

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	November 28, 2019
Time of Incident:	3:58 pm
Location of Incident:	802 E. 79 <sup>th</sup> Street Chicago, IL
Date of COPA Notification:	November 29, 2019
Time of COPA Notification:	5:45 am

On November 28, 2019, Officer Lawrence Kerr (“Officer Kerr”) and Officer Jerald Williams (“Officer J. Williams”) of the Chicago Police Department (“Department”) were on patrol near the intersection of 79<sup>th</sup> and Cottage Grove Ave. The officers observed [REDACTED] (“[REDACTED]”) drinking what they believed to be alcohol while sitting at the bus stop near 802 E. 79<sup>th</sup> Street, which is at the corner of 79<sup>th</sup> Street and Cottage Grove Avenue. Officer J. Williams placed [REDACTED] against their car while Officer Kerr attempted to determine [REDACTED]’s identity to issue a citation for Drinking on the Public Way. While against the car, [REDACTED] licked and spit on Officer J. Williams. Officer J. Williams then lifted [REDACTED] off the ground, slammed his body to the ground, causing [REDACTED] to hit his head on the curb and lay motionless on the street. Officer Kerr called for police assistance as well as for an ambulance.

Field Training Officer Mark Johnson (“FTO Johnson”) and Probationary Police Officer Timothy Mason (“PPO Mason”) arrived seconds later. They pulled [REDACTED] off of the curb and handcuffed [REDACTED], who still appeared motionless, with his hands behind his back. FTO Johnson picked [REDACTED] up by his arms and the rear of his pants and carried him to their squad car. FTO Johnson and PPO Mason placed [REDACTED] inside their squad car, with the assistance of additional officers, including Officer Ariel Williams (“Officer A. Williams”) and Officer Colin O’Connell (“Officer O’Connell”). After being placed in the squad car, [REDACTED] became responsive. Officer J. Williams was taken to the University of Chicago Hospital, while FTO Johnson and PPO Mason transported [REDACTED] to University of Chicago Hospital in their squad car.

COPA issued numerous **SUSTAINED** finding against several department members the most serious of which included, excessive force, lack of candor and truthfulness, the failure to seek medical treatment and lack of respect for the sanctity of human life.

**II. INVOLVED PARTIES**

Involved Officer #1:	Jerald Williams, Star No. 3317, Employee ID No. [REDACTED], Date of Appointment: August 26, 2013, PO, Unit of Assignment: 002 / 376, DOB: [REDACTED], 1987, Male, Black
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Involved Officer #2: Lawrence Kerr, Star No. 4871, Employee ID No. [REDACTED], Date of Appointment: March 25, 2002, PO, Unit of Assignment: 312, DOB: [REDACTED], 1978, Male, White

Involved Officer #3: Mark Johnson, Star No. 8781, Employee ID No. [REDACTED], Date of Appointment: September 24, 2007, PO (FTO), Unit of Assignment: 006 / 376, DOB: [REDACTED], 1972, Male, Black

Involved Officer #4: Timothy Mason, Star No. 15802, Employee ID No. [REDACTED], Date of Appointment: December 27, 2018, PO (PPO), Unit of Assignment: 044 / 006, DOB: [REDACTED], 1997, Male, Black

Individual Officer #5: Ariel Williams, Star No. 6885, Employee ID No. [REDACTED], Date of Appointment: April 16, 2018, PO, Unit of Assignment: 006, DOB: [REDACTED], 1994, Female, Black

Individual Officer #6: Colin O’Connell, Star No. 8352, Employee ID No. [REDACTED], Date of Appointment: August 29, 2016, PO, Unit of Assignment: 006 / 714, DOB: [REDACTED], 1990, Male, White

Individual Officer #7: Lauren Holt, Star No. 18899, Employee ID No. [REDACTED], Date of Appointment: February 20, 2018, PO, Unit of Assignment: 006 / 714, DOB: [REDACTED], 1994, Female, Black

Individual Officer #8: Pierre Williams, Star No. 7632, Employee ID No. [REDACTED], Date of Appointment: August 16, 2017, PO, Unit of Assignment 006, DOB: [REDACTED], 1996, Male, Black

Individual Sergeant #1: Alma Price, Star No. 2257, Employee ID No. [REDACTED], Date of Appointment: June 21, 1999, Sgt., Unit of Assignment: 006, DOB: [REDACTED], 1970, Female, Black

Involved Individual #1: [REDACTED], DOB: [REDACTED], 1990, Male, Black

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III. ALLEGATIONS

Officer	Allegation	Finding
Officer Jerald Williams	<p>It is alleged by COPA by and through Deputy Chief Angela Hearts-Glass, that on or about November 28, 2019 at approximately 3:58 pm at or near 802 E. 79th Street, Officer Jerald Williams, star #3317 committed misconduct through the following acts or omissions of Department policy by:</p> <ol style="list-style-type: none"> <li>1. Using excessive force in taking ██████ ██████ to the ground, without justification;</li> <li>2. Using deadly force in taking ██████ ██████ to the ground, without justification;</li> <li>3. Failing to timely request medical assistance for ██████ ██████;</li> <li>4. Failing to act in a manner consistent with the Department’s policy of the sanctity of life by failing to show concern for ██████’s condition;</li> <li>5. Making one or more false, misleading, inaccurate, and / or incomplete statements in your original case incident report including responding “yes” to answer the question if “CPD First Aid Given?”;</li> <li>6. Striking ██████ on or about the head while he was on the ground, without justification.</li> </ol>	<p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
Officer Lawrence Kerr	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Lawrence Kerr, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Being inattentive to duty by failing to assist Officer Williams while ██████ was actively resisting;</li> </ol>	<p>Not Sustained</p>

	<p>2. Failing to timely request medical assistance for [REDACTED];</p> <p>3. Failing to act in a manner consistent with the Department’s policy on the sanctity of life by failing to show concern for [REDACTED]’s condition;</p> <p>4. Directing words to the effect of “He ain’t dead. Get the fuck out of here and mind your business,” to a civilian bystander in the vicinity of 756 E. 79th Street.</p>	<p>Unfounded</p> <p>Not Sustained</p> <p>Sustained</p>
<p>FTO Mark Johnson</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Mark Johnson, committed misconduct through the following acts or omissions in violation of Department policy:</p> <p>1. Behaving in an unprofessional manner in view of the public by verbally making light of [REDACTED]’s condition;</p> <p>2. Failing to timely request medical assistance for [REDACTED];</p> <p>3. Failing to treat [REDACTED] with dignity and respect by dragging and/or carrying Mr. [REDACTED] while unconscious, without justification;</p> <p>4. Failing to timely activate your body worn camera;</p> <p>5. Deactivating your body worn camera prematurely;</p> <p>6. Failing to secure [REDACTED] during transport;</p> <p>7. Handcuffing [REDACTED] while he was unconscious in violation of General Order G06-01-02(V)(A);</p> <p>8. Failing to act in a manner consistent with the Department’s policy on the sanctity of life</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

	<p>by failing to show concern for ██████████'s condition;</p> <p>9. Making one or more false, misleading, incomplete, and/or inaccurate statements in your supplementary report in stating that ██████████ was alert and/or responsive upon your arrival to the scene;</p> <p>10. Making one or more false, misleading, incomplete, and/or inaccurate statements in your supplementary report in that it omits that ██████████ lost consciousness;</p> <p>11. Providing false, misleading, incomplete, and/or inaccurate statements in your supplementary report including a statement of words to the effect of "The offender who was at the feet of the LEMART trained R/O's was alert."</p> <p>12. Providing false, misleading, incomplete, and/or inaccurate statements in your supplementary report including your statement of words to the effect of "the offender refused to respond and or answer the directives and requests to stand made by R/O's."</p> <p>13. Providing false, misleading, incomplete, and/or inaccurate statements in your supplementary report including your statement to the effect that "[a]fter repeatedly admonishing the alert offender to stand, R/O's placed the offender who was ... feigning unconsciousness into restraints."</p> <p>14. Failing to properly search ██████████.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
PPO Timothy Mason	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Timothy Mason, committed misconduct through the following acts or omissions in violation of Department policy:</p> <p>1. Failing to timely request medical assistance for ██████████;</p>	<p>Exonerated</p>

	<p>2. Failing to act in a manner consistent with the Department’s policy on the sanctity of life by failing to show concern for ██████’s condition;</p> <p>3. Failing to treat ██████ with dignity and respect by moving Mr. ██████ while unconscious, without justification;</p> <p>4. Failing to secure ██████ ██████ during transport.</p> <p>5. Handcuffing ██████ ██████ while he was unconscious in violation of General Order G06-01-02(V)(A);</p> <p>6. Making one or more false, misleading, incomplete, and/or inaccurate statements in your supplementary report in stating that ██████ ██████ was alert and/or responsive upon your arrival to the scene;</p> <p>7. Making one or more false, misleading, incomplete, and/or inaccurate statements in your supplementary report in that it omits that ██████ ██████ lost consciousness;</p> <p>8. Providing false, misleading, incomplete, and/or inaccurate statements in your supplementary report including your statement to the effect that “[o]ffender who at the feet of the LEMART trained R/O’s was alert.”</p> <p>9. Providing false, misleading, incomplete, and/or inaccurate statements in your supplementary report including a statement to the effect that “[a]fter repeatedly admonishing the alert offender to stand, R/O’s placed the offender who was . . . feigning unconsciousness into restraints.”</p> <p>10. Failing to properly search ██████ ██████.</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
<p>Officer Ariel Williams</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58</p>	

	<p>p.m., you, Officer Ariel Williams, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Failing to treat [REDACTED] [REDACTED] with dignity and respect by moving Mr. [REDACTED] while unconscious, without justification;</li> <li>2. Failing to act in a manner consistent with the Department’s policy on the sanctity of life by failing to show concern for [REDACTED] [REDACTED]’s condition.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p>
<p>Officer Colin O’Connell</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Colin O’Connell, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Failing to treat [REDACTED] with dignity and respect by moving Mr. [REDACTED] while unconscious, without justification;</li> <li>2. Failing to act in a manner consistent with the Department’s policy on the sanctity of life by failing to show concern for [REDACTED]’s condition.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p>
<p>Officer Lauren Holt</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Lauren Holt, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Directing words to the effect of, “Say it louder. What the fuck is you talking about?” to a civilian bystander.</li> <li>2. Directing words to the effect of, “You sound stupid. Clown.” to a civilian bystander.</li> <li>3. Deactivating your body worn camera prematurely.</li> </ol>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

<p>Officer Pierre Williams</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Officer Pierre Williams, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Directing words to the effect of, “You’re a coon” to a civilian bystander;</li> <li>2. Failing to timely activate your body worn camera.</li> </ol>	<p>Sustained</p> <p>Sustained</p>
<p>Sergeant Alma Price</p>	<p>It is alleged that on November 28, 2019, in the vicinity of 802 E. 79th Street, at or about 3:58 p.m., you, Sergeant Alma Price, committed misconduct through the following acts or omissions in violation of Department policy:</p> <ol style="list-style-type: none"> <li>1. Failing to timely activate your body worn camera;</li> <li>2. Failing to ensure subordinate officers sought appropriate medical attention for [REDACTED];</li> <li>3. Failing to act in a manner consistent with the Department’s policy on the sanctity of life by failing to show concern for [REDACTED]’s condition.</li> </ol>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

**IV. 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 5: Failure to perform any duty.
4. Rule 6: Disobedience of an order or directive, whether written or oral.
5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

6. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
7. Rule 10: Inattention to duty.
8. Rule 14: Making a false report, written or oral.

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#### General Orders

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1. G03-02 Use of Force (effective October 16, 2017 – February 28, 2020)
  2. G03-02-01 Force Options (effective October 16, 2017 – February 28, 2020)
  3. G06-01-02 Restraining Arrestees (effective December 8, 2017)
  4. G04-01 Preliminary Investigations (effective October 15, 2017)
  5. G02-01 Human Rights and Human Resources (effective October 5, 2017)
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#### Special Orders and Other Directives

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1. S03-14 Body Worn Cameras (effective April 30, 2018)
  2. U02-01-03 Vehicles Equipped with Protective Dividers (effective June 26, 2019)
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#### Federal Laws

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1. U.S. Constitution, Amendment IV.
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#### State Laws

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1. 50 ILCS 706/10-20(a)(3) Law Enforcement Officer-Worn Body Camera Act
  2. 720 ILCS 5/12-1(a) Assault
  3. 720 ILCS 5/12-3(a) Battery
  4. 720 ILCS 5/3.05(d) Aggravated Battery
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## V. INVESTIGATION<sup>1</sup>

### a. Interviews

██████████ (██████████)<sup>2</sup> was interviewed by COPA in the lock-up area at the 6<sup>th</sup> District Station on November 29, 2019. The following is a summary of his statement.

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis. COPA investigators conducted multiple canvasses (see Atts. 22-24) of businesses in close proximity to the scene of the incident. Specifically, COPA investigators interviewed available business owners and employees about the incident and requested any CCTV camera footage they had that could have captured the incident. Information obtained by COPA investigators while canvassing that is not otherwise included herein, was not material to the investigation. (See Att. 48)

<sup>2</sup> Att. 2.

█████, his cousin, and other associates were drinking vodka while sitting at a bus stop at the location of the occurrence. Two officers, whom █████ described as white males in vests, pulled up in an unmarked car. The officers exited the car and told █████ to “drop the motherfucking cup.”<sup>3</sup> █████ acknowledged that he did not comply with the officer’s request to drop the cup. When an officer tried to grab █████ by his arm, █████ resisted by snatching his arm away, at which point the officer slammed █████ to the ground. █████ stated that he did not remember much about the incident after being slammed to the ground. █████ admitted to being intoxicated during the incident. He denied that he spit on or licked Officer J. Williams. According to █████, two Black females, whom he identified as “█████” and “█████,” recorded the incident with their cellular phones.

As a result of the incident, █████ reported that he had pain to the right side of his head, near his temple, as well as some soreness in his upper body. █████ is prescribed █████ and █████ to treat his █████ but stated that the day of the incident he had not taken his medication for three days so that he could drink alcohol.

**Officer Jerald Williams** (Officer J. Williams)<sup>4</sup> was interviewed at COPA offices on February 21, 2020. The following is a summary of his statement.

Prior to providing a statement, Officer J. Williams acknowledged he reviewed videos of the incident posted by COPA on its website. Officer J. Williams also reviewed the reports he authored with respect to the incident including a case report, an arrest report and a Tactical Response Report. On November 28, 2019, Officer J. Williams was assigned to the Gang Enforcement Unit and was patrolling the area near the scene with Officer Kerr. At approximately 4:00 pm, they were traveling westbound on 79<sup>th</sup> street in an unmarked police car. Officer Kerr was driving, and Officer J. Williams was in the passenger seat. As they approached the intersection of 79<sup>th</sup> and Cottage Grove, Officer J. Williams observed █████ standing within a bus shelter located at the northeast corner of the intersection. Officer J. Williams saw █████ drinking out of what appeared to be a vodka bottle. Officer J. Williams stated that when █████ saw him, █████ put the bottle down. Officer Kerr then angled their car toward the curb near █████. Officer J. Williams rolled down the passenger-side window and told █████ that he could not drink on a public way. █████ responded in a combative manner, so Officer J. Williams exited the car and approached █████. █████ continued to swear at Officer J. Williams. Officer J. Williams then walked █████ to the side of the police car. █████ was positioned facing toward the car and Officer J. Williams was behind him.

At the police car, Officer J. Williams attempted to de-escalate the situation by telling █████ that he was just receiving an ordinance violation and reminding him that it was Thanksgiving Day. Based on how much liquor was missing in the bottle, █████’s irate manner, and the smell of alcohol on █████, Officer J. Williams believed █████ to be intoxicated and belligerent. While Officer J. Williams was with █████ at the side of the car, Officer Kerr went into the car to attempt to identify █████ using CLEAR. Officer J. Williams did not recall what information about █████ was used to run the search.

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<sup>3</sup> Att. 2, at 7:15.

<sup>4</sup> See Att. 301 (Audio) and Att. 303 (Transcript).

While [REDACTED] was standing at the car, [REDACTED] swore at Officer J. Williams and attempted to lick Officer J. Williams's face. Officer J. Williams then told [REDACTED] that he was now under arrest and that he was not free to leave. Although [REDACTED] was under arrest, Officer J. Williams explained that he did not put handcuffs on [REDACTED] because he did not want to start a fight at the scene.

When Officer J. Williams told [REDACTED] that he was under arrest, Officer Kerr was in the car. Officer Kerr then momentarily stepped out of the car to grab [REDACTED]'s liquor bottle to document it on the citation. After Officer J. Williams told [REDACTED] that he was under arrest, Officer J. Williams stated that [REDACTED] licked him on his left cheek. Officer J. Williams then told [REDACTED] that he was "going in"<sup>5</sup> because [REDACTED] licked his face, was belligerent and could not be identified. Officer J. Williams stated that after the lick, he did not change how he was holding [REDACTED] but did increase his awareness. Officer Kerr asked Officer J. Williams, "Did he [REDACTED] lick you?"<sup>6</sup> In response, Officer J. Williams told Officer Kerr to, "Just go back in the car and write the citation."<sup>7</sup> Officer Kerr complied and returned to the car. Officer J. Williams told Officer Kerr to go back into the car because Officer J. Williams believed that he had the situation under control and required no assistance.

Officer J. Williams stated that he exerted physical control over [REDACTED] by pulling [REDACTED] back when [REDACTED] reached for his liquor bottle. [REDACTED] threatened Officer J. Williams, stating, "Take that fucking badge off. I'm going to fuck you up."<sup>8</sup> [REDACTED] then looked at Officer Kerr through the open passenger-side window of the car and stated to Officer Kerr, "I'm going to spit on you."<sup>9</sup> [REDACTED] then gathered up his saliva and turned his head and spat on Officer J. Williams. The spit hit Officer J. Williams in the left eye and then fell into his mouth. Officer J. Williams explained that when [REDACTED] spat on him, he could not see because he wears contacts and the spit was in his eye. Officer J. Williams felt attacked when [REDACTED] threatened him and then spit on him, and that [REDACTED] represented an imminent threat. Officer J. Williams also believed that [REDACTED] had the ability to cause him great bodily harm. Officer J. Williams could not see, but he could feel [REDACTED] resisting and moving toward him and Officer J. Williams felt like he was going to be attacked. In response, Officer J. Williams used what he believed to be the least amount of force and performed a takedown on [REDACTED].

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<sup>5</sup> Att. 303, 34:10 (references to transcripts are in the format of [page]:[line]).

<sup>6</sup> Att. 303, 38:3.

<sup>7</sup> Att. 303, 38:10-11.

<sup>8</sup> Att. 303, 41:10-11.

<sup>9</sup> Att. 303, 41:14.



*Officer J. Williams lifting █████ up and slamming him into the ground during takedown █████ (Att. 20, Facebook Video).*

To perform the takedown, Officer J. Williams locked his arms, grabbed █████, and pivoted down to the ground. At the time of the incident, Officer J. Williams believed that █████ hit the pavement. After reviewing video of the incident, Officer J. Williams saw that █████ left the ground during the takedown and that he had lifted █████ up before pivoting down. Officer J. Williams learned to do the takedown through his wrestling experience and did not recall it being taught at CPD Academy. He explained that the takedowns he was taught at the Academy were ineffective due to his height. Officer J. Williams stated that during the Academy, he performed the takedown he used on █████ and none of the instructors told him that it was prohibited.

Officer J. Williams also stated that the takedown he used with █████ was not deadly force because it was a wrestling technique and killing is not the purpose of wrestling. He further stated █████ was an assailant and that a takedown is one of the lowest levels of force that can be used against an assailant.

Immediately after the takedown, Officer J. Williams noticed █████'s demeanor changed, which he attributed to █████'s extreme impairment. █████ was lying on the ground with his body against the curb and his head on top of the curb. While on scene, Officer J. Williams did not know that █████'s head hit the curb. Officer J. Williams explained that it was not his intention for █████'s head to hit the curb, and his head doing so was incidental. He also stated that due to the spit in his eye, he did not know where the curb was. Officer J. Williams learned that █████ hit his head later that evening after hearing from CPD News Affairs.

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Officer Kerr standing over a motionless [REDACTED] with Officer J. Williams standing nearby (Att. 54, (PPO Mason's BWC)).

Officer Kerr called EMS, and then stood over [REDACTED] and tapped him. Officer J. Williams saw [REDACTED] open his eye and then close it again. Other officers arrived on scene and Officer J. Williams observed them place [REDACTED] in a squad car. [REDACTED] looked like “dead weight”<sup>10</sup> when he was being carried into the car by the responding officers, and because of that, he was concerned for [REDACTED]'s safety.

When the EMT arrived at the scene, paramedics poured saline in Officer J. Williams's eyes. Officer J. Williams then told the EMT that [REDACTED] needed to go to the hospital and be “detoxed”<sup>11</sup> because he was highly intoxicated. First aid was provided to [REDACTED] by CPD because four officers made a visual assessment of his condition, the scene was secured, EMS was called to the scene, and [REDACTED] was transported to the hospital, even though [REDACTED] refused medical attention.

Officer J. Williams was transported to University of Chicago Hospital in an ambulance. Officer J. Williams stated that he was injured when spat upon by [REDACTED] because the spit got into his eye and mouth. At the hospital, Officer J. Williams was not diagnosed with any injury. A week after the incident, Officer J. Williams visited his personal physician who also did not diagnose any injury. Officer J. Williams also had his personal physician draw his blood after the incident.

Officer J. Williams left the hospital without any treatment and went to the 6<sup>th</sup> District station to complete the paperwork (as mentioned above) on the case. One of the reports he drafted was the original case incident report. Officer J. Williams stated that in the report he indicated that CPD provided first aid to [REDACTED] for the reasons he mentioned earlier in the statement. Officer J. Williams also stated that the box provided in the report with respect to first aid was inadequate because it only allows for a yes or no answer and did not provide space for him to elaborate.

<sup>10</sup> Att. 303, 83:13.

<sup>11</sup> Att. 303, 79:8.

Officer J. Williams recalled while ██████ was at the side of the police car, ██████ was holding a cell phone and believed that at some point ██████ placed a call. Officer J. Williams stated that he did not make any effort to take the phone from ██████ because Officer J. Williams believed that he would just be issuing ██████ a citation and that ██████ then would be on his way.

**Officer Lawrence Kerr** (Officer Kerr)<sup>12</sup> was interviewed by COPA for the first time on February 19, 2020. Prior to providing a statement, Officer Kerr acknowledged that he reviewed videos of the incident posted on COPA's website.

The day of the incident, Officer Kerr was on duty in gang enforcement unit and partnered with Officer J. Williams. Officer Kerr was driving a white, unmarked car and Officer J. Williams was in the passenger seat. As they were driving westbound on 79<sup>th</sup> Street, the officers noticed ██████ drinking a bottle of alcohol at a bus stop. Officer Kerr and Officer J. Williams exited their car and approached the bus stop. Officer Kerr estimated that there were five or six civilians at the bus stop at that time. Officer Kerr could not recall what ██████ was wearing but stated that "everybody had coats on,"<sup>13</sup> because it was chilly outside. Officer Kerr recalled that ██████ was standing while he was drinking and talking on a cell phone.

Officer Kerr stated that when they approached ██████, he or Officer J. Williams took the bottle from ██████ and Officer Kerr placed it on the street. Officer Kerr recalled that Officer J. Williams held ██████ by the belt area and moved ██████ against their car so that the officers could run ██████'s information. ██████ appeared to Officer Kerr to be very intoxicated. Officer Kerr could tell ██████ was intoxicated because ██████ smelled strongly of alcohol and was behaving in a belligerent manner.

Officer Kerr stated that Officer J. Williams, who was positioned behind ██████, was doing most of the talking, while Officer Kerr was positioned to ██████'s left. At the time Officer J. Williams had ██████ against the car, Officer Kerr believed that Officer J. Williams had ██████ under control and it did not appear to him that Officer J. Williams needed assistance. During this time, ██████ still had a phone near his ear. Officer Kerr did not recall attempting to take the phone from ██████ and did not know if Officer J. Williams attempted to take the phone. Officer Kerr said he did not assist in holding ██████ because he knew his partner could handle himself and because ██████ was not being combative.

Officer Kerr recalled that as ██████ was being held by the car, ██████ first attempted to lick Officer J. Williams's cheek and then successfully licked Officer J. Williams's cheek. Officer J. Williams told Officer Kerr, "I got this, just go ahead and run his name so we can write him the ticket and get him out of here."<sup>14</sup> Officer Kerr stated that licking Officer J. Williams was a battery making ██████ an assailant under the directives. Officer Kerr thought the lick was "a little goofy,"<sup>15</sup> but neither he nor Officer J. Williams felt there was a reason to cuff ██████ at that point.

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<sup>12</sup> See Att. 296 (Audio) and Att. 299 (Transcript).

<sup>13</sup> Att. 299, 15:7.

<sup>14</sup> Att. 299, 20:5-7.

<sup>15</sup> Att. 299, 24:1-2.

Officer Kerr stated that he could not recall if he obtained identification from [REDACTED] but remembers being in the police car and running [REDACTED]'s name. Officer Kerr stated that he could see [REDACTED] and Officer J. Williams from inside the car because most of their bodies were positioned toward the front door of the car. He also stated that the passenger-side window of the car was down and that he could hear what was going on.

Officer Kerr exited the car to retrieve the alcohol bottle obtained from [REDACTED] to complete the citation. When he re-entered the car to record the information from the bottle, he heard [REDACTED] say, "I'm going to spit on you,"<sup>16</sup> as [REDACTED] looked at Officer Kerr. [REDACTED] then turned around and Officer Kerr heard a noise, saw spit fly, and saw Officer J. Williams's head move backward. Officer Kerr then saw that [REDACTED] "go off the ground"<sup>17</sup> and [REDACTED] and Officer J. Williams went down to the ground.

**Officer Kerr** was interviewed at COPA offices a second time<sup>18</sup> on May 28, 2020.<sup>19</sup> In his statement, Officer Kerr clarified that while in the police car, immediately before the takedown of [REDACTED], he could see [REDACTED]'s upper body and Officer J. Williams's right arm and head. After seeing [REDACTED] spit in Officer J. Williams's face and seeing both Officer J. Williams and [REDACTED] make motions, Officer Kerr exited the car and saw [REDACTED] on the ground and Officer J. Williams standing off to the side. Officer Kerr stated that he stood over [REDACTED] and tapped him on the back. Officer Kerr recalled that [REDACTED] looked at him and was "tracking"<sup>20</sup> with his right eye. Officer Kerr observed [REDACTED] breathing and did not observe any blood from [REDACTED]. Officer Kerr recalled immediately calling for a supervisor and an ambulance. Officer Kerr stated that he believed [REDACTED] to be conscious and that he stood over [REDACTED] in case [REDACTED] wanted to get up. Officer Kerr did not recall if he said anything to [REDACTED] at that time. Officer Kerr stated he told Officer J. Williams not to wipe the spit on his face and not to get it further in his eye.<sup>21</sup>

Officer Kerr stated that he called the ambulance for Officer J. Williams and for [REDACTED]. Officer Kerr called the ambulance for Officer J. Williams because he was concerned that [REDACTED] could have transferred something to Officer J. Williams when [REDACTED] spat upon him. Officer Kerr called the ambulance for [REDACTED] because he wanted to make sure [REDACTED] was "going to be okay"<sup>22</sup> because [REDACTED] was "on the ground."<sup>23</sup> Officer Kerr stated that he provided medical assistance to [REDACTED] by calling the ambulance. Officer Kerr stated that his behavior with respect to [REDACTED] was consistent with Department policy regarding sanctity of life because he immediately called for an ambulance. Officer Kerr also checked on [REDACTED], saw that there was no blood and observed [REDACTED] watching him.

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<sup>16</sup> Att. 299, 25:19.

<sup>17</sup> Att. 299, 25:24.

<sup>18</sup> A large part of the recording of the statement Officer Kerr provided in February was a corrupted file due to a malfunction with the recording device, necessitating a second interview of Officer Kerr.

<sup>19</sup> Att. 306 (Audio) and Att. 307 (Transcript).

<sup>20</sup> Att. 307, 31:12, 42:4 and 46:12-13.

<sup>21</sup> Att. 307, 25:3-5.

<sup>22</sup> Att. 307, 25:10.

<sup>23</sup> Att. 307, 25:15.

FTO Johnson and PPO Mason arrived on scene and Officer Kerr stated that FTO Johnson asked him if [REDACTED] was unconscious. Officer Kerr told him, “No. He spit in my partner’s eye and my partner took him down.”<sup>24</sup>

When the ambulance arrived, Officer Kerr told the EMT that [REDACTED] was injured because he might have been unconscious at some point.<sup>25</sup> Officer Kerr explained that while initially [REDACTED] seemed conscious while he was on the ground, when FTO Johnson carried [REDACTED] to his squad car, [REDACTED] appeared to be “dead weight”<sup>26</sup> which made Officer Kerr think that [REDACTED] may have been unconscious at some point.<sup>27</sup>

Officer Kerr acknowledged that he directed words to the effect of, “He ain’t dead. Get the fuck out of here. Mind your business,” to a civilian.<sup>28</sup> Officer Kerr explained that the scene was volatile and he had to use “strong language” to make sure that the people who were screaming at him behind his back were not going to come from behind him and contaminate the scene or attack him. Officer Kerr justified the statement by stating that he made it in the heat of the moment. He further stated, “when scenes get bad, you have to use strong language so that people know you’re serious and stay out.”<sup>29</sup>

**FTO Mark Johnson** (FTO Johnson)<sup>30</sup> was interviewed by COPA on January 22, 2020. The following is a summary of FTO Johnson’s statement. Prior to providing a statement, FTO Johnson acknowledged that he reviewed video of the incident recorded by his body worn camera as well as a portion of video of the incident recorded by the body worn camera of PPO Mason. FTO Johnson also reviewed the supplemental report he authored.

The day of the incident, FTO Johnson and PPO Mason were on duty and patrolling near the location of the incident. FTO Johnson explained that he and PPO Mason arrived at the scene of the incident in response to an officer’s call for assistance. Their marked squad car, the first responding members, arrived at the scene within seconds. FTO Johnson observed Officer J. Williams and Officer Kerr standing over [REDACTED]. [REDACTED] was lying on the ground with his head facing west and his legs facing east. FTO Johnson noted that there were less than a dozen bystanders around when he arrived.

FTO Johnson asked Officer J. Williams and Officer Kerr what happened. Officer Kerr replied that [REDACTED] spit on Officer J. Williams, who then took [REDACTED] down, giving no further details. FTO Johnson also recalled that Officer Kerr told FTO Johnson that [REDACTED] was conscious. FTO Johnson further stated that the crowd on the scene was becoming volatile and were coaching [REDACTED] to stay down. FTO Johnson felt uneasy and looked at [REDACTED], who FTO Johnson observed to be tracking him with his right eye. [REDACTED] did not speak to FTO Johnson while on the ground. FTO Johnson did not ask [REDACTED] if he was injured when [REDACTED] was lying on the street. FTO Johnson did not verbally provide any direction to [REDACTED] to stand.

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<sup>24</sup> Att. 307, 32:15-16.

<sup>25</sup> Att. 307, 41:11-19.

<sup>26</sup> Att. 307, 33:6.

<sup>27</sup> Att. 307, 42:7-9.

<sup>28</sup> Att. 307, 48:11-13.

<sup>29</sup> Att. 307, 52:10-12.

<sup>30</sup> See Att. 236 and Att. 237 (Audio) and Att. 263 (Transcript).

When the crowd began making disparaging comments about the officers, FTO Johnson decided to handcuff [REDACTED]. FTO Johnson held [REDACTED] and provided instruction to PPO Mason so that PPO Mason could handcuff [REDACTED]. FTO Johnson stated that while he and PPO Mason were attempting to handcuff [REDACTED], [REDACTED] tucked his left arm under his body. This indicated to FTO Johnson that [REDACTED] was conscious. FTO Johnson did not direct [REDACTED] during the handcuffing. FTO Johnson said that when he told PPO Mason, “[i]f he spits, he gets knocked out again,” he was using it as an admonishment to [REDACTED] as to what would happen if [REDACTED] were to spit.<sup>31</sup>

FTO Johnson stated that he assessed [REDACTED] to see if [REDACTED] was conscious by touching [REDACTED] and getting a feel for his muscle movements. FTO Johnson stated that he knew [REDACTED] was conscious because [REDACTED] purposely went extra limp when FTO Johnson tried to put [REDACTED] in his squad car. Additionally, FTO Johnson added that [REDACTED] readjusted his shoulders and tilted his head a little bit as he was getting him in the car.<sup>32</sup> Although FTO Johnson had no training with persons who had suffered head trauma, he believed that [REDACTED] was not unconscious because [REDACTED] had not evacuated his bowels or bladder. FTO Johnson also stated that in his experience, unconscious individuals could have muscle spasms and [REDACTED] did not demonstrate those either.

FTO Johnson explained that he picked [REDACTED] up and put [REDACTED] in his squad car by grabbing [REDACTED] by the arm and by the back of his pants. FTO Johnson said that PPO Mason then held the door and that other responding units pulled [REDACTED] inside. FTO Johnson stated that he made the decision to move [REDACTED] because of the disparaging things that civilians were saying to officers and because he was with young, inexperienced, officers. FTO Johnson further stated that he made the decision to take control of the scene because there was no sergeant on scene and no other officer present who he believed had a longer time on the job.

FTO Johnson thought that [REDACTED] may have been high on drugs in addition to being drunk. FTO Johnson said that [REDACTED] was “off a pill,”<sup>33</sup> meaning that he had taken a pill with alcohol and assessed him based on that belief. FTO Johnson stated that when he referred to [REDACTED] as “going in and out”<sup>34</sup> he meant that there were times when [REDACTED] was more and less coherent because of the alcohol and drugs [REDACTED] consumed. FTO Johnson stated that “in and out” did not mean unconscious.

There was a moment, between 30 and 40 seconds long, when FTO Johnson stated he reassessed [REDACTED] and believed [REDACTED] may have been unconscious, but then [REDACTED] began speaking to FTO Johnson when [REDACTED] was seated in the squad car. FTO Johnson asked [REDACTED] about his condition when [REDACTED] began speaking but did not ask [REDACTED] any questions when [REDACTED] was lying on the street.

Before placing [REDACTED] in the squad car, FTO Johnson stated that he did not perform a traditional pat down or a formal search of [REDACTED] but instead performed a visual pat down whereby

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<sup>31</sup> Att. 263, 81:1-11.

<sup>32</sup> Att. 263, 41:16-19.

<sup>33</sup> Att. 263, 42:7-8.

<sup>34</sup> Att. 263, 76:17-18.

he looked at [REDACTED]'s waist, neck, ankles and hands. FTO Johnson stated that he knew [REDACTED] was unarmed because he had touched [REDACTED] on his arms and waist.

When the EMT arrived, FTO Johnson stated that he may have told the EMT that [REDACTED] was unconscious, but that if he did, he misspoke. FTO Johnson stated that [REDACTED] refused to be transported by the EMT. FTO Johnson also stated that he was standing by the squad car door assessing [REDACTED], and that if he believed [REDACTED] needed more care than he could provide, then [REDACTED] would have been forced into the ambulance.

FTO Johnson and PPO Mason transported [REDACTED] to the hospital in the back of their squad car. FTO Johnson explained that [REDACTED] was not secured by a seat belt because [REDACTED] was not compliant and could not be placed in a seated position. FTO Johnson did not want to reach across [REDACTED] to secure a seat belt because he did not want to risk being spit upon or bitten. FTO Johnson described [REDACTED] as sitting with his body upright and his legs across the rear passenger seat.

At the hospital,<sup>35</sup> FTO Johnson and PPO Mason searched [REDACTED] while [REDACTED] was seated in a wheelchair. FTO Johnson stated he used the crush-and-feel method to ensure that [REDACTED] had no weapons or contraband. FTO Johnson stated that [REDACTED] was taken to the hospital to have his blood drawn to check for pathogens and also to be medically evaluated for lock-up. FTO Johnson also recalled that [REDACTED] received an MRI at the hospital. While at the hospital, FTO Johnson said [REDACTED] threatened FTO Johnson and PPO Mason, as well as the hospital staff with bodily harm. [REDACTED] also threatened to spit on them and had to be sedated.

FTO Johnson hand-wrote a supplementary report the day of the incident.<sup>36</sup> That report was drafted by him, and signed by himself, PPO Mason and their sergeant. In that report, FTO Johnson wrote:

“The offender refused to respond and or answer the directives and requests to stand made by R/O’s. After repeatedly admonishing the alert offender to stand, R/O’s placed the offender [sic] who was . . . feigning unconsciousness into restraints.”<sup>37</sup>

FTO Johnson stated that upon watching PPO Mason’s body-worn camera video before his statement, he realized that he was mistaken and did not give verbal directions to [REDACTED]. While he thought he spoke to [REDACTED], what he actually did was repeatedly tap [REDACTED]’s shoulder.<sup>38</sup> FTO Johnson explained that what he gave [REDACTED] were nonverbal directions that he uses all the time.<sup>39</sup>

With respect to his body worn camera, FTO Johnson believed that he attempted to turn it on and believed that he hit the activate button. FTO Johnson stated that he turned his body worn camera on numerous times and did not recall when he deactivated it.

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<sup>35</sup> Att. 263, 97:10.

<sup>36</sup> Att. 263, 11:15-20 (FTO Johnson identified Att. 6 as a copy of his supplementary report).

<sup>37</sup> Att. 6, beginning at the bottom of page 1, continuing onto page 2. *See also*, Att. 263, 14:17-23.

<sup>38</sup> Att. 263, 15:5-9.

<sup>39</sup> Att. 263, 79:14-15.

**PPO Timothy Mason** (PPO Mason)<sup>40</sup> was interviewed by COPA on January 27, 2020. The following is a summary of his statement. Prior to providing his statement, PPO Mason acknowledged he viewed his body worn camera, as well as the body worn camera of FTO Johnson. PPO Mason also reviewed the supplementary report he signed.

On the day of the incident, PPO Mason was on duty with his partner and Field Training Officer, FTO Johnson.

PPO Mason had a similar account to FTO Johnson of the events leading up to and their arrival to the scene. PPO Mason also observed civilians on the scene, but he could not recall how many. He stated that the civilians were coaching ██████ to stay on the ground stating, “Hey, just lay there.”<sup>41</sup> PPO Mason also stated that a civilian referred to ██████ and stated, “That’s what you get for spitting on them.”<sup>42</sup>

PPO Mason stated that when he observed ██████ on the ground, ██████’s eye was open and ██████ was tracking FTO Johnson’s movements. ██████ was not moving when he first observed ██████. However, when PPO Mason and FTO Johnson grabbed ██████, ██████ tucked his arm underneath his body. ██████’s unimpaired eye was looking at PPO Mason and FTO Johnson the entire time. PPO Mason believed ██████ to be conscious when he and FTO Johnson arrived because FTO Johnson asked if ██████ was “out”<sup>43</sup> and Officer Kerr responded, “No. He spit on my partner’s face and my partner took him down.”<sup>44</sup> PPO Mason believed that ██████ was pretending to be unconscious because bystanders were coaching him to do so and because ██████ was on the ground trying to be limp. Besides determining that ██████ was conscious, PPO Mason made no other assessment of ██████’s physical condition. PPO Mason also did not ask ██████ if he was injured.

When PPO Mason realized ██████ was conscious he did not direct commands toward ██████ because FTO Johnson was the contact officer and PPO Mason was the security officer. PPO Mason did not hear FTO Johnson direct any commands to ██████ while ██████ was on the ground but did see FTO Johnson tap ██████. PPO Mason did not see Officer J. Williams, Officer Kerr, or FTO Johnson render any medical aid to ██████ when PPO Mason arrived on scene. PPO Mason recalled FTO Johnson going on the radio to request an ambulance for Officer J. Williams. PPO Mason explained that he and FTO Johnson wanted to transport ██████ to the hospital to be sure that ██████ did not have any diseases or pathogens that would lead to Officer J. Williams becoming ill. PPO Mason believed that the ambulance was called for Officer J. Williams because he was spat upon. However, when the ambulance did arrive a paramedic was directed to ██████ as well.

After observing ██████ on the ground, FTO Johnson turned ██████ on to his stomach, at which time ██████ tucked his arm beneath his body. PPO Mason then handcuffed ██████ who he believed was alert and conscious because he had just committed a battery against an officer by spitting on them and he was now under arrest. PPO Mason gave no commands to ██████ while he was handcuffing him. PPO Mason heard FTO Johnson get on the radio, instructing to “slow down.

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<sup>40</sup> See Att. 247 (Audio) and Att. 265 (Transcript).

<sup>41</sup> Att. 265, 26:15.

<sup>42</sup> Att. 265, 27:4.

<sup>43</sup> Att. 265, 29:23.

<sup>44</sup> Att. 265, 29:24 –30:1.

Nobody needs to get hurt.”<sup>45</sup> Upon hearing this, PPO Mason said that he turned and saw a crowd gathering. PPO Mason stated the crowd was becoming hostile because they were getting loud and gathering. This prompted FTO Johnson to put ██████ in the back of the squad car to de-escalate the situation. PPO Mason acknowledged that he attempted to assist FTO Johnson in moving ██████. He additionally stated that two other officers went to the other side of the squad car to help place ██████ inside the squad car.

Prior to placing ██████ in the squad car, PPO Mason and FTO Johnson did not perform a custodial search, but instead performed a visual search on ██████ where they visually examined the area around ██████’s waistband for any sign of weapons. PPO Mason stated, “Because his pants were below his waist so you could see – I was comfortable with it because we cannot see any obvious things of a weapon.”<sup>46</sup>

While ██████ was in the squad car, FTO Johnson stated that ██████ was going “in and out.”<sup>47</sup> PPO Mason understood FTO Johnson to mean that ██████’s eyes were opening and closing. PPO Mason also recalled that FTO Johnson and ██████ were having a conversation while ██████ was sitting in the squad car. FTO Johnson directed PPO Mason to tell Sgt. Price that ██████ was intoxicated, conscious and awake.<sup>48</sup>

The EMT arrived, approached ██████ at the squad car and ██████ responded to the EMT. PPO Mason did not know what was said, but recalled that following the conversation with ██████, the EMT said, “all right,”<sup>49</sup> and walked off.

PPO Mason entered the squad car with FTO Johnson to take ██████ to the hospital. PPO Mason stated that they did put ██████ in an upright position but did not secure ██████ with a seatbelt because they were concerned that ██████ my spit, hit, or bite them if they reached over him to secure a seatbelt.

At the hospital, PPO Mason and FTO Johnson gave ██████ a pat down search and checked ██████’s pockets. PPO Mason recalled that ██████ was verbally abusive at the hospital and had to be sedated. He also recalled that ██████ was given an MRI that the doctor relayed was negative, but PPO Mason did not know why it was performed.

PPO Mason signed a supplemental report about the incident that he stated was authored by FTO Johnson. PPO Mason said that he was in the room with FTO Johnson when the report was drafted and that the contents of the report reflected a combination of what he and FTO Johnson did on scene. PPO Mason explained that both he and FTO Johnson did not have the opportunity to view their body worn cameras before writing the report, and therefore their report was based solely on memory and what the officers believed happened. After reviewing the body worn camera footage, PPO Mason stated that language in the report indicating that ██████ was verbally directed

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<sup>45</sup> Att. 265, 45:20-22; *Id.*, 46:1-2; *Id.*, 47:4.

<sup>46</sup> Att. 265, 49:1-4.

<sup>47</sup> Att. 265, 67:6.

<sup>48</sup> Att. 265, 71:11-12.

<sup>49</sup> Att. 265, 71:16-17.

to stand was inaccurate and should be changed. PPO Mason stated that he would change the language to state that the officers repeatedly tapped ██████ to see if he would stand.

**Officer Ariel Williams** (Officer A. Williams)<sup>50</sup> was interviewed by COPA on January 14, 2020. The following is a summary of her statement.

Officer A. Williams was on duty with her partner, Officer Lauren Holt when she heard a call over the radio that an officer needed assistance at the location of the incident. When she and Officer Holt arrived on scene, Officer A. Williams saw several people standing around but did not recall how many. Officer A. Williams saw FTO Johnson (who had previously trained her) and PPO Mason at the scene. FTO Johnson was attempting to put ██████ into the back passenger-side seat of a police car. Officer A. Williams observed that ██████ was halfway in the car. Officer A. Williams could not recall whether ██████ was moving or alert when she first saw him.

Officer A. Williams went to the driver's side of the car and opened the door to assist FTO Johnson. The upper half of ██████'s body, which was inside the car, was visible to Officer A. Williams. Based on her observations of ██████, Officer A. Williams believed ██████ to be faking not being able to move in order to resist and avoid arrest. Officer A. Williams also believed that ██████ did not want to get in the car based on her prior experience with arrestees. In addition, Officer A. Williams recalled someone referencing ██████ saying, "he's drunk, and he's on some BS."<sup>51</sup> She was under the impression that ██████ was faking unconsciousness when she was assisting with placing ██████ in the car because she heard someone say that.

After reviewing her BWC during the statement, Officer A. Williams recalled that FTO Johnson stated about ██████, "I know he's conscious. I seen [sic] his eyes closed."<sup>52</sup> Officer A. Williams felt resistance from ██████ in the form of ██████ stiffening his body when she tried to move him in the car. Officer A. Williams also recalled that ██████ moved his head.

Officer A. Williams assumed it was safe to move ██████ because FTO Johnson was moving ██████ and Officer A. Williams trusted FTO Johnson. Officer A. Williams has had first aid training but did not render any first aid to ██████ because she assumed that FTO Johnson would have rendered first aid if needed. Officer A. Williams believed that she treated ██████ with dignity and respect because she was helping a fellow officer and did not do anything that would have caused ██████ harm. Officer A. Williams also believed that her actions were in line with the Department's sanctity of life policy because she trusted FTO Johnson as the more experienced officer and knew that he would not put anyone in harm's way.

When the EMT arrived, Officer A. Williams directed the EMT to ██████. Officer A. Williams recalled that ██████ declined medical aid when approached by the EMT.

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<sup>50</sup> See Att. 227 (Audio) and Att. 266 (Transcript).

<sup>51</sup> Att. 266, 18:9-10.

<sup>52</sup> Att. 266, 55:10.

**Officer Colin O’Connell** (Officer O’Connell)<sup>53</sup> was interviewed by COPA on January 15, 2020. The following is a summary of his statement. Prior to providing a statement, Officer Connell reviewed his body worn camera footage.

When Officer O’Connell arrived at the intersection of 79<sup>th</sup> and Cottage Grove, approximately four units were already present. As he approached the scene, Officer O’Connell observed that the rear, passenger-side door of FTO Johnson’s squad car was open and that FTO Johnson had someone, now known to be [REDACTED], in custody. Officer O’Connell also saw Officer A. Williams move to the driver-side of FTO Johnson’s squad car, so he went there too to assist with placing [REDACTED] in the squad car. It initially appeared to Officer O’Connell that [REDACTED] was kneeling next to the squad car. However, because Officer O’Connell was approaching from the front of the car, there was a car door between Officer O’Connell and [REDACTED], obscuring his view of [REDACTED].

As O’Connell leaned on the rear passenger-side door, he heard FTO Johnson say that [REDACTED] had opened and closed his eyes a number of times and was conscious. Officer O’Connell also stated that in his experience, he has had arrestees who acted unconscious but were in fact conscious. Officer O’Connell further stated that when he observed [REDACTED], [REDACTED] did not appear alert to him.<sup>54</sup> However, Officer O’Connell believed it was safe to move [REDACTED] based on what FTO Johnson said about [REDACTED] being conscious.

Officer O’Connell stated that Officer A. Williams appeared to be having trouble lifting [REDACTED] into the car, so Officer O’Connell and FTO Johnson lifted [REDACTED] into the squad car. Officer O’Connell lifted [REDACTED] by taking hold of [REDACTED] by the shoulders while FTO Johnson lifted [REDACTED]’s legs. While lifting [REDACTED], Officer O’Connell did not give him any commands. While holding [REDACTED], Officer O’Connell noticed that he smelled strongly of alcohol. Officer O’Connell then moved [REDACTED]’s head out of the way of the door in case the officers were planning to close the door. Officer O’Connell touched [REDACTED], but [REDACTED] did not react or make any noises while he was relocating [REDACTED] into the squad car.<sup>55</sup>

When asked if Officer O’Connell heard anyone question [REDACTED] about his condition, he responded that he did not. While approaching the scene, Officer O’Connell stated that he did hear someone call for an EMS to come to the scene.<sup>56</sup> Officer O’Connell stated that he did not call for medical assistance because someone else had. Officer O’Connell believed that [REDACTED] was being treated with respect because an EMS was in route and that meant someone cared enough to make sure that [REDACTED] was taken care of. Officer O’Connell also believed that his actions with respect to [REDACTED] were in line with CPD policy regarding the sanctity of life because an EMS had been called, [REDACTED] was picked up and placed in the squad car and Officer O’Connell moved [REDACTED]’s head so that if the door were to be closed it wouldn’t hurt [REDACTED].

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<sup>53</sup> See Att. 231 (Audio) and Att. 264 (Transcript).

<sup>54</sup> Att. 264, 27:1-4.

<sup>55</sup> Att. 264, 21:21 – 22:5.

<sup>56</sup> Att. 264, 23:15-17.

**Officer Lauren Holt** (Officer Holt)<sup>57</sup> was interviewed by COPA on February 18, 2020. The following is a summary of her statement. Prior to providing a statement, Officer Holt acknowledged she reviewed her body worn camera footage.

Officer Holt was on patrol duty with Officer A. Williams when they received a message that an officer was in need of assistance at the location of the incident. When they arrived, she saw several officers, a couple of whom appeared to be helping [REDACTED] into a car. Officer Holt observed four to five civilians on the scene. She described the civilians as “kind of just standing around. One guy was recording on his phone the whole time.”<sup>58</sup>

Officer Holt was assigned crowd control during the incident, which meant making sure that the crowd did not get too close to the officers. As part of crowd control duties, Officer Holt believed that she gave direction to the civilians on the scene. Officer Holt recalled speaking to a particular civilian who was recording the incident. Officer Holt believed that the civilian was making statements intended to agitate the crowd. Officer Holt stated that the civilian said, “the guy’s unconscious,” and “I’m recording. Everything is being recorded.”<sup>59</sup>

Officer Holt stated that Officer Pierre Williams told the civilian that everything is being recorded. After Officer P. Williams responded, Officer Holt confirmed the investigator’s statement that she said to the civilian, “You sound stupid, clown.”<sup>60</sup> Officer Holt said the person sounded stupid because the person knew everything was being recorded since the police arrived on scene. Officer Holt stated that at the time of the incident she believed what she said was appropriate.<sup>61</sup>

Officer Holt believed that by saying that the civilian sounded stupid, she was trying to control the situation as she was taught in the Department academy. Officer Holt explained that if people sense weakness, they will play on it. Officer Holt stated that saying the civilian sounded stupid was also a de-escalation technique because she was speaking to the civilian in a way she thought he would understand. Officer Holt stated that she did not speak to the person or try any other means of communication before she called him stupid and a clown. Officer Holt stated that no officer had to physically stop this civilian from getting closer to the scene, but she believed officers did have to direct the civilian to get back once or twice. After making the comment to the civilian, Officer Holt confirmed stating words to the effect of, “I need to stop.”<sup>62</sup> She stated that she said that because she felt that she needed to stop talking.

Later, Officer Holt confirmed that she also said to the civilian, “Say it louder. What the fuck is you talking about?”<sup>63</sup> Officer Holt said that she said this because the civilian called her a “coon bitch.”<sup>64</sup> Officer Holt felt her response was appropriate because the phrase used by the civilian was derogatory and Officer Holt felt disrespected. Officer Holt recalled that Sgt. Price was

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<sup>57</sup> See Att. 274 (Audio) and Att. 305 (Transcript).

<sup>58</sup> Att. 305, 15:16-17.

<sup>59</sup> Att. 305, 19:9-11.

<sup>60</sup> Att. 305, 20:8-9.

<sup>61</sup> Att. 305, 20:22-24.

<sup>62</sup> Att. 305, 23:21-22.

<sup>63</sup> Att. 305, 24:16-17.

<sup>64</sup> Att. 305, 24:19.

the supervisor on the scene and that she may have come over to her and said something about what was happening on scene, but Officer Holt could not recall what.

Officer Holt stated that she activated her body worn camera when she arrived on scene and deactivated her camera when the scene was secure. She explained that to her, a scene is secure when an incident is over, and everyone is leaving. During the incident, Officer Holt believed the scene to be secure because an ambulance was on the scene. Officer Holt stated that when she deactivated her camera, she was still interacting with civilians including the civilian whom she stated made the derogatory remark to her. Officer Holt stated that she believed that interacting with civilians when the interaction was adversarial, or hostile is a law enforcement related activity.

**Officer Pierre Williams** (Officer Williams)<sup>65</sup> was interviewed by COPA on February 24, 2020. The following is a summary of his statement. Prior to providing his statement, Officer P. Williams acknowledged he reviewed materials about the incident that COPA posted on its website including body worn camera footage in which he appeared.

On the day of the incident, Officer P. Williams received a message over the radio that more cars were needed at the location of the incident. When Officer P. Williams arrived, he observed approximately four civilian bystanders as well as foot traffic moving in and out on the sidewalk near the scene.

Officer P. Williams met with Sgt. Alma Price, who directed him to help control the crowd and keep them back. Officer P. Williams stated that the bystanders who were standing around were attempting to rile up other civilians and antagonize the officers. To control the crowd, Officer P. Williams and three or four other officers stood next to each other to prevent bystanders from crossing them and getting involved in action behind the officers. Officer P. Williams said that he did not have to put his hands on anyone or direct anyone to step back, but he believed that other officers may have directed some civilian bystanders to step back.

Officer P. Williams recalled one civilian in particular who had his phone out and was focusing his attention on the police and the activities happening behind the crowd control officers. Officer P. Williams recalled that the civilian stated that he was recording. Officer P. Williams responded by pointing up and stating “Hey, we are recording”<sup>66</sup> and telling the man that there was a POD camera over them. Officer P. Williams stated that the man directed words toward him to the effect of “You guys some coon officers,” and that Officer P. Williams responded by stating, “You a coon.”<sup>67</sup> Officer P. Williams stated that he was taught at CPD Academy that an officer could sometimes mirror the language of a person as a de-escalation tool and he was attempting to use that tool with the civilian. Officer P. Williams stated that at the time, due to his youth, he was unaware that the word “coon” is a racial slur. Officer P. Williams may have had a verbal exchange with the same civilian about [REDACTED] needing an ambulance and mispronouncing the word “ambulance,” but Officer P. Williams could not be sure what the man said.

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<sup>65</sup> See Att. 302 (Audio) and Att. 304 (Transcript).

<sup>66</sup> Att. 304, 18:8.

<sup>67</sup> Att. 304, 18:4-11.

Officer P. Williams tapped his body worn camera when he arrived at the scene and learned only after his tour that day that his camera had not been on while he was at the scene. Officer P. Williams explained that he is notified that his camera is on by a beeping noise that the camera makes every two minutes. However, because there was so much going on at the scene and Officer P. Williams's need to focus, he could not recall if his body worn camera was beeping or not.

**Sergeant Alma Price** (Sergeant Price)<sup>68</sup> was interviewed by COPA on January 29, 2020. The following is a summary of Sgt. Price's statement.

Sergeant Price arrived at the incident after hearing an OEMC call on the radio that an officer needed help. She also heard over the radio that an ambulance had been called to the scene. On scene, Sgt. Price functioned as a field sergeant and was the highest-ranking member at the scene.<sup>69</sup>

When she arrived at 802 E. 79<sup>th</sup> Street, Sergeant Price saw citizens standing by a bus stop, multiple squad cars, and officers. She described the scene as chaotic and stated that the citizens present were angry. Sgt. Price knew the citizens were angry because they were shouting things and they were advancing toward the street where the police cars were. Sergeant Price directed the citizens to get back. Sergeant Price heard a person state that [REDACTED] should not have spit in an officer's face. Sergeant Price stated that none of the citizens complained of [REDACTED] being maltreated to her and when she asked what happened, none of the citizens responded. Sergeant Price also stated that [REDACTED] was not mistreated because he was not left on the street and because she did not witness anyone mistreating [REDACTED]. Sergeant Price believed one of the citizens on the scene said that a police officer threw [REDACTED] down.

After moving the crowd back, Sergeant Price spoke with Officer Kerr and Officer J. Williams and asked what happened. They told her that they were writing a citation for [REDACTED] when he spit in Officer J. Williams's face. Sergeant Price observed something white on Officer J. Williams's face. Sergeant Price asked the officers on scene where [REDACTED] was and was told that he was in a squad car. Sergeant Price did not go to the squad car to observe [REDACTED].

When Sergeant Price arrived at the scene, FTO Johnson and PPO Mason were standing near a squad car that was in the street directly in front of the bus stop and [REDACTED] was inside the squad car. FTO Johnson and PPO Mason were with him and she believed they called for an ambulance for [REDACTED]. Sergeant Price saw [REDACTED] moving around in the back of the squad car but she did not see FTO Johnson and PPO Mason put [REDACTED] in the squad car. Sergeant Price did not ask any of the officers whether [REDACTED] required medical attention or if [REDACTED] was injured. Sergeant Price stated that she did not inquire whether [REDACTED] was alert but remembered that she heard FTO Johnson yell out that [REDACTED] declined medical attention. Sergeant Price believed the ambulance was called for [REDACTED] because he was very intoxicated and also because she had not heard anything about an officer being injured.

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<sup>68</sup> See Att. 251 (Audio) and Att. 298 (Transcript).

<sup>69</sup> Sgt. Stephen Boyd, the supervisor of Officer J. Williams and Officer Kerr arrived toward the end of the incident.

Sergeant Price also provided direction to the officers who were interacting with the citizens. The citizens were putting their phones in the officers' faces and were being impolite, so she told the officers to "Stop. Stop it. Don't interact,"<sup>70</sup> with the citizens.

Sergeant Price believed that she properly directed her subordinates with respect to [REDACTED], because FTO Johnson and PPO Mason were taking [REDACTED] to the hospital. For the same reason, Sergeant Price also believed her treatment of [REDACTED] was consistent with the Department's policy on the sanctity of life.

Sergeant Price believed that she activated her body worn camera on scene. Sergeant Price thought her body worn camera was activated because she tapped it, but with all the beeping happening on scene, she did not realize that her body worn camera was not turned on.

This incident became more memorable to Sergeant Price about two hours later when she learned of the Facebook video of this incident. Upon watching the video, she saw "the officer threw the guy on the floor. The emergency takedown is what he called it."<sup>71</sup> Until that time, she "had no idea of the severity of . . . what happened."<sup>72</sup>

**Officer Trak Silapaduriyang** (Officer Silapaduriyang)<sup>73</sup> was interviewed by COPA on December 20, 2019. The following is a summary of his statement.

Officer Silapaduriyang is currently assigned to CPD's Education and Training Division, where his responsibilities include supervising and training CPD recruitment classes, including use of force and de-escalation techniques. Officer Silapaduriyang is certified by the U.S. Department of Homeland Security in use of force and is a subject matter expert in the areas of use of force, de-escalation tactics and best and safe police practices.<sup>74</sup> Officer Silapaduriyang also co-developed the force mitigation training used to train all CPD police officers.

With respect to the use of force, Officer Silapaduriyang stated that an officer's job is to respond to the subject, whose actions dictate the level of force an officer uses. The intent of the response is to stop the threat, not to retaliate or punish. Officer Silapaduriyang explained that under federal and state standards, the force used by an officer must be objectively reasonable. Officer Silapaduriyang explained the CPD Use of Force policies<sup>75</sup> and corresponding Force Options Model.<sup>76</sup> He detailed the various classification levels that are dependent on the actions of a subject. Officer Silapaduriyang stated that an officer's role is to continuously adapt and "play defense," not offense.<sup>77</sup> In Chicago, the force used must also be necessary and proportional. Officer Silapaduriyang interprets the "necessary" criteria to mean that force must always be the last resort to protect an officer, a partner, or a civilian. He interprets the "proportional" criteria to mean that

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<sup>70</sup> Att. 298, 31:9-10.

<sup>71</sup> Att. 298, 38:12-24.

<sup>72</sup> Att. 298, 39:2-3.

<sup>73</sup> See Att. 207 (Audio) and Att. 289 (Transcript).

<sup>74</sup> Officer Silapaduriyang has testified in federal court as an expert witness on the subject of use of force. His full background is listed in Att. 184, - Officer Silapaduriyang's *curriculum vitae*.

<sup>75</sup> G03-02 *et seq.*

<sup>76</sup> CPD-11.960.

<sup>77</sup> Att. 289, 22:10-15.

the level of force used must meet the level of threat or resistance of the subject. Officer Silapaduriyang stated that an officer must be able to adapt in order to respond, as a subject's actions escalate or de-escalate.

Officer Silapaduriyang stated that an emergency takedown is a technique that may be used with active resister subjects. Officers are taught that takedowns are techniques to be used in emergency situations when an officer must respond fast. He stated that the quicker a subject can be taken to the ground, the safer for all parties because being on the ground limits a subject's mobility. Officer Silapaduriyang stated that it did not matter what takedown technique was being used, as long as it took a subject off of their feet. With respect to safety or the danger a takedown may pose to a subject, Officer Silapaduriyang stated that an officer is told that "when you have to take a person down to the ground, you have to act immediately, so you're probably not going to have time to even recognize what's on the ground."<sup>78</sup> However, the intention of the emergency takedown is not to hurt anyone, but rather to gain compliance. Officer Silapaduriyang further explained that there are no restrictions on how to perform takedowns beyond the general prohibitions that apply to any other use of force option - that force is used only to stop an immediate threat and control the situation, not as retaliation.

During his statement, Officer Silapaduriyang viewed the video posted on Facebook of Officer J. Williams's takedown of █████<sup>79</sup> as well as video of the event captured by third party security cameras.<sup>80</sup> Officer Silapaduriyang stated that he did not know Officer J. Williams personally and had not spoken to him about the incident. After viewing the video, Officer Silapaduriyang stated that the video showed an officer taking someone to the ground using an emergency takedown. He did not recognize the technique used by the officer in the takedown as a technique taught in the academy. Officer Silapaduriyang explained that although certain techniques are taught in academy, those techniques may not work, and officers are not limited to those techniques taught.

Officer Silapaduriyang identified █████ as being an active resister when he pulled away from Officer J. Williams.<sup>81</sup> Officer Silapaduriyang also stated that he would classify the act of spitting at an officer as an act of a low-level assailant. He explained that the act of spitting is one that is likely to cause physical injury because it is reasonable to believe that saliva could carry a disease and that classifying being spit at in the face as a low-level assailant act is accepted police practice. Based on Officer Silapaduriyang's opinion and experience, he believed that because █████ spat in Officer J. Williams's face, he was a low-level assailant and an emergency takedown was authorized. He also stated that an emergency takedown was authorized because it appeared that Officer J. Williams could not see and therefore could not do anything else besides take █████ down.

With respect to the mechanics of the takedown, Officer Silapaduriyang stated that Officer J. Williams, "went after the body"<sup>82</sup> and grabbed █████ around the abdomen and lifted him off the

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<sup>78</sup> Att. 289, 43:22 –44:2.

<sup>79</sup> Att. 20.

<sup>80</sup> Att. 102-107 (Boost Mobile) and Att. 177 (Metro PCS (Merged)).

<sup>81</sup> Att. 289, 66:2-4.

<sup>82</sup> Att. 289, 75:2.

ground. Officer Silapaduriyang believed that Officer J. Williams had ██████'s upper body under control as he lifted ██████ because it appeared Officer J. Williams went sideways.

If a subject is injured as a result of an officer's use of force, Officer Silapaduriyang stated that the officer has a duty to render aid by, at a minimum, calling for an ambulance. Officers may also render aid according to their training.

#### **b. Digital Evidence**<sup>83</sup>

A video posted on **Facebook**<sup>84</sup> on the day of the incident, shows a portion of the interaction between Officer J. Williams, Officer Kerr, and ██████. In the video, Officer J. Williams can be seen lifting ██████ off the ground, turning approximately 180 degrees to the left, and slamming him to the street, with ██████'s head striking the curb. Officer Kerr then stands straddled over ██████ who appears motionless while Officer J. Williams wipes his eyes. Officer Kerr bends over and taps ██████'s upper body one time, then stands back up. PPO Mason walks up to Officers J. Williams and Kerr as the video ends.

**Body worn camera (BWC) footage**<sup>85</sup> of several officers at the scene capture different parts of the incident from the time PPO Mason and FTO Johnson arrived on scene until the time ██████ was admitted to the hospital.

#### ██████ on the ground and officer response

PPO Mason's BWC<sup>86</sup> is the most comprehensive video from the time officers respond to assist. He and FTO Johnson travel east on 79<sup>th</sup> street and arrive on scene in seconds. When they arrive, a man is sitting in the bus shelter and a few civilians can be seen behind the shelter. ██████ is on the ground with the left side of his head on the curb and his body in the street. He does not appear to be moving. Officer J. Williams is standing near ██████'s head and can be seen wiping his face. Officer Kerr is straddling ██████'s body. FTO Johnson asks if ██████ is "out" and Officer Kerr replies, "No, he spit in my partner's face and my partner took him down."<sup>87</sup> FTO Johnson radios dispatch and states that they have someone in custody and that an ambulance is needed "for an injured PO."<sup>88</sup>

FTO Johnson can be heard stating to dispatch that an officer was spat upon, but no one is seriously injured. At roughly the same time, Officer Kerr turns to his left and stating in the direction of a passing motorist, "He ain't dead. Get the fuck out of here and mind your business."<sup>89</sup> FTO

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<sup>83</sup> Third-Party video footage retrieved from a Currency Exchange located at 7859 S. Cottage Grove (Att. 108-115), Happy's Liquor located at 7901 S. Cottage Grove (Att. 166-121), and Harold's Chicken located at 808 E. 79th Street (Att. 122-125), as well as CTA video from buses that were in the area (Atts. 238-239) are not summarized here, as the video is not material to this investigation.

<sup>84</sup> Att. 20.

<sup>85</sup> This section will provide a summarized narrative of what the body worn cameras collectively captured. At the time of the incident, body worn cameras had not been assigned to Unit 312 where Officer J. Williams and Officer Kerr were assigned.

<sup>86</sup> Att. 54 (PPO Mason's BWC).

<sup>87</sup> Att. 54, T21:58:26Z – 32Z. All reference points to particular places within a BWC video are to the stamp imprinted on the top right portion of the video.

<sup>88</sup> Att. 54, T21:58:38Z.

<sup>89</sup> Att. 54, T21:58:52Z.

Johnson then grabs █████ by the right arm and pulls him off the curb.<sup>90</sup> █████'s body moves in a lifeless manner when FTO Johnson pulls him and █████'s head lolls back and forth.



*FTO Johnson pulling █████ off the curb (Att. 89, City of Chicago Police Observation Device (POD) video).*

A thud is heard at the moment █████'s head landed on the street.<sup>91</sup> █████ is placed on his stomach, and in the process, █████'s left arm ends up underneath his body. FTO Johnson grabs █████'s left shoulder and pulls that arm from under █████ and places it behind █████'s back. PPO Mason begins handcuffing █████ with FTO Johnson assisting and coaching him. During the handcuffing, FTO Johnson can be heard stating to PPO Mason regarding █████, "Breathe deeply. You ain't gotta get rough again. He can't do shit. If he spits, he gets knocked out again."<sup>92</sup> FTO Johnson radios in that "everybody is fine, squad. Tell them to slow down. Nobody is hurt."<sup>93</sup>

*█████ being placed in squad car*

FTO Johnson is next shown lifting █████ by the back of his jeans and left arm, and then carrying █████ to their squad car. █████'s body is shaped as an upside down "V," with his head and feet just above the street and his buttocks highest in the air.

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<sup>90</sup> Att. 54, T21:56:58Z.

<sup>91</sup> Att. 54, T21:59:00Z.

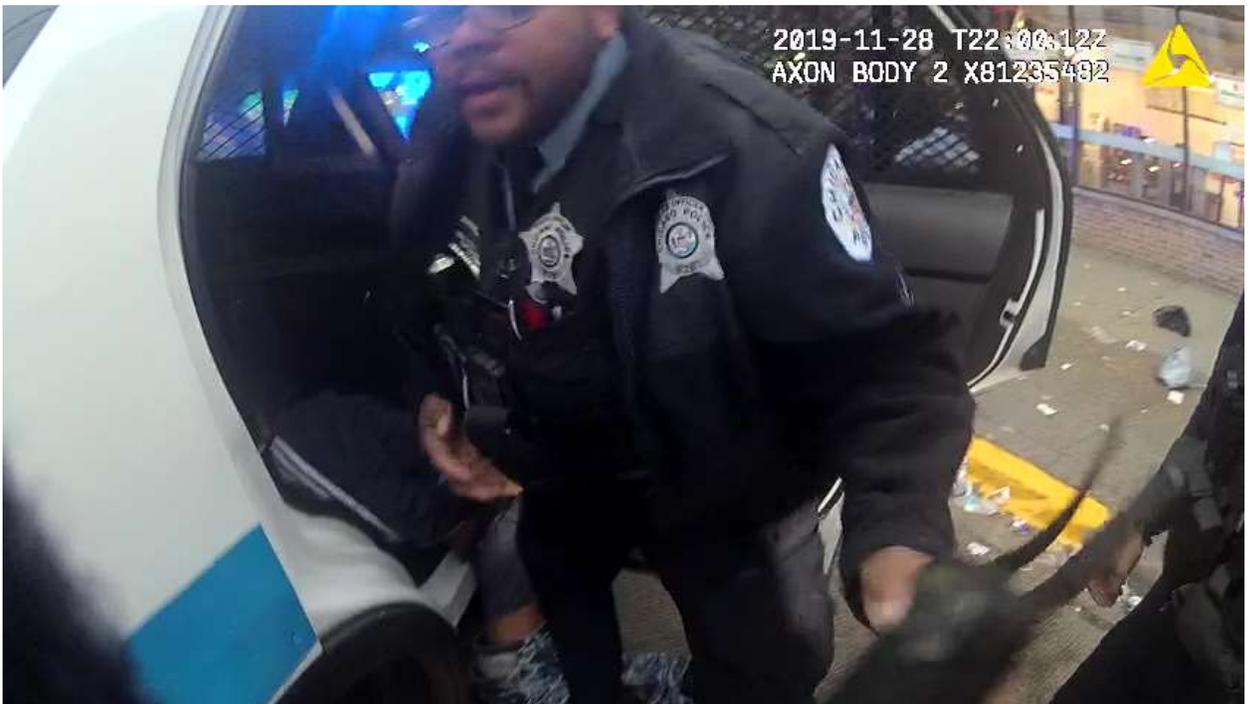
<sup>92</sup> Att. 54, T21:59:13Z.

<sup>93</sup> Att. 54, T21:59:29Z.



*FTO Johnson carrying a limp [REDACTED] by the handcuffs and the back of [REDACTED]'s pants (Att. 54, (PPO Mason's BWC)).*

FTO Johnson attempts to place him in the back seat of his squad car while PPO Mason holds the rear passenger-side door open.<sup>94</sup> Officer J. Williams comes over and appears to state in reference to [REDACTED], "Let's just get him an ambulance." FTO Johnson responds, "No, were getting an ambulance for you."<sup>95</sup> When FTO Johnson is unable to place [REDACTED] into the car, [REDACTED] is placed on his knees outside of the back passenger-side door, with his upper body leaning forward on the back seat.<sup>96</sup>



*[REDACTED] positioned halfway in FTO Johnson's squad car with his upper body on the seat and his lower body kneeling outside of the car (Att. 54 (PPO Mason's BWC)).*

<sup>94</sup> Att. 54, T21:59:35Z.

<sup>95</sup> Att. 54, T21:59:40Z.

<sup>96</sup> Att. 54, T21:59:50Z; Att.61 (FTO Johnson's BWC), T22:00:09Z.

Other officers who arrive at the scene assist with placing ██████ in the police car. Officer A. Williams goes around to the rear driver-side door, grabs ██████'s upper body, and attempts to pull him in further into the car.<sup>97</sup> Officer O'Connell steps in to assist Officer A. Williams.<sup>98</sup> During this time, FTO Johnson states, "he [██████] don't need to be on his face. I know he's conscious, he closed his eye a couple of times."<sup>99</sup> Officer O'Connell grabs ██████'s upper body and pulls ██████ toward him and into the car while FTO Johnson pushes ██████'s lower body.<sup>100</sup> FTO Johnson comes around to the rear driver-side door and adjusts ██████ so that his face is not facing down. FTO Johnson states something to the effect of, "we don't want the seat position to asphyxiate him."<sup>101</sup> ██████'s eyes are closed while the officers are adjusting him in the car and his body appears limp.<sup>102</sup> FTO Johnson places his hands on ██████'s neck and ██████ briefly moves.<sup>103</sup>

After ██████ is fully in the police car, Officer Kerr asks if ██████ is "awake yet?" FTO Johnson responds, "Yeah, he's going in and out. He's off a pill."<sup>104</sup> A few minutes later, ██████ begins speaking.<sup>105</sup> FTO Johnson states to Officer Kerr, "Let your partner know this dude is conscious and talking."<sup>106</sup> FTO Johnson then asks ██████ if he would like help sitting up and tells ██████ that he wants him to be comfortable. FTO Johnson tells PPO Mason to let Sergeant Price know that ██████ is highly intoxicated but is conscious and PPO Mason does so.<sup>107</sup>

#### Officers engaging with bystanders

While some officers attend to ██████, other officers assist with crowd control. A civilian holding up a cell phone is heard saying that the man spit in his face, but he was then slammed on the ground, is knocked out, needs an ambulance and is being put into a police car. When the civilian says that the man was slammed on the ground, he is facing Sgt. Price, who appears to be only a few feet away.<sup>108</sup> The same civilian and another civilian continue to state the man was slammed on the ground, is knocked out and needs an ambulance. Sergeant Price responds to one or both of them, saying, "we don't know, we don't know that."<sup>109</sup> Officer P. Williams and Officer L. Holt engage with a small number of civilian bystanders. One of the civilians is recording the scene with his phone. Officer P. Williams tells the man that above them a POD was recording. Officer Holt interjects and tells the man, "You sound stupid. Clown."<sup>110</sup> Moments later, Officer Holt says to herself, "Ooh child, let me stop." The civilian calls Officer P. Williams a "coon" and Officer P. Williams responds by stating, "You a coon too."<sup>111</sup> The civilian also states that Officer P. Williams

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<sup>97</sup> Att. 54, T22:00:27Z; Att. 56 (Officer A. Williams' BWC), T22:00:24Z; Att. 61, T22:00:27Z.

<sup>98</sup> Att. 54, T22:00:51Z; Att. 56, T22:00:50Z; Att. 58 (Officer O'Connell's BWC), T22:00:50Z.

<sup>99</sup> Att. 54, T22:00:42Z; Att. 56, T22:00:40Z; Att. 58, T22:00:45Z.

<sup>100</sup> Att. 58, T22:01:00Z; Att.61, T22:01:00Z.

<sup>101</sup> Att. 54, T22:01:15Z.

<sup>102</sup> Att. 56, T22:01:03Z; Att. 61, T22:00:59Z.

<sup>103</sup> Att. 61, T22:01:40Z.

<sup>104</sup> Att. 54, T22:02:18Z; Att. 56, T22:02:18Z; Att. 61, T22:02:18Z.

<sup>105</sup> Att. 54, T22:03:32Z; Att. 61, T22:03:32Z.

<sup>106</sup> Att. 54, T22:03:53Z; Att. 61, T22:03:53Z.

<sup>107</sup> Att. 54, T22:04:10Z; Att. 61, T22:04:10Z.

<sup>108</sup> Att. 57 (Officer Holt's BWC), T22:00:30Z.

<sup>109</sup> Att. 57, T22:01:00Z.

<sup>110</sup> Att. 57, T22:02:19Z.

<sup>111</sup> Att. 57, T22:04:53Z. Att. 58, T22:04:53Z.

is a "white man in a black body."<sup>112</sup> Officer Holt also engages with the civilian and cuts her BWC off while still speaking to him.<sup>113</sup> Officer O'Connell's BWC records Officer Holt stating to the civilian, "Why you whispering that? Say it louder. Say it louder. What the fuck is you talking about. Clown."<sup>114</sup> Sergeant Price approaches Officer Holt and the bystander and tells her not to indulge the civilians and let them record.<sup>115</sup>

#### Arrival of the ambulance

After speaking to Sergeant Price, PPO Mason returns to the back passenger-side of the squad car as an EMT approaches the car. FTO Johnson tells the EMT that [REDACTED] is conscious and that [REDACTED] was taken down when [REDACTED] spit on an officer. The EMT then asks why [REDACTED] is going to the hospital. FTO Johnson states that he called the ambulance for Officer J. Williams, not for [REDACTED].<sup>116</sup> Officer Kerr states that he called the ambulance for his partner but added that [REDACTED] was unconscious.<sup>117</sup> FTO Johnson echoed Officer Kerr stating in regards to [REDACTED], "Yeah, he was unconscious."<sup>118</sup> The EMT stated to [REDACTED], "You're not going to the hospital right?"<sup>119</sup> and [REDACTED] stated he was not going to the hospital. While [REDACTED] is in FTO Johnson's car, a woman's voice is recorded telling [REDACTED] that he is going to the hospital and [REDACTED] says no and that he wants to go home.<sup>120</sup> The woman tells [REDACTED] that he doesn't have a choice and that another ambulance is coming for him. FTO Johnson shuts the door of the car without putting a seatbelt on [REDACTED].<sup>121</sup> FTO Johnson then states that the only reason for [REDACTED] to go to the hospital was to get a blood draw in relation to Officer J. Williams. FTO Johnson asked [REDACTED] if he had any medical conditions.

#### Transport and at the hospital

When FTO Johnson and PPO Mason leave the scene with [REDACTED] handcuffed behind his back in the rear of their vehicle, [REDACTED] is laying across the back seat, leaning his mid-back and head on the driver's side rear door and his feet on the seat. There are visible seatbelts that are not in use.<sup>122</sup> [REDACTED] becomes more animated and asks why he is going to jail. About six minutes into the drive, [REDACTED] sits up in the middle of the back seat. When [REDACTED] arrives at the University of Chicago Hospital, he is placed in a wheelchair and searched by PPO Mason.<sup>123</sup> Officer Kerr is present when [REDACTED] is brought in. PPO Mason asks Officer Kerr if they were able to obtain identifying information from [REDACTED]. Officer Kerr replies that they had not and regarding [REDACTED] stated, "That's how he was, unconscious."<sup>124</sup> The EMT arrives at the hospital admissions desk and asks FTO Johnson, "Did you tell them that he passed out because we didn't know any of that."<sup>125</sup> In response, FTO Johnson states that he didn't think [REDACTED] actually passed out and that [REDACTED] was

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<sup>112</sup> Att. 57, T22:05:00Z. Att. 58, T22:05:00Z.

<sup>113</sup> Att. 57, T22:05:13Z.

<sup>114</sup> Att. 58, T22:07:13Z.

<sup>115</sup> Att. 58, T22:09:19Z.

<sup>116</sup> Att. 54, T22:04:53Z; Att. 56, T22:04:53 Att. 61, T22:04:53Z.

<sup>117</sup> Att. 54, T22:04:55Z; Att. 56, T22:04:56Z.

<sup>118</sup> Att. 54, T22:04:57Z; Att. 56, T22:04:57Z; Att. 61, T22:04:57Z.

<sup>119</sup> Att. 54, T22:04:59Z; Att. 56, T22:04:59Z; Att. 61, T22:04:59Z.

<sup>120</sup> Att. 67 (In-car camera video), 32:23. All reference points to particular places within the ICC video are to the timestamp imprinted on the top of the video.

<sup>121</sup> Att. 56, T22:05:03Z.

<sup>122</sup> Att. 69 (In-car camera video), 16:11:36.

<sup>123</sup> Att. 63 (PPO Mason's BWC), T22:23:41Z; Att. 62, T22:23:41Z.

<sup>124</sup> Att. 63, T22:25:17Z.

<sup>125</sup> Att. 63, T22:29:01 Z.

playing possum.<sup>126</sup> [REDACTED] is belligerent while at the hospital. [REDACTED] is taken to an examining room where he is restrained and then sedated.

**OEMC dispatch audio** relating to the incident records unit 6728B requesting assistance at 79<sup>th</sup> and Cottage Grove and also requesting an ambulance.<sup>127</sup> FTO Johnson states, “can we roll an ambulance for an injured PO?”<sup>128</sup> FTO Johnson then states, “Officer spit on, got some exposure going on, but nobody’s seriously injured.”<sup>129</sup> Dispatch inquires if more cars are needed and FTO Johnson replies, “We’re good, nobody needs to get hurt. One more car.”<sup>130</sup> FTO Johnson radios dispatch and states, “Everybody is fine, squad. Tell them to slow down. Nobody’s hurt.”<sup>131</sup>

The **video footage from a Metro PCS**<sup>132</sup> store shows a perspective looking westbound towards Cottage Grove, on the northside of 79<sup>th</sup> Street, a few doors east of the scene. The bus shelter on the northeast corner of the intersection of 79<sup>th</sup> and Cottage Grove is visible. Approximately 7 minutes later, a white unmarked police car, travelling west on 79<sup>th</sup> street moves across traffic and stops in front of the bus shelter.<sup>133</sup> Officer J. Williams exits the passenger-side of the car, approaches [REDACTED], and walks [REDACTED] to the passenger-side of the car positioning himself behind [REDACTED].<sup>134</sup> Officer Kerr exits from the driver-side of the car, picks up a bottle from the bus shelter, and walks to the side of the car positioning himself to the left of [REDACTED].

The officers then appear to talk to [REDACTED] for about 30 seconds and Officer Kerr sets the bottle he retrieved on the ground.<sup>135</sup> Approximately 10 seconds later, [REDACTED] moves his face toward Officer J. Williams, who in response, moves his head backward.<sup>136</sup> Shortly thereafter, Officer Kerr walks away from [REDACTED] and Officer J. Williams and enters the police car on the driver-side where he remains for approximately a minute and a half.<sup>137</sup> During this time, [REDACTED] remains on the side of the car, facing the car with Officer J. Williams behind him. [REDACTED] is holding what appears to be a cellular phone in his left hand and has it placed on his left ear. Officer Kerr exits the car and retrieves the liquor bottle from the ground where he placed it.

As Officer Kerr walks away with the bottle to re-enter the car, [REDACTED], still holding a phone against his left ear, tries to move towards Officer Kerr, but is held back by Officer J. Williams.<sup>138</sup> A few seconds later, [REDACTED] leans forward toward Officer J. Williams and makes a motion consistent with spitting at Officer J. Williams, whose reaction is consistent with being spit on.<sup>139</sup>

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<sup>126</sup> Att. 62 (FTO Johnson’s BWC), T22:29:08Z.

<sup>127</sup> Att. 90, Z8 1500-1600.MP3, 57:56 - 58:06.

<sup>128</sup> Att. 90, Z8 1500-1600. MP3, 58:35.

<sup>129</sup> Att. 90, Z8 1500-1600. MP3, 58:47-58:51.

<sup>130</sup> Att. 90, Z8 1500-1600. MP3, 58:56.

<sup>131</sup> Att. 90, Z8 1500-1600. MP3, 59:29.

<sup>132</sup> Att. 126-177. This summary references Att. 177, which is a merged version of the short video segments (Atts. 126-176) in which the video was originally recorded. The timestamp included on the video is reported to be approximately 15 minutes fast.

<sup>133</sup> Att. 177, 16:14:00.

<sup>134</sup> Att. 177, 16:14:05.

<sup>135</sup> Att. 177, 16:14:25.

<sup>136</sup> Att. 177, 16:15:18.

<sup>137</sup> Att. 177 16:15:30.

<sup>138</sup> Att. 177, 16:16:55-59.

<sup>139</sup> Att. 177, 16:17:08.

Officer J. Williams lifts █████ off of the ground by his mid-section and forcefully brings █████ to the ground.<sup>140</sup> █████'s head can be seen striking the curb. Officer Kerr exits the car and straddles █████, who appears motionless while Officer J. Williams wipes his eyes.<sup>141</sup> A marked responding police unit appears seconds later and FTO Johnson and PPO Mason exit the car.<sup>142</sup>

The video shows a wider-angle, further view of much of what is described in the various BWC videos above. It also provides a view showing the civilians that were present during the interaction when only Officers Kerr and J. Williams were present, as well as when other officers arrived.

**Video footage from the Boost Mobile<sup>143</sup> store** shows a perspective looking westbound towards Cottage Grove, on the south side of 79<sup>th</sup> Street, across the street and a few doors east of the scene. The bus shelter is visible and it also captures the incident. Most of what is captured in these videos is also depicted in the various BWC videos described above. The video also captures a moment right after the take down, as Officer J. Williams is getting to his feet, his right arm raises and quickly comes down, and it appears that his right forearm makes contact with █████'s head or face.<sup>144</sup> The videos add a rear view of FTO Johnson and PPO Mason's vehicle, and the moving of █████ into that vehicle. The Boost Mobile videos also provide a view showing the civilians that were present during the interaction when only Officers Kerr and J. Williams were present, as well as when other officers arrived.

**City of Chicago Police Observation Device (POD) video<sup>145</sup>** from POD 7253, shows an overhead perspective. The POD camera is located on the northeast corner of the intersection of 79<sup>th</sup> and Cottage Grove. The video begins with the camera facing west on 79<sup>th</sup> Street from Cottage Grove. The POD turns and points at the northeast area of the intersection near the bus shelter, and shows █████ lying on the ground with his head on the curb and his body in the street.<sup>146</sup> Officer Kerr stands over █████ and Officer J. Williams is standing to the left of them. The officers' white unmarked car is behind them. Three civilians are visible standing to the left of the bus shelter, two of which appear to be recording the incident.

The camera pans out and shows only two people standing near the bus shelter recording the incident and occasional pedestrians walking by the scene.<sup>147</sup> A motorist drives by while the four officers are talking around █████'s body. There is a clear view of Officer Kerr when he turns in the direction of the car and appears to speak to the persons in the car and waves toward the car.<sup>148</sup>

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<sup>140</sup> Att. 177, 16:17:08.

<sup>141</sup> Att. 177, 16:17:15.

<sup>142</sup> Approximately 15 seconds of video are missing between the time immediately after █████ is taken to the ground and the time the first responding car appears.

<sup>143</sup> Atts. 102-107. The timestamp included on the video is reported to be approximately 2 minutes fast.

<sup>144</sup> Att. 106, 2:55.

<sup>145</sup> Att. 89.

<sup>146</sup> Att. 89, 58:17-21.

<sup>147</sup> Att. 89, 58:44-58:48.

<sup>148</sup> Att. 89, 58:55.

Although much of what is depicted in this POD video was also captured in the BWC videos described above, the POD video also includes a close-up, overhead view of [REDACTED] being pulled off of the curb and being handcuffed, and wider-angle perspective showing the size of the civilian crowd in the area. The POD video shows civilians around when FTO Johnson and PPO Mason move [REDACTED] to their vehicle, as depicted in the BWC. [REDACTED] is handcuffed behind his back by PPO Mason, lifted by FTO Johnson, and placed halfway into the squad car.<sup>149</sup> During the handcuffing and moving of [REDACTED], the POD camera pans out to show the scene. A small number of people are near the area of the incident.<sup>150</sup> Moments later, Sgt. Price and additional officers are shown arriving to the scene. Officers can be seen trying to get [REDACTED] in the police car while Sergeant Price and other officers are shown trying to clear the area around the bus shelter of civilians.<sup>151</sup> About four civilians can be seen standing near the scene and a couple of pedestrians can be seen walking by.<sup>152</sup> Sergeant Price is also shown speaking with Officer J. Williams and Officer Kerr.<sup>153</sup>



*The crowd around the bus stop at the time FTO Johnson handcuffs [REDACTED] (left) and picks up [REDACTED] (right). None of the officers are facing or engaging with any bystanders. (Att. 89, at time stamps 3:59:33:613 (left) and 3:59:40:347 (right)).*

**Photos**<sup>154</sup> were taken of Officer J. Williams and [REDACTED] on November 29, 2019. The photo of Officer J. Williams included close-ups of his face taken from the front, left, and right side. No injuries or saliva are visible in the photos. Photos of [REDACTED] show [REDACTED] laying on a gurney with his eyes closed and include close-ups of the right side of his face. A laceration is visible near his right eye.

### c. Physical Evidence

The **medical records** of [REDACTED]<sup>155</sup> from the University of Chicago Hospital for his visit on November 28, 2019, indicate that [REDACTED] arrived at the hospital alert and oriented and that his demeanor was aggressive and uncooperative. The records also state that [REDACTED] hit the right side of his head on the curb after being arrested and experienced “about 10 seconds of LOC.”<sup>156</sup>

<sup>149</sup> Att. 89, 59:10-59:50.

<sup>150</sup> Att. 89, 59:20.

<sup>151</sup> Att. 89, 1:00:03.

<sup>152</sup> Att. 1:01:11.

<sup>153</sup> Att. 89, 1:03:13.

<sup>154</sup> Att. 220.

<sup>155</sup> Att. 275.

<sup>156</sup> Loss of consciousness.

The records also indicate that [REDACTED] was treated for a concussion. The results of a CT scan of [REDACTED]'s head revealed a left parietal scalp hematoma without evidence of a skull fracture.

#### d. Documentary Evidence

The **Original Case Incident Report**<sup>157</sup> was submitted by Officer J. Williams and is dated November 29, 2019. The report states that the incident involved battery and assault. It lists [REDACTED] as the suspect. In the suspect section it also states that [REDACTED] had a minor injury and that CPD and CFD first aid were given to him. The report further indicates that "Ambulance 24" was called for [REDACTED] and that [REDACTED] suffered a bruise.

The narrative summary is consistent with other evidence with respect to what Officer J. Williams and Officer Kerr initially observed prior to the initiation of the investigatory stop and the events after the take down. However, with respect to J. Williams's interactions with [REDACTED] prior to the take down the narrative summary differs. In relevant part it states as follows: [REDACTED] licked Officer J. Williams on the cheek and Officer J. Williams attempted to put [REDACTED] in custody by applying a wristlock. [REDACTED] stiffened his arms and attempted to pull away becoming an active resistor. [REDACTED] then threatened Officer J. Williams causing him to fear a battery. Officer J. Williams again attempted a wristlock but was unsuccessful. [REDACTED] then spat in Officer J. Williams's face, landing in Officer J. Williams' eyes and mouth, and making [REDACTED] an assailant. Officer J. Williams unsuccessfully attempted a wristlock for the third time, and, blinded by the saliva, performed an emergency takedown on [REDACTED].

An **Arrest Report**<sup>158</sup> for [REDACTED] that was submitted by Officer J. Williams shows that [REDACTED] was charged with aggravated battery of a police officer, resisting arrest, simple assault, and drinking on the public way. Officer J. Williams and Officer Kerr are listed as the arresting officers. The narrative included with the arrest report repeats the information contained in the case incident report narrative.

A handwritten **Supplementary Report**<sup>159</sup> was submitted and signed by reporting officers, FTO Johnson and PPO Mason on November 28, 2019. The narrative in the report states that the reporting officers responded to a call for assistance and were informed when they arrived by Officer Kerr and Officer J. Williams that [REDACTED] had spat on Officer J. Williams's face. FTO Johnson and PPO Mason observed spittle on Officer J. Williams's face. The report further states that [REDACTED] had an impairment to the left eye but that his right eye tracked the movements of FTO Johnson and PPO Mason and responded to stimuli.

FTO Johnson wrote in the report that "The offender refused to respond and or answer the directives and requests to stand made by R/O's. After repeatedly admonishing the alert offender to stand, R/O's placed the offender [sic] who was [sic] continued feigning unconsciousness into restraints." The report further states that because people on the street were berating and heckling the officers, the officers were fearful that the bystanders might become combative and so they

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<sup>157</sup> Att. 5.

<sup>158</sup> Att. 8.

<sup>159</sup> Att. 6 (signed by reporting officers); Att. 297 (Approved by Supervisor).

placed the “alert responsive offender” into their marked car. FTO Johnson and PPO Mason go on to state that once in the vehicle, █████ righted himself and began questioning the officers.

**Detective Reports**<sup>160</sup> provided to COPA by CPD’s Detective’s Bureau were reviewed. All digital evidence collected by CPD detectives was either also collected by, or shared with, COPA. The investigation by the assigned detectives included interviews of Officers J. Williams, Kerr, █████ and █████’s mother, █████. Statements made to reporting detectives by Officer J. Williams and Officer Kerr are largely consistent with the narratives provided in the arrest and case incident reports relating to this incident.

A **Tactical Response Report**<sup>161</sup> (TRR) dated November 29, 2019 relating to the incident was submitted by Officer J. Williams. The TRR indicates that Officer J. Williams used the force mitigation techniques of his presence and providing verbal direction as well as the control tactics of escort holds and wrists locks before responding with an emergency takedown of █████. Officer J. Williams indicates that his reasons for employing the emergency takedown were self-defense and to overcome █████’s resistance and/or aggression.

The TRR indicates that █████ did not follow verbal direction, made verbal threats, stiffened, and pulled away from Officer J. Williams. It also indicates that █████ posed an imminent threat of a battery to Officer J. Williams and that █████ licked and spat upon Officer J. Williams and thus committed an assault and battery.

The TRR indicates that █████ was under the influence of alcohol and that he had minor injuries caused by Officer J. Williams. The TRR also indicates that Officer J. Williams suffered no injury. The narrative included in the TRR reflects the information included in the original case incident report narrative.

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<sup>160</sup> Att. 216-219, Att. 268.

<sup>161</sup> Att. 9.

## VI. LEGAL STANDARD

### a. Use of Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>162</sup> The analysis of the reasonableness of an officer's actions must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."<sup>163</sup>

The factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) the severity of the crime at issue; (2) whether the subject was posing an immediate threat to the safety of officers or others; and (3) whether the subject was actively resisting arrest or attempting to evade arrest by flight.<sup>164</sup> In all uses of force, the goal of a Department member's response is to "resolve the incident with the foremost regard for the preservation of human life and the safety of all persons involved."<sup>165</sup>

### b. Standard 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 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

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<sup>162</sup> General Order G03-02(III)(B)(effective October 16, 2017 to February 28, 2020).

<sup>163</sup> *Plumhoff v. Rickard*, 572 U.S. 765, 775 (2014) (internal quotations and citation omitted).

<sup>164</sup> General Order G03-02 at (III)(C)(1).

<sup>165</sup> General Order G03-02 (II)(A).

*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.

## VII. ANALYSIS & CONCLUSION

Due to the number of Department members involved in this investigation, the below analysis organizes the allegations by each accused member.

### *Allegations Against Officer Jerald Williams*

**Allegation 1**, that Officer J. Williams used excessive force when taking ██████ to the ground, is **sustained**.

As previously mentioned, the primary question in reviewing use of force incidents is whether an officer’s actions were reasonable based upon the totality of the circumstances. In that regard, Department policy lists several factors to consider when reviewing the reasonableness of a use of force incident, such as the severity of the crime at issue, as well as the level of threat and resistance posed to the officer. Specifically, General Order G03-02-01 delineates what types of force options are permissible based on the level of threat or resistance.<sup>166</sup> As applied to Officer J. Williams, it is clear that Department policy permits him to use an emergency takedown as a use of force on ██████ under G03-02-01, because ██████ became an assailant when he spat on Officer J. Williams.<sup>167</sup>

However, the inquiry does not end there, as Officer J. Williams’ emergency takedown is still subject to reasonable restrictions. For example, General Order G03-02 prohibits the use of force as punishment or retaliation, and emphasizes the preservation of human life.<sup>168</sup> Additionally, Department members are required to reduce or modify their use of force based on the totality of the circumstances.<sup>169</sup> In this instance, COPA finds that the *manner* in which Officer J. Williams effectuated the emergency takedown of ██████ was objectively unreasonable and amounted to an excessive use of force.

The videos of this incident speak for themselves, and they depict Officer J. Williams lifting ██████ several feet off the ground, and then slamming his body onto the sidewalk/curb. Under the circumstances, this use of force violates a number of Department policies. First, the violent nature of the takedown suggests that Officer J. Williams’ use of force was retaliatory, which is corroborated by statements he made to Officer Kerr indicating things were under control and he did not need assistance with ██████. If that were the case, there would be no need for such an aggressive take down. Second, Officer J. Williams failed to adjust the force of his takedown to be reasonable under the circumstances. Officer J. Williams knew, or should have known, that he was standing on a hard surface, and therefore should have reduced his use of force accordingly. Finally, Officer J. Williams’ aforementioned failure to restrain his use of force to be proportional to the

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<sup>166</sup> General Order G03-02-01(IV)

<sup>167</sup> *Id.* at (IV)(B)(2)(c)(3) & (IV)(C).

<sup>168</sup> General Order G03-02(II)(A) & (III)(B)(5)(c).

<sup>169</sup> General Order G03-02-01(II)(B)

threat he faced, as well to his failure to account for the circumstances/conditions present, disregarded Department policy concerning the sanctity of human life.

As a result of the numerous violations detailed above, COPA finds that Officer J. Williams' use of force was unreasonable under these particular circumstances, and therefore makes a finding of **sustained** as to **Allegation 1**.

**Allegation 2**, that Officer Williams used deadly force when taking ██████████ to the ground, is **not sustained**.

Deadly force is force that which is likely to cause death or great bodily harm.<sup>170</sup> Here, ██████████'s head struck the curb as a consequence of Officer J. Williams performing an emergency takedown on him. In light of the fact that deadly force includes the "intentional striking of a subject's head with an impact weapon,"<sup>171</sup> if Officer J. Williams intended to strike ██████████'s head against the curb, the takedown could be considered the use of deadly force.

However, the evidence supports Officer J. Williams's assertion that it was not his intention for ██████████'s head to hit the curb as part of the takedown. Rather, COPA finds Officer J. Williams credible in his claim that he performed the takedown, even if retaliatory in part, as an effort to avoid further battery after being temporarily blinded by ██████████'s saliva in his eyes. Multiple videos show ██████████ appearing to spit in Officer J. Williams's face immediately before the takedown and Officer J. Williams wiping near his eyes immediately after the takedown. Also, the takedown method used by Officer J. Williams, while excessive in its application under these circumstances, was not an explicitly prohibited technique by the Department. According to subject matter witness Officer Silapaduriyang, there are no restrictions on how a takedown should be performed beyond the general prohibitions that apply to any use of force. Accordingly, COPA finds that **Allegation 2 is Not Sustained**.

**Allegation 3**, that Officer J. Williams failed to request timely medical assistance, is **exonerated**.

General Order 03-02 requires Department members to request medical assistance for injured persons as soon as practical.<sup>172</sup> In this instance, the evidence shows that Officer Kerr requested an ambulance within seconds of when ██████████ was taken to the ground. Additionally, Officer J. Williams had saliva in his eye in the immediate aftermath of his confrontation with ██████████. As such, it was not practical for Officer J. Williams to make the communication with OEMC for medical assistance, nor was it necessary for him to do so once he was able, given that Officer Kerr had already made the call. Therefore, COPA finds that **Allegation 3 is exonerated**.

**Allegation 4**, that Officer J. Williams failed to show concern for ██████████'s condition, is **not sustained**.

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<sup>170</sup> General Order G03-02(III)(C)(1)

<sup>171</sup> *Id.* at (III)(C)(1)(c)

<sup>172</sup> *Id.* at (IV)(A)(1)

As discussed above, Officer J. Williams had a diminished ability to care for [REDACTED] due to the saliva in his eye. Furthermore, Officer J. Williams was aware that his partner, Officer Kerr, called for an ambulance in a timely manner. Finally, Officer J. Williams later suggested to FTO Johnson that [REDACTED] be treated and/or transported by ambulance for additional medical care. Based on the foregoing, there is insufficient evidence to demonstrate that Officer J. Williams failed to show concern for [REDACTED]'s condition, and **Allegation 4 is not sustained.**

**Allegation 5**, that Officer J. Williams inaccurately reported that CPD rendered first aid to [REDACTED], is **not sustained.**

General Order G03-02 provides that Department members *may* provide first aid consistent with their training.<sup>173</sup> Officer J. Williams indicated that Department members did a visual assessment of [REDACTED], secured the scene, and made sure that an ambulance was on its way. Additional evidence shows that Department members attempted to communicate with [REDACTED] and moved him from the sidewalk to the back of a squad vehicle. It is feasible that Officer J. Williams believed that this amounted to providing first aid when he checked the box indicating as much. However, as it relates to the alleged misconduct, there is insufficient evidence for COPA to determine whether that was Officer J. Williams's actual belief, or if he was intentionally misleading as would be required for a Rule 14 violation. Consequently, **Allegation 5 is not sustained.**

**Allegation 6**, that Officer J. Williams struck [REDACTED] on and about the head, is **not sustained.**

CCTV video shows that immediately after the takedown, [REDACTED] and Officer J. Williams fell to the ground. As Officer J. Williams rises, his forearm appears to make contact with [REDACTED]'s head.<sup>174</sup> Officer J. Williams stated to COPA that he did not strike [REDACTED] while they were on the ground. From the video, it is not clear whether the apparent contact did, in fact occur, and, if so, if it was a deliberate strike, or incidental to Officer J. Williams's efforts to get up from the ground. Additionally, no other evidence is available regarding this interaction. There is insufficient evidence available to either prove or disprove this allegation, and, therefore, COPA finds that **Allegation 6 is not sustained.**

#### *Allegations Against Officer Lawrence Kerr*

**Allegation 1**, that Officer Kerr failed to assist Officer J. Williams while [REDACTED] was actively resisting, is **not sustained.**

Officer Kerr and Officer J. Williams stated that Officer Kerr was present when [REDACTED] allegedly licked Officer J. Williams on the cheek. After the lick, Officer J. Williams requested that Officer Kerr return to the car to write the citation, and Officer Kerr complied. Both Officer J. Williams and Officer Kerr stated that they were confident in Officer J. Williams's ability to handle [REDACTED]. When Officer Kerr entered the car, he stated that he could hear and see [REDACTED]. Officer J. Williams's statement and the video evidence supports this. When the situation with [REDACTED] escalated to [REDACTED] spitting and Officer J. Williams performing a takedown, Officer Kerr exited the vehicle immediately. Although Officer Kerr perhaps could have provided more assistance, based

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<sup>173</sup> General Order G03-02(IV)(A)(2)

<sup>174</sup> Att. 104, 15:58:56 and Att. 177, 16:17:12.

on the evidence, his behavior does not rise to a Rule 10 violation due to a failure to assist Officer J. Williams. COPA finds this allegation against Officer Kerr is **not sustained**.

**Allegation 2**, that Officer Kerr failed to timely request medical assistance for █████, is **unfounded**.

As mentioned in the discussion of Allegation 3 for Officer J. Williams, the evidence demonstrates that Officer Kerr made a timely communication with OEMC to request an ambulance. This is clear from the OEMC records, as well as CCTV video depicting Officer Kerr on his radio while running toward █████ immediately after the takedown.<sup>175</sup> Officer Kerr's first communication with OEMC does not indicate for whom the ambulance is being requested. When speaking with the EMTs, Officer Kerr directed them to Officer J. Williams. However, in his statement to COPA, Officer Kerr indicated that he called the ambulance for both █████ and Officer J. Williams. As a result, Officer Kerr's intent when making the call is perhaps ambiguous, but an ambulance was timely summoned, nonetheless. Accordingly, **Allegation 2** is **unfounded**.

**Allegation 3**, that Officer Kerr failed to show concern for █████'s condition, is **not sustained**.

Similar to the analysis for the same allegation against Officer J. Williams, there is also insufficient evidence to find that Officer Kerr failed to show concern for █████'s condition. Again, it has been established that Officer Kerr made a timely request for medical assistance, even if his reason for calling is less certain. Moreover, FTO Johnson arrived on the scene soon after the OEMC communication was made, and therefore assumed primary duties as the ranking officer. Consequently, **Allegation 3** is **not sustained**.

**Allegation 4**, that Officer Kerr engaged in an unjustified verbal altercation with a motorist, is **sustained**.

The verifiable evidence shows that Officer Kerr stated "(h)e ain't dead... Get the fuck out of here and mind your business" at a nearby passing car while standing over █████'s body. Officer Kerr admitted making the statement, and indicated that he used "strong language" to make sure that the individuals behind him did not attack or contaminate the scene.<sup>176</sup> However, Officer Kerr's choice words were in clear violation of Department Rules 2 and 9, as they undermine the Department by being disrespectful toward civilians. COPA does not accept the proposition that the use of profanity was necessary or appropriate in this communication, and therefore makes a finding of **sustained** as to **Allegation 4**.

#### *Allegations Against FTO Mark Johnson*

**Allegation 1**, that FTO Mark Johnson publicly made unprofessional comments about █████, is **not sustained**.

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<sup>175</sup> Att. 177, at 9 minutes 59 seconds.

<sup>176</sup> Att. 307, 49:2.

At issue in this allegation are several comments FTO Johnson made regarding ██████ “going in and out,” “being off a pill,” and getting “knocked out again.” First, FTO Johnson responded to a question from Officer Kerr about if ██████ was awake by stating “(y)eah, he’s going in and out. He’s off a pill.” These comments are an apparent reference to ██████ being conscious and then unconscious, as well as ██████ combining alcohol and drugs. While perhaps inaccurate, this comment is insufficient to find that FTO Johnson was making light of ██████’s condition. Next, FTO Johnson commented to PPO Mason, “(i)f he spits, he gets knocked out again.” This statement appears to indicate to PPO Mason that ██████ may be subject to an additional use of force should he resist arrest or batter another officer. These comments may very well have been distasteful, but they were directed at PPO Mason, and there is insufficient evidence to indicate that the conversation was overheard by the public or intended solely to be embarrassing or disrespectful. Consequently, COPA finds that **Allegation 1** against FTO Johnson is **not sustained**.

**Allegation 2**, that FTO Mark Johnson failed to timely request medical assistance for ██████, is **exonerated**.

As discussed in greater detail with previous allegations above, the evidence has established that Officer Kerr made a timely request for medical assistance for ██████, and there was no longer an obligation for other officers to make subsequent calls. This is especially true of FTO Johnson, who arrived on scene *after* the request was made. Accordingly, **Allegation 2** is **exonerated**.

**Allegation 3**, that FTO Mark Johnson failed to treat ██████ with dignity and respect by carrying him while unconscious, is **sustained**.

FTO Johnson’s assertion that he moved ██████ because of the civilian interaction with other officers on scene is unconvincing. As shown on POD Camera footage, the number of civilians on scene was relatively small and did not present a threat that justified the immediate moving of ██████ before an ambulance arrived. Furthermore, FTO Johnson knew that ██████ had just been slammed into concrete and observed him motionless and unresponsive. This clearly suggests that ██████ was potentially suffering significant medical trauma, regardless of what FTO Johnson believes about ██████’s state of consciousness. Therefore, it was plainly unreasonable to move ██████ prior to an assessment by trained medical professionals, who FTO Johnson knew were on the way. Furthermore, FTO Johnson did not appear to check for injuries prior to carrying ██████. Additionally, the manner in which FTO Johnson moved ██████, and directed other officers to assist, reflected a complete disregard to ██████’s dignity and medical condition. Body worn camera footage clearly depicts that, not only was no care taken to prevent further injury, but ██████ was handled as if he were a heavy object being moved from one point to another. There are no verbal or physical actions depicted in the body worn camera footage to reflect an appreciation for human dignity or respect of an injured individual.

Finally, COPA makes a finding of fact that ██████ was unconscious at the time he was moved to the squad car. This is corroborated, at least in part, by ██████’s medical records. More importantly, FTO Johnson said as much to EMTs and hospital staff. In fact, FTO Johnson’s assertion that ██████ was “going in and out” of consciousness and his admonishment to PPO Mason that if ██████ spits on them, he (██████) would get “knocked out *again*” (emphasis added) are

tantamount to an acknowledgment that he was largely unconscious. As a result, **Allegation 3 is sustained.**

**Allegation 4**, that FTO Mark Johnson failed to timely activate his BWC, is **sustained.**

Under Special Order S03-14, Department members are required to activate their BWC at the beginning of an incident, and whenever they are engaged in law-enforcement-related activities.<sup>177</sup> FTO Johnson was on scene and interacting with ██████ for several minutes before turning on his BWC. Prior to activating his BWC, FTO Johnson moved ██████'s unresponsive body from a prone position; assisted with handcuffing ██████ and pulled ██████ to his squad car – all activities that are clearly law-enforcement-related. Consequently, **Allegation 4 is sustained.**

**Allegation 5**, that FTO Mark Johnson prematurely deactivated his BWC, is **not sustained.**

Special Order S03-14 also requires Department members to continue recording with their BWC until the entire incident has been captured, and the member is no longer engaged in a law-enforcement-related activity.<sup>178</sup> S03-14 goes on to state that BWC recordings may be terminated in use of force incidents once the scene is secured.<sup>179</sup> Here, FTO Johnson deactivated his BWC recording while speaking with officers outside of his squad vehicle *after* he placed ██████ inside the car. At that time, no civilians were nearby, and Department members had secured the scene. Accordingly, **Allegation 5 is not sustained.**

**Allegation 6**, that FTO Mark Johnson failed to secure ██████ during transport, is **sustained.**

Pursuant to U02-01-03, arrestees should be secured with a seat belt during transport.<sup>180</sup> However, FTO Johnson admitted that he did not secure ██████ in a seatbelt and indicated that did not even try to do so. FTO Johnson explained that the reason for his inaction was to avoid being spit on by ██████. However, the risk of being spit on by someone who, at best, is in and out of consciousness, does not constitute a valid excuse to not even *attempt* to secure him in a seatbelt. The requirement that an arrestee be secured with a seatbelt serves the purpose of protecting the arrestee as well as the officers. As a result, **Allegation 6 is sustained.**

**Allegation 7**, that FTO Mark Johnson improperly handcuffed ██████ while he was unconscious, is **not sustained.**

General Order G06-01-02 provides that arrestees will be handcuffed unless they are injured to an extent that renders them incapable of offering resistance, and/or if doing so would be an excessive measure of restraint.<sup>181</sup> However, The fact that an arrestee is physically disabled does not preclude the use of handcuffs.<sup>182</sup> In the instant matter, it is arguable that ██████ was injured to an extent that eliminated his threat of future resistance. Additionally, by virtue of his

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<sup>177</sup> Special Order S03-14(III)(A)

<sup>178</sup> *Id.* at (III)(B)

<sup>179</sup> *Id.* at (III)(B)(1)(a)(4)

<sup>180</sup> Directive U02-01-03(III)(B)(6) (effective June 26, 2019), requiring that, absent exigent circumstances, arrestees will be secured with a vehicle safety belt.

<sup>181</sup> General Order G06-01-02(V)(A)(2)

<sup>182</sup> *Id.* at (V)(A)(2)(b)

unconsciousness, handcuffing him may have been excessive. However, there is insufficient evidence to conclude that [REDACTED] could not regain consciousness and pose a threat to officers. Indeed, he did regain consciousness moments after being placed in FTO Johnson's squad, and [REDACTED] later was uncooperative at the hospital. Given the uncertainty of the situation, and the inability of FTO Johnson to be sure that [REDACTED] would not later pose a threat, there is insufficient evidence to either prove FTO Johnson violated this order or support FTO Johnson's explanation that he had a valid excuse to not comply. Therefore, COPA finds that **Allegation 7 is not sustained.**

**Allegation 8**, that FTO Mark Johnson failed to show concern for [REDACTED], is **sustained.**

When FTO Johnson arrived on scene, he was the ranking Department member to assume command of the situation. FTO Johnson was made aware that [REDACTED] had been taken to the ground by Officer J. Williams, and that an ambulance was on the way. In fact, [REDACTED] was still laying on the ground, unresponsive and motionless, when FTO Johnson first observed him. Soon thereafter, FTO Johnson decided to carry [REDACTED]'s seemingly unconscious body from the ground to his squad vehicle. Prior to moving [REDACTED], FTO Johnson did not ask him if he was injured. As discussed in Allegation 3 above, it was unreasonable for FTO Johnson to move [REDACTED], who was clearly injured, without more knowledge that doing so would not further injure him. Consequently, COPA finds that **Allegation 8 is sustained.**

**Allegation 9**, that FTO Mark Johnson falsely stated in his supplementary report that [REDACTED] was alert and/or responsive when he arrived on the scene, is **sustained.**

Clear and uncontroverted evidence from CCTV and POD videos show that [REDACTED] was not alert and/or responsive when FTO Johnson arrived on scene. FTO Johnson indicated that at times he thought [REDACTED] was "going in and out" of consciousness, and that one of [REDACTED]'s eyes was "tracking" officers. However, COPA has made a factual finding that [REDACTED] was unconscious when FTO Johnson arrived. Even assuming, *arguendo*, that FTO Johnson's impressions were correct, it is still inaccurate to characterize [REDACTED] as alert and/or responsive. FTO Johnson's conclusions in his report are especially problematic because he did not speak with [REDACTED]. In sum, COPA finds that someone who is lying on the ground, motionless and unresponsive, cannot be accurately characterized as alert and/or responsive simply because his eyes may be temporarily open. Additionally, FTO Johnson failed to mention in his report that [REDACTED] was not moving or talking. To omit that important context while characterizing someone as alert and/or responsive is misleading. COPA finds that FTO Johnson's description of [REDACTED] was material and made knowingly. As a result, COPA finds that FTO Johnson violated Rule 14's prohibition against making a false report, and **Allegation 9 is sustained.**

**Allegation 10**, that FTO Mark Johnson improperly omitted from his supplementary report that [REDACTED] lost consciousness, is **sustained.**

Related to Allegation 9 above, FTO Johnson also omitted important information from his supplementary report when he failed to mention that [REDACTED] lost consciousness. As previously discussed, FTO Johnson made multiple statements that [REDACTED] was "going in and out" of consciousness. Additionally, FTO Johnson made reference to PPO Mason about [REDACTED] getting

“knocked out *again*” (emphasis added) and told responding EMTs that █████ lost consciousness. The record is replete with evidence that FTO Johnson knew █████ lost consciousness, and yet he omitted this material information from his supplementary report. This information is material, because FTO Johnson failed to adjust his behavior and treatment of █████ to take his status of consciousness into account. In other words, FTO Johnson would be required to take more due care and demonstrate a more respectful engagement with an unconscious or unresponsive individual suffering from a head injury. In contrast, FTO Johnson harshly and disrespectfully engaged with █████, as if it were retaliatory for what FTO Johnson perceived as █████’s uncooperativeness. FTO Johnson’s intentional omission of █████’s unconsciousness in his report also supported his justification to transport █████ to the hospital, as opposed to the more immediate medical care available on scene. FTO Johnson’s failure to note that █████ at least *appeared* unconscious *at any time* is false and misleading, and therefore violates Rule 14. In light of the above, **Allegation 10** is **sustained**.

**Allegation 11**, that FTO Mark Johnson falsely stated in his supplementary report, “[t]he offender who was at the feet of the LEMART trained R/Os was alert”, is **sustained**. The CCTV and POD videos speak for themselves, and COPA does *not* find that █████’s eye movement and occasional consciousness amount to alertness. Inclusive of the analysis from the preceding Allegations 9 and 10, **Allegation 11** is also **sustained**.

**Allegation 12**, that FTO Mark Johnson falsely stated in his supplementary report, “[t]he offender refused to respond and or answer the directives and requests to stand made by the ROs”, is **sustained**.

First, the analysis of prior allegations has established that █████ was largely unconscious, and therefore it is inaccurate to characterize his unresponsiveness as a refusal to respond or comply. Even more telling, however, is that FTO Johnson admitted he did not ask █████ to stand. In fact, FTO Johnson stated that his only attempted communication with █████ at that time was when he tapped █████ while he was on the ground. This minimal attempt to communicate does not constitute a request to stand, nor was it likely █████ was conscious enough to perceive any such request. Thus, **Allegation 12** is **sustained**.

**Allegation 13**, that FTO Mark Johnson falsely stated in his supplementary report, “[a]fter repeatedly admonishing the alert offender...who was feigning unconsciousness into restraints”, is **sustained**.

For the same reasons articulated in Allegations 9-11, COPA rests on its prior findings regarding █████’s lack of consciousness, his state of alertness, and FTO Johnson’s insufficient attempts to communicate with or, in this case, “admonish” █████. Furthermore, FTO Johnson admitted that he did not *repeatedly* admonish █████. The evidence suggests that FTO Johnson attempted to paint a picture of █████ as an uncooperative arrestee to justify his undignified and disrespectful treatment of a man who was just violently thrown to the ground and suffered a head injury. █████ had not yet received any medical treatment, and FTO Johnson was not qualified to determine whether █████ was pretending to be unconscious. Additionally, due to FTO Johnson’s role as the ranking officer on scene, he also directed others to assist him in this behavior and treatment. COPA finds that, based upon a totality of the circumstances, and by a preponderance of

the evidence, that FTO Johnson's statements or omissions referenced in Allegations 9 – 13 were false and/or intentionally misleading and material to the evaluation of FTO Johnson's behavior during this incident and therefore to this investigation. Accordingly, **Allegation 13** is **sustained**

**Allegation 14**, that FTO Johnson failed to properly search [REDACTED], is **not sustained**.

General Order G06-01-02 provides that persons taken into custody are to be searched prior to transport.<sup>183</sup> FTO Johnson stated that a custodial search was not performed prior to placing [REDACTED] in the car for transport, but rather a visual search was conducted. The evidence also establishes that FTO Johnson grabbed [REDACTED] about the arm, neck, ankle, and waist. Given the totality of the interaction between FTO Johnson and [REDACTED], including physical contact and visual observation, there is insufficient evidence to find that FTO Johnson failed to properly search [REDACTED]. In fact, any additional or more intrusive contact with [REDACTED] may have been unsafe given his medical condition at the time. Therefore, **Allegation 14** is **not sustained**.

#### *Allegations Against PPO Timothy Mason*

**Allegation 1**, that PPO Timothy Mason failed to timely request medical assistance for [REDACTED], is **exonerated**.

As discussed in similar allegations for other Department members, there was a timely request for medical assistance made by Officer Kerr, and subsequent requests would be duplicative and unnecessary. Furthermore, PPO Mason was subordinate to FTO Johnson, and was therefore not tasked with making such communications. Accordingly, **Allegation 1** against PPO Mason is **exonerated**.

**Allegation 2**, that PPO Timothy Mason failed to show concern for [REDACTED], is **not sustained**.

Again, PPO Mason was not the primary contact officer. In fact, the record indicates that he had limited experience, and was being directed by FTO Johnson. Also, there is no evidence that shows PPO Mason was acting in a particularly callous or indifferent way toward [REDACTED]. **Allegation 2** is **not sustained**.

**Allegation 3**, that PPO Timothy Mason failed to treat [REDACTED] with dignity and respect when [REDACTED] was carried unconscious to the police car, is **exonerated**.

PPO Mason did participate in the alleged behavior that forms the basis for Allegation 3. However, due to his limited experience and subordinate status, he would have disobeyed direct orders from FTO Johnson if he did not assist with carrying [REDACTED]. Therefore, **Allegation 3** is **exonerated**.

**Allegation 4**, that PPO Timothy Mason failed to secure [REDACTED] during transport without justification, is **sustained**. For the same reasons stated in Allegation 6 against FTO Johnson, COPA also finds that PPO Mason similarly failed to comply with U02-01-03. This is not an instance of following an order from FTO Johnson when he did not secure [REDACTED] in a seatbelt, but

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<sup>183</sup> General Order G06-01-02(IV)

rather one where he offered similar reasoning of not wanting to be battered by reaching across [REDACTED]. Therefore **Allegation 4** is **sustained**.

**Allegation 5**, that PPO Timothy Mason improperly handcuffed [REDACTED] while unconscious, is **exonerated**.

Similar to the analysis for Allegation 3 above, PPO Mason was following orders from a superior officer when he handcuffed [REDACTED]. As such, any potential misconduct would be attributable to FTO Johnson, who gave the order to handcuff, rather than PPO Mason. Consequently, **Allegation 5** is **exonerated**.

**Allegations 6-9**, that PPO Mason made false or inaccurate statements in his supplementary report regarding [REDACTED], are **sustained**.

Pursuant to the analysis from Allegation 9 against FTO Johnson, PPO Mason similarly should not have signed a report with blatant and material falsehoods/inaccuracies. Although FTO Johnson and PPO Mason stated that PPO Mason did not draft the report in question, he was presumably in the room when it was drafted and still signed off on its contents. He adopted the veracity and accuracy of the report by affixing his signature to it. PPO Mason cannot be shielded by his subordinate status for every instance of wrongdoing, and there is no evidence indicating that he was ordered to sign the supplementary report. As a result, **Allegations 6 through 9** are **sustained**.

**Allegation 10**, that PPO Mason failed to properly search [REDACTED], is **not sustained**. In addition to analysis under Allegation 14 for FTO Johnson, PPO Mason was acting in a subordinate status, and therefore **Allegation 10** is **not sustained**.

#### *Allegations Against Officer Ariel Williams*

**Allegation 1**, that Officer Ariel Williams failed to treat [REDACTED] with dignity and respect when she assisted with moving [REDACTED] into the squad car, is **not sustained**.

The evidence shows that when Officer A. Williams arrived on scene, she immediately assisted FTO Johnson with putting [REDACTED] in the car. FTO Johnson was a superior officer who had already begun moving [REDACTED], and Officer A. Williams stated that she moved [REDACTED] because she trusted FTO Johnson. Officer A. Williams did not witness the takedown, or [REDACTED] lying on the ground. In addition, Officer A. Williams stated that she believed [REDACTED] was faking unconsciousness, because she heard others on scene say so, and because FTO Johnson said that [REDACTED] was conscious. Independent of these opinions, Officer A. Williams claimed that she felt [REDACTED]'s body stiffen and saw his head move. For these reasons, the evidence is insufficient to show that Officer A. Williams failed to treat [REDACTED] with dignity and respect when she assisted with moving him. COPA finds that **Allegation 1** against Officer A. Williams is **not sustained**.

**Allegation 2**, that Officer Ariel Williams failed to show concern for [REDACTED]'s condition, is **not sustained**.

There is also insufficient evidence to determine that Officer A. Williams failed to show concern for ██████'s condition. As detailed above, Officer A. Williams claims that she believed ██████ to be conscious and/or feigning unconsciousness. Her level of concern for ██████ was consistent with this belief. And, although there is evidence to indicate that ██████ was unconscious when he was moved, Officer A. Williams' stated understanding was reasonable based on the information communicated to her, as well as her later arrival to the scene. As a result, **Allegation 2 is not sustained.**

### *Allegations Against Colin O'Connell*

**Allegation 1**, that Officer Colin O'Connell failed to treat ██████ with dignity and respect when he assisted with moving ██████ into the squad car, is **not sustained.**

Similar to Officer A. Williams, Officer O'Connell asserted that he heard FTO Johnson state that ██████ was conscious. Based on Officer O'Connell's observations, ██████ did not appear to be alert. However, Officer O'Connell's indicated that his previous experience with arrestees who feigned unconsciousness, combined with FTO Johnson's claim that ██████ was conscious, caused him to believe that it was safe to move ██████. Further, nothing in the investigation revealed that Officer O'Connell had any knowledge of the takedown and its impact on ██████ when he arrived on scene. Therefore, **Allegation 1** against Officer O'Connell is **not sustained.**

**Allegation 2**, that Officer Colin O'Connell failed to show concern for ██████'s condition, is **not sustained.**

Officer O'Connell admitted that ██████ did not appear to be alert. However, similar to Officer A. Williams, there is no evidence that Officer O'Connell had any knowledge of what occurred before his arrival on scene, and his supervising officer stated that ██████ was conscious. Officer O'Connell's actions with respect to ██████'s were consistent with the information he had available to him at the time. Accordingly, **Allegation 2** is **not sustained.**

### *Allegations Against Officer Lauren Holt*

**Allegation 1**, that Officer Lauren Holt engaged in an unjustified verbal altercation with a civilian bystander when she directed the words, "[y]ou sound stupid. Clown." at him, is **sustained.**

Officer Holt admitted saying, "[y]ou sound stupid. Clown" toward a bystander who was recording at the scene of the incident. She also admitted that calling the bystander a clown was inappropriate. Officer Holt claimed that she made the statement as a de-escalation technique. However, Officer Holt did not try to communicate with him before she called him "stupid" and a "clown", which casts doubt on her stated reasoning. Officer Holt asserted that, by insulting the bystander, she was trying to control the situation and not show weakness. This is also inappropriate and does not justify her statement. Officer Holt's behavior was unwarranted, and it impeded the Department's goals to promote respect between the community and law enforcement, in clear violation of Rules 2 and 9. Therefore, **Allegation 1** against Officer Holt is **sustained.**

**Allegation 2**, that Officer Lauren Holt engaged in an unjustified verbal altercation with a civilian bystander when she directed the words “[s]ay it louder. What the fuck is you talking about?” toward him, is **sustained**.

Officer Holt admitted making the alleged statement, and it was also captured on Officer O’Connell’s BWC. Officer Holt asserted that she made the statement because she felt disrespected when the bystander called her a “coon bitch.” However, a disrespectful statement directed toward a Department member does not justify a retaliatory response, which likely escalated the situation by encouraging the bystander to continue. COPA finds that **Allegation 2** is **sustained**.

**Allegation 3**, that Officer Lauren Holt prematurely deactivated her BWC without justification, is **sustained**.

As discussed in Allegation 5 for FTO Johnson, an officer’s body-worn camera should not be deactivated until the officer is no longer engaged in a law-enforcement-related activity. Officer Holt stated that she deactivated her camera when the scene was secure. Officer Holt believed the scene to be secure because an ambulance arrived. However, the law-enforcement-related activity involving the civilian bystanders extended beyond the securing of the scene due to the continued adversarial nature of the encounter between Officer Holt and the bystander.<sup>184</sup> Officer Holt was addressing the bystander when she deactivated her camera, and it was Officer O’Connell’s BWC that recorded part of the continued adversarial exchange. By prematurely deactivating her BWC, Officer Holt impeded Department efforts to achieve its policy goals in violation of Rule 2. Consequently, **Allegation 3** is **sustained**.

### *Allegations Against Officer Pierre Williams*

**Allegation 1**, that Officer Pierre Williams engaged in an unjustified verbal altercation with a civilian bystander when he directed the words, “[y]ou’re a coon” at him, is **sustained**.

Officer P. Williams admits to directing the words, “[y]ou’re a coon” toward a civilian bystander after the man called Officer P. Williams a “coon cop.” Assuming arguendo, Officer P. Williams’ claim that he did not know “coon” was a racial slur, his use of the word is not justified when he could have chosen to not engage in name calling with the civilian at all. In fact, Sergeant Price later instructed an officer working the perimeter of the scene not to “indulge” the bystander, and let him record. Officer P. Williams claimed that he was mirroring the man to de-escalate the situation, as he was taught in the Academy. However, it is unclear how trading insults would serve this purpose. In fact, Department members are held to a higher standard, and are certainly not encouraged to lower themselves to someone else’s level of discourse by using insults and/or derogatory language as a mechanism to de-escalate. Such behavior brings discredit upon the Department, and frustrates efforts to achieve its goals, all of which are in violation of Rules 2, 8 and 9. Therefore, **Allegation 1** against Officer P. Williams is **sustained**.

**Allegation 2**, that Officer Pierre Williams failed to activate his BWC, is **sustained**.

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<sup>184</sup> S03-14(III)(A)(2)(p), “Law-enforcement-related activities include but are not limited to: ...any encounter with the public that becomes adversarial after the initial contact.”

Officer P. Williams stated that he believed he had activated his BWC by tapping it at the scene and did not learn until later that his BWC was not on. However, there is no verifiable evidence capturing Officer P. Williams tapping his chest. Further, Officer P. Williams could not recall whether he heard the beeps that sound every two minutes indicating that his camera was on. Officer P. Williams's claim that he could not focus on the beeps because there was too much going on is not convincing. Verifiable video evidence shows Officer P. Williams standing stationary most of the time he was on scene. COPA finds **Allegation 2** is **sustained**.

### *Allegations Against Sergeant Alma Price*

**Allegation 1**, that Sergeant Price failed to timely activate her BWC, is **sustained**.

The analysis above for Allegation 4 for FTO Johnson and Allegation 2 for Officer Pierre Williams, applies as well to Sergeant Price. She stated that she believed she had tapped her chest and activated her BWC when she arrived on scene. The BWC of PPO Mason captures Sergeant Price tapping her chest near her BWC, supporting her claim.<sup>185</sup> However, Sgt. Price's BWC did not activate, thus violating S03-14. Accordingly, **Allegation 1** is **sustained**.

**Allegation 2**, that Sergeant Price failed to ensure that subordinate officers sought appropriate medical attention for [REDACTED], is **sustained**.

It has been established throughout various allegations that Officer Kerr made a timely request for medical assistance. However, Sergeant Price was the ranking Department member when she arrived on the scene, and therefore had a responsibility to thoroughly assess the situation. At the time Sergeant Price arrived, she did not confirm with her subordinate officers that the ambulance was for [REDACTED]. Sergeant Price also never checked on [REDACTED] herself to determine his potential need for treatment. Furthermore, Sergeant Price did not ask anyone *why or if* medical attention was required for [REDACTED]. In the end, [REDACTED] was not taken to an ambulance. As a result of Sergeant Price's failure to properly inquire regarding [REDACTED]'s condition, as well as her failure to direct other officers accordingly, **Allegation 2** is **sustained**.

**Allegation 3**, that Sergeant Price failed to show concern for [REDACTED]'s condition, is **sustained**.

From the time Sergeant Price arrived on scene to the time [REDACTED] left for the hospital, she was the highest ranked officer present. Yet, by Sergeant Price's own admission, she never approached FTO Johnson's squad car to check on [REDACTED] or personally assess his condition to analyze if she needed take any further action. Sergeant Price indicated that she assumed the ambulance on scene was for [REDACTED], but she also failed to inquire about the nature of [REDACTED]'s injuries to any of the officer's present. Sergeant Price failed to inquire why, if the ambulance was for [REDACTED] as she assumed, he was in the back of a squad car instead of an ambulance. Evidence of Sergeant Price's inaction and inattention with respect to [REDACTED] support a finding that Sergeant Price did not show adequate concern for [REDACTED]'s condition, which violates Department Rules 3, 5, 8, and 10. COPA finds that **Allegation 3** is **sustained**.

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<sup>185</sup> Att. 54, T22:00:14Z.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Jerald Williams

#### i. Complimentary and Disciplinary History

Officer Jerald Williams has been a member of the Chicago Police Department since August 26, 2013. Since that time, he has received one Annual Bureau of Recognition Award; two Police Officer of the Month Awards; two Department Commendations; two Honorable Mention Ribbon Awards; two Unit Meritorious Performance Awards; one Complimentary Letters; 106 Honorable Mentions; two Attendance Recognition Awards; one Crime Reduction Award (2019); and five Emblems of Recognition for Physical Fitness. Officer J. Williams was disciplined in May 2020, for using excessive force during an arrest on February 22, 2018, for which he received a 15-day suspension. Officer J. Williams received a SPAR in January 2019, for a preventable accident occurring on December 31, 2018, resulting in a reprimand.

#### i. Recommended Penalty

COPA recommends that Officer Jerald Williams receive a 45-day Suspension. COPA has considered Officer Williams' complimentary history in mitigation. In aggravation, Officer Williams has previously received discipline for an incident involving the use of excessive force. In this incident, it is not disputed that Officer Williams was permitted under Department policy to use an emergency takedown at the end of his interaction with [REDACTED]. However, the force used here in executing that takedown was disproportionately and massively excessive under the circumstances that existed. For the foregoing reasons, COPA recommends a 45-day Suspension.

### b. Officer Lawrence Kerr

#### i. Complimentary and Disciplinary History

Officer Lawrence Kerr has been a member of the Chicago Police Department since March 25, 2002. Since that time, he has received two Superintendent's Awards of Valor; one Superintendent's Award of Tactical Excellence; one Superintendent's Honorable Mention; one Police Officer of the Month Award; 12 Department Commendations; one Problem Solving Award; two Honorable Mention Ribbon Awards; three Unit Meritorious Performance Award; three Complimentary Letters; 272 Honorable Mentions; three Attendance Recognition Awards; one Deployment Operations Center Award; three Crime Reduction Awards and Ribbons (2004, 2009 and 2019); one NATO Summit Service Award; one Presidential Election Deployment Award (2008); one Recognition for Outside Governmental Agency Award; and two Emblems of Recognition for Physical Fitness. Officer Kerr received a SPAR in February 2020, for being absent without permission that same month. That incident resulted in a reprimand.

#### ii. Recommended Penalty

COPA recommends that Officer Lawrence Kerr receive a 15-day Suspension. COPA has considered Officer Kerr's complimentary history, which includes significant recognition for his service, as well his lack of disciplinary history in mitigation. Officer Kerr acknowledged making the statement, stating it was in the heat of the moment. While his further explanation that he

needed to use strong language does not excuse this conduct, it is noted that the profanity used was not biased language nor used in place of the person's name. For the foregoing reasons, COPA recommends a 15-day Suspension.

**c. Officer Mark Johnson**

**i. Complimentary and Disciplinary History**

Officer Mark Johnson has been a member of the Chicago Police Department since September 24, 2007. Since that time, he has received one Superintendent's Award of Valor; five Life Saving Awards; one Chicago Police Leadership Award; seven Department Commendations; one Field Training Service Award; one Problem Solving Award; one Joint Operations Award; one Complimentary Letter; 32 Honorable Mentions; one Attendance Recognition Award; two Crime Reduction Awards (2009 and 2019); one NATO Summit Service Award, one Presidential Election Deployment Award (2008); and one Other Award (not specified). Officer Johnson received a SPAR in January 2020, for not having a current Illinois License Plate and / or City Vehicle Sticker on November 29, 2019. He received 1-day off for that incident.

**ii. Recommended Penalty**

COPA recommends that Officer Mark Johnson be separated from the Department. COPA has considered Officer Johnson's complimentary history, his lack of significant disciplinary history, his length of service with the Department, and perhaps most significantly, his role as a Field Training Officer (FTO). Officer Johnson's conduct both on-scene and afterwards failed to demonstrate the professionalism and integrity that is required of all Chicago Police Department members. Specifically, Officer Johnson's utter lack of concern for the well-being of [REDACTED] was a dereliction of his duty. This failure was compounded when he proceeded to document these events in a self-serving and inaccurate manner. The mischaracterization of a police-citizen encounter in an official Department report severely undermines public trust and has the potential to delegitimize other proper police actions and their supporting documentation. Lastly, these deeply troubling acts of misconduct were further compounded by Officer Johnson's role as an FTO. He was entrusted with the responsibility modeling proper policing, reinforcing Department training, and mentoring the PPOs under his supervision. In this instance, Officer Johnson failed to uphold that responsibility. Accordingly, COPA recommends Officer Johnson be separated from the Department.

**d. Officer Timothy Mason**

**i. Complimentary and Disciplinary History**

Officer Timothy Mason had been a member of the Chicago Police Department since December 27, 2018. Since that time, he has received one Department Commendation; seven Honorable Mentions; and one Crime Reduction Award (2019).

**ii. Recommended Penalty**

COPA recommends that Officer Timothy Mason receive a 90-day Suspension. COPA has considered Officer Mason's complimentary history, his lack of disciplinary history and his brief

time with the Department in mitigation. Further consideration is given to the fact that Officer Mason was a Probationary Police Officer (PPO), assigned to work with Field Training Officer (FTO) Johnson essentially for on-the-job training. The power-dynamic of an FTO-PPO relationship is largely one-sided, heavily tilted towards the FTO. And it is for this reason that COPA made some of the above findings where Officer Mason was following the direction of a superior. However, the Department has rules, policies and training to provide guidance on how to conduct oneself, and members need to be accountable for their actions. Intentionally making false statements, even when done by way of adopting statements of others, tears at the fabric of credibility throughout the Department. Here, the evidence is overwhelming that several statements of fact contained in FTO Johnson's and PPO Mason's supplemental report are false. While Officer Mason acknowledged the report, he signed contained an inaccuracy regarding ██████ being given verbal commands, his explanation that they repeatedly tapped ██████ to get him to stand also lacks any credibility. And the fact, assuming it is true, that they had not reviewed their body worn camera video before writing their report is of little consequence. That report was carefully crafted to mislead the reader into thinking ██████ was an alert and disobedient arrestee. The Department and the People of the City of Chicago deserve better from its officers. For the foregoing reasons, COPA recommends a 90-day Suspension.

**e. Officer Lauren Holt**

**i. Complimentary and Disciplinary History**

Officer Lauren Holt has been a member of the Chicago Police Department since February 20, 2018. Since that time, she has received 14 Honorable Mentions; and one Crime Reduction Award (2019). Officer Holt received a SPAR in November 2019, for a court appearance violation on October 25, 2019. No disciplinary action was taken.

**ii. Recommended Penalty**

COPA recommends that Officer Lauren Holt receive a 30-day Suspension. COPA has considered Officer Holt's complimentary history in mitigation and notes her lack of serious disciplinary history in mitigation. Officer Holt's verbal misconduct was the result of her own engagement with a bystander. She injected herself into a situation by insulting the bystander multiple times. Officer Holt knew her conduct was inappropriate, as evidenced by her telling herself that she needed to stop before turning off her body worn camera prematurely. For the foregoing reasons, COPA recommends a 30-day Suspension.

**f. Officer Pierre Williams**

**i. Complimentary and Disciplinary History**

Officer Pierre Williams has been a member of the Chicago Police Department since August 16, 2017. Since that time, he has received one Superintendent's Award of Tactical Excellence; one Department Commendation; 38 Honorable Mentions; and one Crime Reduction Award (2019). Officer P. Williams has received three SPARs in 2020. Two of the transgressions were for failure to perform an assigned task (on February 26, 2020, and July 22, 2020), and one was for an improper search of a person or property (on February 15, 2020). He received a reprimand in each of those incidents.

**ii. Recommended Penalty**

COPA recommends that Officer Pierre Williams receive a 30-day Suspension. COPA has considered Officer Williams' complimentary history in mitigation and notes no significant disciplinary history in his past. Officer Williams' verbal misconduct was the result of an on-going conversation with a bystander at the scene. During the conversation, Officer Williams chose to challenge the bystander at every opportunity, culminating in repeating the bystander's racial epithet at the bystander. Officer Williams' assertion to COPA that at time he made the statement he did not know the meaning of the word he used is plausible, considering his young age and his demeanor when making the claim. However, that does not outweigh the fact that his clear intention by mirroring that word back at the bystander was to insult and demean. Officer Williams' claim of attempting to activate his body worn camera is not supported by any corroborating facts or circumstances. For the foregoing reasons, COPA recommends a 30-day Suspension.

**g. Sergeant Alma Price****i. Complimentary and Disciplinary History**

Sergeant Alma Price has been a member of the Chicago Police Department since June 21, 1999. Since that time, she has received one Department Commendation; one Problem Solving Award; two Joint Operations Awards; one Unit Meritorious Performance Award; five Complimentary Letters; 53 Honorable Mentions; one Attendance Recognition Award; three Crime Reduction Ribbons and Awards (2004, 2009, and 2019); one NATO Summit Service Award; and one Presidential Election Deployment Award (2008). Sergeant Price received a SPAR in February 2020, for a court appearance violation that same month, for which she received a reprimand.

**ii. Recommended Penalty**

COPA recommends that Sergeant Alma Price receive a 60-day Suspension, and additional training in Department policies regarding supervisor responsibilities. COPA has considered Sergeant Price's complimentary history and lack of significant disciplinary history in mitigation. COPA also notes that Sergeant Price was promoted to the rank of sergeant on or about March 1, 2019, meaning she had been in that position for approximately nine months at the time of this incident. As noted in the analysis, there is corroborating evidence that Sergeant Price did attempt to activate her body worn camera, which is mitigating regarding that allegation. However, Sergeant Price's lack of awareness of [REDACTED]'s condition and the "severity" of what happened was due to her own indifference; she employed an ostrich-like approach upon arriving at the scene. She knew or should have known that an officer needed assistance, an ambulance had been requested and that a civilian had been thrown to the ground. She was a field sergeant and the highest-ranking member on-scene when she arrived, yet at no time did she take any actions to inquire, let alone check on the well-being of [REDACTED]. Instead, Sergeant Price unnecessarily directed all of her attention to controlling a small crowd, which consisted of merely ordering a few people to step back. Sergeant Price did not supervise or lead, and for the foregoing reasons, COPA recommends a 60-day Suspension and training.

**IX. DEPARTMENTAL RECOMMENDATIONS**

The findings reached in this report speak to two important issues the Department needs to address:

First, directives and training regarding the use of emergency take-downs should be revised to ensure proportionality and safety are prioritized. COPA acknowledges that many citizen encounters require the use of force and the Department has spent considerable time and resources ensuring proper training regarding the use of force. However, emergency take-downs do not have equivalent specificity of definition or commensurate training. Officers rely on the Department to provide meaningful and comprehensive guidance in all aspects of police-citizen interactions, particularly those using any amount of force.

Second, the testimonial evidence in this case and many others demonstrates that many officers consider the use of profanity or other forms of verbal abuse to be proper techniques for gaining or maintaining control of a citizens. In this case, several officers referenced being trained to utilize such techniques. In other cases, officers have sought to justify their use of verbal abuse as “rapport building” or “verbal judo.” Clearly this is inapposite to Department policy which states “Department members will treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.”<sup>186</sup> COPA recommends the Department take steps to identify the source of the disconnect between stated Departmental policy and officer understanding.

**Approved:**

[Redacted Signature]

11-9-2020

Angela Hearts-Glass  
*Deputy Chief Investigator*

Date

[Redacted Signature]

11-9-2020

Andrea Kersten  
*Chief Investigating Officer*

Date

[Redacted Signature]

11-9-2020

Sydney R. Roberts  
*Chief Administrator*

Date

<sup>186</sup> G02-01(III)(B).

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	5
<b>Investigator:</b>	Vanessa McClinton-Jackson
<b>Supervising Investigator:</b>	Loren A. Seidner
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass
<b>Attorney:</b>	