegation 4 is **Exonerated**.

e. Allegation 5 – Failure to activate Body Worn Camera

During Officer Pozulp’s interview, he indicated that he terminated his body worn camera when he left the primary protest site, prior to his interaction with Mr. ██████ Officer Pozulp confirmed to COPA that although he had a duty to record the interaction, he failed to reactivate his body worn camera upon initiation of that law enforcement activity. With only a few, enumerated exceptions, none of which are applicable in this case, Special Order S03-14 requires Department members to record all law-enforcement-related activities involving members of the public. Thus, Officer Pozulp’s failure to do so in this instance was a violation of the Special Order as well as Rule 5 of the Rules and Regulations of the Chicago Police Department – Failure to perform any duty – and Rule 6 – Disobedience of an order or directive, whether written or oral. Based upon the foregoing, Allegation 5 is **Sustained**.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Disciplinary Recommendation

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Pozulp’s Complimentary and Disciplinary histories. Officer Pozulp has no sustained complaint history; he has received numerous awards. Further, COPA acknowledges that the circumstances of that day were extremely volatile and stressful for the officers involved. Tensions and emotions were certainly high. However, this particular encounter occurred in the aftermath of those events.

COPA found that Officer Kerry Pozulp failed to comply with General Order G03-02-01 when he pushed ██████ ██████ with a baton, violating Rule 6 of the Rules and Regulations of the Chicago Police Department. This violation is contrary to the City of Chicago’s interest in fair policing and uses of force by Police Officers that are necessary and proportional to the threat, actions, and level of resistance offered by a subject. COPA also found that Officer Kerry Pozulp failed to comply with Special Order S03-14 when he failed to activate his Body Worn Camera upon initiation of contact with Mr. ██████ violating Rules 5 and 6 of the Rules and Regulations of the Chicago Police Department. This violation is contrary to the City of Chicago’s interest in recording police officers’ encounters with members of the public, so as to ensure official misconduct is not hidden from scrutiny behind lapses of unrecorded time.

Considering both aggravating and mitigating factors, COPA recommends a 15-day suspension.

Approved:

████████████████████

May 3, 2021

Andrea Kersten
Chief of Investigative Operations

Date

Appendix A

Assigned Investigative Staff

Squad#:	Six
Investigator:	Daniel Thetford
Supervising Investigator:	Steffany Hreno
Chief of Investigative Operations:	Andrea Kersten