

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 28, 2021
Time of Incident:	12:19 a.m.
Location of Incident:	1600 N. Lake Shore Dr. (North Avenue Beach)
Date of COPA Notification:	August 29, 2021
Time of COPA Notification:	9:22 a.m.

On August 28, 2021, at approximately 12:19 a.m., Ms. [REDACTED] was walking her small dog alone on North Avenue Beach when Officer Bruce Dyker (Officer Dyker) approached her in his Chicago Police Department (Department) vehicle. Officer Dyker ordered Ms. [REDACTED] to leave the beach due to the park being closed. Officer Dyker then exited his vehicle and approached Ms. [REDACTED], while continuing to direct her to leave the beach. When Ms. [REDACTED] voiced concerns about Officer Dyker being unmasked and invading her personal space, Officer Dyker became increasingly argumentative and verbally combative with Ms. [REDACTED]. As the situation escalated, Ms. [REDACTED] used her cell phone in an apparent attempt to record Officer Dyker. Officer Dyker then initiated the use of physical force on Ms. [REDACTED] by grabbing her arm and body. Officer Dyker and Ms. [REDACTED] struggled until he released her from his grasp and allowed her to leave the park. Officer Dyker did not arrest Ms. [REDACTED], issue any citations for her presence in the park after hours, or complete any report documenting his interaction with Ms. [REDACTED].

At approximately 1:00 a.m., Ms. [REDACTED] called 911¹ to request the assistance of a sergeant at her residence. When Sgt. Martin Gibson (Sgt. Gibson) arrived, Ms. [REDACTED] told him that while she was walking her dog at North Avenue Beach, an officer approached her without wearing a mask, told her the beach was closed, and ordered her to leave. Ms. [REDACTED] alleged as she attempted to leave, Officer Dyker grabbed her and tried to pull her to the ground. Ms. [REDACTED] believed this treatment was based on her race and she believed Officer Dyker ignored the presence of white citizens who were also on the beach at the same time.

II. INVOLVED PARTIES

Involved Officer #1:	Bruce Dyker, star # 19236, employee ID# [REDACTED], Date of Appointment, September 28, 1998 /Police Officer /Traffic Section -Unit 145 / DOB [REDACTED], 1970 / Male / White
Involved Individual #1:	[REDACTED] / [REDACTED], 1988 / Female / African American

¹ Att. 15

III. ALLEGATIONS

The Civilian Office of Police Accountability (COPA) initiated this investigation pursuant to an Initiation Report² from the Department. As a result of its investigation, COPA served the following allegations of misconduct and reached the corresponding findings.

Officer	Allegation	Finding
Officer Bruce Dyker	1. Engaging in racial profiling or bias-based policing towards ██████████ as she walked on the beach.	NOT SUSTAINED
	2. Grabbing ██████████’s right arm, right wrist, and around her waist, without justification.	SUSTAINED
	3. Engaging in an unjustified verbal altercation with ██████████.	SUSTAINED
	4. Failing to complete a Tactical Response Report, in violation of General Order G03-02-05 (III)(A)(2).	SUSTAINED
	5. Failing to complete an Investigatory Stop Report, in violation of Special Order 04-13-09.	SUSTAINED
	6. Failing to securely attach your body-worn camera to your person, in violation of Special Order 03-14.	SUSTAINED
	7. Failing to activate your body-worn camera in a timely manner, in violation of Special Order 03-14.	SUSTAINED
	8. Failing to wear a mask, in violation of Special Order 04-09(VI)(B).	SUSTAINED

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² See General Order G08-01-01, Specific Responsibilities Regarding Allegations of Misconduct (effective May 4, 2018 to present).

IV. APPLICABLE RULES AND LAWS

Rules³

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 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty
 6. **Rule 10:** Inattention to duty
 7. **Rule 13:** Failure to adequately secure and care for Department property
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General Orders⁴

1. **G02-01:** Human Rights and Human Resources
 2. **G02-04:** Prohibition Regarding Racial Profiling and Other Bias Based Policing
 3. **G03-02:** De-escalation, Response to Resistance, and Use of Force (Effective April 15, 2021 to present).
 4. **G03-02-01:** Response to Resistance and Force Options (Effective April 15, 2021 to present).
 5. **G03-02-02:** Incidents Requiring the Completion of a Tactical Response Report (Effective April 15, 2021 to present).
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Special Orders

1. **S03-14** Body Worn Cameras (Effective April 30, 2018, to present).

³ Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

⁴ Department general and special orders, also known as directives, "are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police." Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/#directive> (last accessed October 20, 2021).

2. **S04-09** Department Response to the Coronavirus Disease 2019 (Covid-19) - Revised 29 January 2021 (Effective January 29, 2021, to present).

3. **S04-13-09** Investigatory Stop System (Effective July 10, 2017, to present).

Federal Law

1. Equal Protection Clause of the United States Constitution

Chicago Park District Code

1. **Chapter 7.B.2:** Park Hours

V. INVESTIGATION

a. Interviews

i. ██████████

Through her attorney, Ms. ██████████ declined to provide a statement to COPA.⁵ However, she did provide a statement to Sgt. Gibson approximately 45 minutes after the incident, which was recorded on body-worn camera (BWC).⁶ Ms. ██████████ stated that at about 12:12 a.m. on August 28, 2021, while walking her dog at North Avenue Beach, she was approached by an officer in a car who told her that the park was closed and ordered her to leave. There were other people in the park, including four white kids walking behind her, but the officer did not say anything to them. The officer repeated the order for her to leave and she responded by telling him that she was leaving. Ms. ██████████ further stated that the officer then exited his car, told her she needed to respect authority, threatened her with jail, and told her she would lose her dog if she did not leave. When the officer walked closer to her, she asked him to respect her space because he was not wearing a mask. The officer responded by saying he did not need a mask because he was outside. He then grabbed Ms. ██████████ and tried to drop her to her knees. Ms. ██████████ showed Sgt. Gibson video footage of the incident in addition to providing the name and vehicle number of the officer involved in the incident.⁷ Ms. ██████████ stated that she did not know the name of the person who provided her with the video of the incident. Sgt. Gibson twice offered to call an ambulance for Ms. ██████████⁸, but she declined⁹, saying that she only broke a nail.

⁵ COPA spoke to Ms. ██████████'s attorney, ██████████, by phone and confirmed his client's refusal to participate via email. Att. 66 and Case Notes.

⁶ Att. 16

⁷ Ms. ██████████ said Officer Dicker and vehicle number 7423.

⁸ Att. 16 at 5:36

⁹ *Id.* 24:28

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b. Digital Evidence

Officer Dyker’s BWC¹⁶ captured a verbal altercation between him and Ms. [REDACTED], already in progress at the start of the video. Officer Dyker could be heard explaining to Ms. [REDACTED] that the park was closed and ordering her to leave. In response, Ms. [REDACTED] repeatedly asked Officer Dyker to back-up and to give her space; she also expressed concerns about Officer Dyker not wearing a mask amid the COVID-19 pandemic. When Ms. [REDACTED] voiced her concerns about Officer Dyker not wearing a mask, he asserted that he did not need a mask outside, and that Ms. [REDACTED] needs to learn the ordinances.

¹⁴ Att. 65 Page 29, at Lines 4-12.

¹⁵ Att. *Id.* 1:39:55-1:42:36

¹⁶ Att. 11

Officer Dyker explained to Ms. [REDACTED] that she was trespassing on City property, and she would be arrested if she did not leave. Ms. [REDACTED] began to comply with Officer Dyker's orders and walked towards the park exit, but she insisted that Officer Dyker move away from her. As she walked away, Ms. [REDACTED] stated that she felt threatened, to which Officer Dyker responded "Good!".

When Ms. [REDACTED] stopped walking, Officer Dyker warned that he would put handcuffs on her if she did not continue to walk. In response, Ms. [REDACTED] told him to back up. At that moment, Officer Dyker grabbed the right side of Ms. [REDACTED]'s body, and a physical altercation began. During the altercation, Officer Dyker told Ms. [REDACTED] once he puts handcuffs on her, she was going to jail and would lose her dog. Once the physical altercation was over, Ms. [REDACTED] asked Officer Dyker for his name, which he provided, along with his star number. Officer Dyker then threatened Ms. [REDACTED] with jail if she remained in the park. Ms. [REDACTED] told Officer Dyker to "fuck off", and then walked away.

A collection of **Police Observation Device**¹⁷ (POD) videos showed Officer Dyker arriving at North Avenue Beach on Friday, August 27, 2021, at approximately 11:28 p.m.¹⁸ The videos further show what appeared to be Officer Dyker ordering an African American couple and a group of four White and/or Hispanic males to leave the park before approaching Ms. [REDACTED], around 12:18 a.m. Once Dyker approached Ms. [REDACTED], it appeared that he asked her to leave the park, but she continued to walk in her original direction. When Officer Dyker exited his vehicle, it appears that a verbal altercation ensued. Ms. [REDACTED] is seen walking backwards and creating distance between herself and Officer Dyker, while walking in the direction he was pointing to, which is presumably the park exit. When Ms. [REDACTED] stopped walking, Officer Dyker grabbed her right arm, and a physical altercation began. Officer Dyker and Ms. [REDACTED] struggled with one another for approximately one minute and twelve seconds before Ms. [REDACTED] was released and walked away.¹⁹

Third party video²⁰ from a parking booth showed an African American couple and four White and/or Hispanic males moving to exit the park. The videos also showed two of the four males produced their cell phones and pointed them in the direction of the incident. When Ms. [REDACTED] walked towards the park exit, it appears that the group of men caught Ms. [REDACTED]'s attention, prompting her to walk to them. After a few minutes, Ms. [REDACTED] parted ways with the group. Additionally, cell phone video footage recorded by Ms. [REDACTED],²¹ an unnamed bystander(s),²² and Joseph Rodriguez²³ captured portions of the physical altercation.

¹⁷Att. 2-6 Chicago Police Department POD videos.

¹⁸ POD videos do not include sound.

¹⁹ Att. 3 and 6

²⁰ Att. 48 – 50 Chicago Park District parking attendant booth.

²¹ Att. 7

²² Att. 9

²³ Att. 8

Office of Emergency Management and Communications (OEMC) Transmissions

A 12:52 a.m. **OEMC 911 transmission**²⁴ recorded Ms. [REDACTED] reporting that she had been involved in an incident with a Chicago police officer who harassed, profiled, and threatened her. Ms. [REDACTED] stated that weapons were not involved in this incident. The officer tried to “drop” her and was not wearing a mask. The dispatcher asked what prompted this interaction and Ms. [REDACTED] replied that she guessed she did not leave the lakefront quickly enough.

CPD Radio Transmissions

A review of **City-Wide 1**²⁵ and **District 18 radio transmissions**²⁶ did not reveal any notifications from Officer Dyker regarding this incident.

c. Documentary Evidence

The **Attendance and Assignment Sheet (A&A)**²⁷ from the 1st Watch of Unit 145 on August 28, 2021, documented Officer Bruce Dyker as on duty during the early morning hours of the incident. Officer Dyker was assigned to Beat number 3217. The A&A did not specify which vehicle was assigned to Officer Dyker.

The **OEMC Event Query**²⁸ documented similar information as the recorded 911 transmission. Ms. [REDACTED] requested a supervisor at [REDACTED]. Ms. [REDACTED] described being involved in an incident with a police officer who was driving vehicle #7423.

In his **Initiation Report**,²⁹ Sgt. Gibson documented that Ms. [REDACTED] stated while walking her dog on North Avenue Beach, Officer Dicker³⁰ yelled at her and told her to leave because the beach was closed. The report further states that the Officer grabbed Ms. [REDACTED] by the arm and tried to pull her to the ground. Additionally, the report states the Officer was not wearing a mask, and he racially profiled Ms. [REDACTED], as he did not order white citizens to the leave the beach.

A **Supervisory Management Log**³¹ completed by Sgt. Luke McKee documented two separate occasions in which he had contact with Officer Dyker hours after the incident.³² However, there is no indication that Officer Dyker informed Sgt. McKee of this incident.

An **Investigative Report**³³ documents COPA Investigators canvassed the area of the incident on September 3, 2021, to identify additional witnesses. However, no witnesses were identified.

²⁴Att. 15

²⁵ Att. 52

²⁶ Att. 12

²⁷ Att. 10

²⁸ Att. 13

²⁹ Att. 1

³⁰ *Id.* Officer Dyker’s name was misspelled Dicker.

³¹ Att. 62

³² Sgt. McKee documented contact with Officer Dyker at 1:00 a.m. and 3:20 a.m.

³³ Att. 34

COPA was unable to locate a **Tactical Response Report**, or an **Investigatory Stop Report** composed by Officer Dyker or another Department member documenting Officer Dyker's interaction with Ms. [REDACTED].

VI. LEGAL STANDARD

a. Standard of Review

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** is evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy.³⁴ 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.³⁵ Clear and Convincing is 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."³⁶

b. Applicable Law and Department Policy.

i. Racial Profiling

The Department expressly prohibits "racial profiling and other bias based policing."³⁷ This forbids officers from using race, ethnicity, color, and certain other enumerated characteristics in making law enforcement decisions.³⁸ Department policy does not provide examples of racial profiling or further explain how an officer may be found to have engaged in racial profiling. The Department's

³⁴ 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.").

³⁵ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

³⁶ *Id.* at ¶ 28.

³⁷ G02-04, Prohibition Regarding Racial Profiling and Other Bias Based Policing (Effective December 1, 2017 – present).

³⁸ Unless those characteristics are listed in a suspect's description.

Human Rights and Human Resources order provides limited guidance against racial profiling by providing that “[m]embers will not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner.”³⁹ COPA reads the Department’s policies against racial prohibition as requiring proof of intent to discriminate. That reading is consistent with the requirement to prove racial discrimination under federal law.

Racial profiling is a violation of the Equal Protection Clause of the United States Constitution.⁴⁰ To establish a violation of the Equal Protection Clause, courts have held that a complainant must prove that the defendant’s actions had a discriminatory effect and were motivated by a discriminatory purpose.⁴¹

To prove discriminatory effect, courts require that a complainant show: (1) they are a member of a protected class; (2) that they are otherwise similarly situated to members of an unprotected class; (3) and that the complainant was treated differently from members of the unprotected class.⁴²

To prove discriminatory purpose or intent, courts require that a complainant must show that the officer acted with discriminatory purpose. The fact finder should consider the “totality of the relevant facts” to determine whether an action was taken with discriminatory intent.⁴³ In evaluating the totality of relevant facts, courts examine direct or circumstantial evidence of intent.

Direct evidence can include a statement expressing a discriminatory motive. Other direct evidence includes “any statement or document which shows on its face that an improper criterion served as the basis . . .for [an] adverse . . . action.”⁴⁴

Circumstantial evidence, or indirect evidence, relies on an inference or presumption of intentional racial discrimination.⁴⁵ “Circumstantial evidence can include suspicious timing, inappropriate remarks, and comparative evidence of systematically more favorable treatment toward similarly situated [individuals] not sharing the protected characteristic.”⁴⁶ A statistical pattern of discriminatory impact may also establish a constitutional violation.⁴⁷

ii. Use of Force

Department directives set forth the Core Principle for using force including that “[t]he Department expects its members to develop and display the skills and abilities to act in a manner to eliminate

³⁹ G02-01, Human Rights and Human Resources (Effective October 5, 2017, to present).

⁴⁰ *Chavez v. Ill. State Police*, 251 F.3d 612, 635 (7th Cir. 2001); *Sow v. Fortville Police Dep’t.*, 636 F.3d 293, 303 (7th Cir. 2011); *see also Whren v. United States*, 517 U.S. 806, 813 (1996) (“We of course agree with petitioners that the Constitution prohibits selective enforcement of the law based on considerations such as race.”).

⁴¹ *Chavez*, 251 F.3d at 635-36.

⁴² *Chavez*, 251 F.3d at 636.

⁴³ *See Washington v. Davis*, 426 U.S. 229, 242 (1976) (discussing analysis of intentional discrimination generally).

⁴⁴ *Fabela v. Socorro Indep. Sch. Dist.*, 329 F.3d 409, 415 (5th Cir. 2003).

⁴⁵ *See Chavez*, 251 F.3d at 645; *see also Hamilton v. Southland Christian Sch. Inc.*, 680 F.3d 1316, 1320 (11th Cir. 2012).

⁴⁶ *Loyd v. Phillips Bros, Inc.*, 25 F.3d 518, 522 (7th Cir. 1994).

⁴⁷ *Chavez*, 251 F.3d at 647.

the need to use force and resolve situations without resorting to force. Department members will only resort to the use of force when required under the circumstances to serve a lawful purpose.⁴⁸ Officers may only use force that is objectively reasonable, necessary, and proportional.⁴⁹

Factors to be considered in assessing the objective reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.⁵⁰

Force is only necessary where officers use the minimum amount of force needed to provide for the safety of all persons, stop an attack, make an arrest, bring a person or situation safely under control or prevent escape, and officers must continually assess the use of force including de-escalation to ensure it is necessary.⁵¹

Force is proportional based upon the threat, actions, and level of resistance offered by the person.⁵²

Department members are required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time. The de-escalation techniques include but are not limited to (1) providing a warning and exercising persuasion or advice prior to the use of force; (2) determining whether the officer can use time position and distance to isolate the subject and stabilize the situation; and (3) requesting additional personnel. Policy sets forth further, and similar, principles of force mitigation to ensure effective police-public encounters, including:

Continual Communication: Officers will use verbal techniques to avoid or minimize confrontations. This includes establishing one on one communication; varying the level of assertiveness of their communication; employing trauma informed communications including a respectful tone; and when encountering noncompliance to lawful verbal direction, consider adjusting verbal communication techniques as well as evaluating the reasons for noncompliance.

Tactical Positioning: Officers must, when safe and feasible, make advantageous use of positioning, distance, and cover to isolate and contain a person.

Time as a Tactic: Officers must use time as a tactic to permit de-escalation of emotions; allow time for the person to comply; and allow for continued effective communication.

Finally, policy divides individuals into categories that dictate the type and amount of force that a member may use depending on the threat level that individual poses. This includes, (1) persons who are cooperative, including individuals lawfully and peacefully exercising their First Amendment rights; against which officers are not authorized to use force; (2) resisters who are uncooperative either as a passive resistor who fails to comply via non-movement with verbal directions or active resisters who

⁴⁸ G03-02 (II)(C).

⁴⁹ *Id.* at (II)(D)(2).

⁵⁰ *Graham v Connor*, 490 U.S. 386, 396 (1989).

⁵¹ G03-02(III)(B)(2).

⁵² G03-02(III)(B)(3).

attempt to create distance between themselves and officers with the intent to avoid physical contact or defeat arrest; and (3) assailants who use or threaten the use of force against others.

iii. Incidents Requiring a TRR

As outlined in G03-02-02, the Department uses Tactical Response Reports (TRR) to document, investigate, and evaluate reportable uses of force by members, including the evaluation of force mitigation efforts. Department members are responsible to truthfully and completely report and describe the facts and circumstances of each reportable use of force. Officers are required to complete a TRR to report all uses of force where a person is injured, a person is an active resister (except where their only resistance is fleeing, an officer's actions do not extend beyond verbal commands and control in conjunction with handcuffing, and the person is not injured), a physical act of obstructing an officer leading to the officer using reportable force, or where a person is aggressively offensive or physically attacks an officer. Additionally, officers must report all Level 1 uses of force, or greater. A level 1 use of force includes: pressure points, wristlocks, armbars, other firm grips, and any leg sweeps, takedowns, or stunning techniques. However, officers are not required to complete a TRR for the use of escort holds and pressure compliance that are not in response to active resistance and do not result in injury; the use of firm grips in conjunction with handcuffing and searching techniques; and the force necessary to overcome passive resistance due to physical disability or intoxication.

Each sworn member that is required to report their force will immediately notify OEMC that he has used reportable force, and OEMC in turn will notify the member's immediate supervisor. Officers will then complete a TRR, review it for completeness and accuracy, and submit the completed TRR to their immediate supervisor before the end of their tour of duty.

iv. Investigatory

As outlined in S04-13-09, the Department follows an investigatory stop system to ensure that officers protect the public, preserve the rights of all members of the community, and enforce the law impartially. As such, officers must document in Investigatory Stop Reports (ISR) the facts and circumstances of any investigatory stop, probable cause stop where no other document captures the reason for the detention, or protective pat downs or searches. When officers conduct such a stop, they are required to submit an ISR to the investigatory stop database outlining their justification for the stop and actions taken during the stop.

v. Body Worn Cameras

Pursuant to S03-14, officers are required to activate their BWCs whenever they are engaged in a law enforcement encounter, a duty which is mandatory not discretionary. Any member who knowingly fails to properly comply with the directive is subject to Departmental discipline. The order requires officers to activate their BWC at the beginning of an incident and record the entire incident for all "law enforcement related activities" which is defined to include, but is not limited to: (b) investigatory stops; (f) arrests; (g) use of force incidents; (i) interrogations; (j) searches, including searches of people, items, vehicles, buildings, and places; (k) statements made by individuals in the course of an investigation; (l) requests for consent to search; (o) high-risk situations; (p) any encounter with the public that becomes adversarial after the initial contact; and (r) any other instance when enforcing the law. The order requires officers to securely attach the BWC to the front of their person at the beginning of their tour of duty.

vi. Department Response to the Coronavirus Disease 2019 (COVID-19)

The Department enacted S04-09 to inform Department members about the procedures related to COVID-19. The Order that was in effect on August 28, 2021, had been in effect since January 29, 2021. That order stated:

Department members are required to wear a surgical mask or face covering when a member cannot maintain 6 feet of social distancing from other persons. The surgical mask or face covering applies to all interactions with the public and other Department members and extends to all locations including Department vehicles, all City of Chicago facilities, private property, common or public areas, and residential and commercial buildings.

VII. ANALYSIS**a. The preponderance of the available evidence does not prove that Officer Dyker engaged in racial profiling of Ms. [REDACTED].**

First, with respect to his request that she leave the beach, COPA cannot establish that Ms. [REDACTED] was treated differently from other similarly situated individuals of a nonprotected class. POD and BWC videos depict Officer Dyker apparently giving an African American couple and four White and/or Hispanic males an order to leave the park before his interaction with Ms. [REDACTED]. Officer Dyker did not activate his body worn camera for these interactions and COPA is therefore unable to determine what Officer Dyker said during those interactions. Available video, void of audio, again because Officer Dyker did not timely activate his body worn camera, suggests the same order was given to Ms. [REDACTED]. Chicago Park District parks, which includes Chicago's beaches, close at 11:00 p.m.⁵³ When Officer Dyker gave Ms. [REDACTED] the order to leave, it was close to 12:30 a.m. COPA could not obtain any evidence suggesting that Ms. [REDACTED]'s race was a factor when Officer Dyker ordered Ms. [REDACTED] to leave the beach or that Officer Dyker's actions had a racially discriminatory effect.

Secondly, regarding his use of force against Ms. [REDACTED], COPA similarly has no direct evidence suggesting Officer Dyker intended to use force, or that he used excessive force, against Ms. [REDACTED] based on her race. In making this determination, COPA considered the available evidence in this case, including video as well as the statements of involved persons and witnesses COPA obtained. COPA acknowledges that the four White and/or Hispanic males did not in fact leave the park when directed but Officer Dyker did not appear to use force against those individuals. However, COPA cannot determine that Officer Dyker was aware of their continued presence in the park.

⁵³ Chicago Park District Code – Chapter 7.B.2. Because COPA was unable to speak with Ms. [REDACTED], COPA cannot definitively determine racial group Ms. [REDACTED] identifies with. COPA assumes for the purposes of its investigation that Ms. [REDACTED] identifies as a member of a protected class.

COPA acknowledges that direct evidence of intent to racially profile is rare as most people are cautious enough to avoid making overtly discriminatory remarks.⁵⁴ For that reason, COPA also reviewed and considered Officer Dyker's complaint history as circumstantial evidence to ascertain whether Officer Dyker had a pattern of behavior suggesting his actions in this case were motivated by racial animus.⁵⁵ Based on that review, COPA cannot establish the past complaints against Officer Dyker suggest a pattern of misconduct directed at, or disproportionately impacting members of a protected group such as African Americans.

COPA does find that Officer Dyker exhibited condescending behavior throughout his interaction with Ms. [REDACTED]. As discussed more fully below, his verbal treatment of Ms. [REDACTED] was patronizing in wrongly asserting that he was not required to wear a mask outdoors. However, given the lack of other direct or circumstantial evidence suggesting race was a motivator for his decisions or that his actions had a discriminatory effect, COPA is unable to prove by a preponderance of the evidence that Officer Dyker engaged in racial profiling. Therefore, the finding for Allegation #1 is **NOT SUSTAINED**.

b. Officer Dyker's use of force did not comply with Department policy.

COPA finds that a preponderance of the evidence establishes that Officer Dyker used excessive force when he grabbed Ms. [REDACTED] by the arm, wrist, and waist. The force used violated Department policy for the following reasons: (1) the amount and type of force used was not objectively reasonable, necessary, or proportional; (2) he failed to use required de-escalation techniques prior to using force; and (3) he used force for an unjustified purpose of attempting to coerce her to leave the park and to grab her phone.

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⁵⁴ See *Sheehan v. Donlen Corp.*, 173 F.3d 1039, 1044 (7th Cir. 1999) (noting that a requirement of direct evidence of racial discrimination "would cripple enforcement of the . . . discrimination laws.").

⁵⁵ Att. #67. Out of an abundance of caution, COPA also reviewed the information gathered by the Citizens Police Data Project of the Invisible Institute of Chicago. That information is available at <https://cpdp.co/officer/7659/bruce-dyker/> (last visited October 21, 2021). COPA notes that the collective bargaining agreement governing Officer Dyker's employment with the Department prohibits the use of "[a]ny information of an adverse employment nature which may be contained in any unfounded, exonerated, or otherwise not sustained file, shall not be used against the Officer in any future proceedings." Agreement Between the City of Chicago and the Fraternal Order of Police Chicago Lodge No. 7, §8.4, available at https://www.chicago.gov/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf (last visited October 20, 2021).

Because COPA cannot sustain the allegation of racial profiling in this instance, COPA does not address whether the consideration of Officer Dyker's complaint history constitutes an impermissible use of information of an "adverse employment nature" or whether COPA's investigation constitutes a "proceeding" as contemplated in the collective bargaining agreement. COPA notes that the Chicago Municipal Code requires COPA to "conduct investigations to determine whether members of the [Department] are engaging in patterns or practices of misconduct . . ." M.C.C. § 2-78-120(n). COPA is also directed to, subject to applicable law, "to review the complaint history of a member of the [Department] in order to inform a current investigation." M.C.C. § 2-78-120(k).

i. Officer Dyker's use of force was not objectively reasonable, necessary, or proportional.

First, Officer Dyker's use of force was not objectively reasonable under the factors enumerated in Department policy. [REDACTED]

⁵⁶

Second, officers must use the minimum amount of force needed, and they are required to constantly evaluate whether lesser forms of force are available.⁵⁷ Officer Dyker had alternatives which could have allowed for lesser force or no use of force at all. Department policy required that Officer Dyker give Ms. [REDACTED] the opportunity to peacefully submit to arrest, which would have allowed for lesser force, but he failed to do so. As discussed more fully below, he failed to use de-escalation techniques. [REDACTED]

[REDACTED] Because he failed to employ any of these methods, his use of force was not necessary.

Third, Officer Dyker's force was not proportional to the level of resistance and threat Ms. [REDACTED] posed. Ms. [REDACTED] presented minimal resistance, most of which was verbal rather than physical. At most, she was standing still when he wanted her to continue walking towards the exit. Grabbing her by the wrist, and eventually wrapping his arms around her body was disproportionate to this minimal resistance, especially considering the evident body size differential between the two of them.⁵⁸

ii. Officer Dyker failed to use de-escalation techniques to prevent or reduce the need for force.

Even assuming Officer Dyker was using the force to effectuate an arrest, which COPA disputes below, his use of force still did not comply with policy. As part of force mitigation, officers are required, when safe and feasible, to allow persons to submit to an arrest before using force.⁵⁹ He also did not warn Ms. [REDACTED] before he resorted to using force. Prior to grabbing her arm, his last words were "do you want to test me on this," rather than a warning that he was going to use force. It was not until nearly a minute after he grabbed her that he finally stated to her that she was under arrest. [REDACTED]

[REDACTED],⁶⁰ and the video [REDACTED] shows no reason why he could not have issued her a warning or opportunity to submit to the arrest.

Officer Dyker also did not use effective communication. Throughout the audio recorded portion of the encounter, Officer Dyker consistently threatened Ms. [REDACTED] with arrest, handcuffing, and eventually that he would take her dog. He also continued to argue with her (incorrectly) that he

⁵⁶ See G03-02(III)(B).

⁵⁷ G03-02 (III)(B)(2).

⁵⁸ [REDACTED]

⁵⁹ G03-02-01 (III)(C)(4).

⁶⁰ [REDACTED]

[REDACTED] See G03-02-01 (III)(A)(5) ("When it is safe and feasible, members will provide a warning prior to the use of physical force.")

did not need to wear a mask. She consistently expressed that she felt threatened, but he never modified his communication to react in any meaningful way to react to her fear.⁶¹

Moreover, his positioning exacerbated the encounter. It was clear from the moment that Officer Dyker stepped out of the car that Ms. [REDACTED] did not feel comfortable with him approaching her with no mask on. On an initial basis, it was reasonable for him to position himself between her and the route he did not wish for her to take. However, once she changed her direction shortly thereafter and began walking towards the LaSalle exit there was no need for him to be close to her. Nonetheless, he kept getting close to her despite this being the very thing that was making her uncomfortable, and the apparent reason the encounter escalated.

Finally, he did not use time as a tactic. Ms. [REDACTED] was complying with his directions and walking towards the exit he wanted her to use. However, instead of allowing her to walk towards the exit, he continued to step into her personal space, as discussed above, when he should have been maintaining the zone of safety. By doing so, he did not allow for time to de-escalate Ms. [REDACTED]'s emotions or to give her time to comply. Instead, he leapt to using force within minutes of initiating the encounter.

iii. Officer Dyker used force for an improper purpose.

Finally, COPA finds by a preponderance of the evidence that Officer Dyker did not use force on Ms. [REDACTED] to make an arrest, but instead did so for the unjustified purpose of coercing her to leave the park and/or to take her phone and prevent her from recording him. [REDACTED]

[REDACTED] When she stopped, it did not appear to be because she was refusing to leave, but instead she told him that she felt threatened, and stopped to take out her phone. It was at this moment that he used force on her, but his actions do not indicate he was grabbing her to control her to arrest her.

As seen on Mr. Rodriguez's video footage, Officer Dyker immediately reached for Ms. [REDACTED]'s phone with his right hand, and her wrist with his left. For the initial moments of the struggle, he continued only to try and pry the phone from her hands. He never attempted to take out his handcuffs to arrest her. Once he had her under control, he still did not attempt to arrest Ms. [REDACTED], but instead he kept telling her to leave the park and threatened to take her dog. For these reasons, [REDACTED]

Using force in those circumstances is not permitted under Department policy. Ms. [REDACTED] was cooperative at the time he grabbed her. She was walking towards the exit that he told her to use. [REDACTED]

[REDACTED]⁶² [REDACTED] she stopped because she felt threatened by him, and told him so. She then took out her phone, seemingly to either record Officer Dyker or to call someone to report his threat. Either of these possibilities would be protected First Amendment activity, which the Directives explicitly

⁶¹ See G03-02-01(III)(A)(3)(c)(stating that part of force mitigation includes officers using trauma-informed communications including respectful tone and acknowledging any mistrust by the person).

⁶² Att. #65 P. 22, Line 11.

state is indicative of a cooperative person.⁶³ Therefore, he was not permitted to use force against her at this time and was only allowed to use presence and verbal direction, consistent with principles of de-escalation.

COPA finds that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Any one of these reasons, standing alone, violates Department policy. Therefore, COPA finds that Allegation #2 is **SUSTAINED**.

c. Officer Dyker initiated and unnecessarily continued a verbal altercation.

The preponderance of the evidence establishes that Officer Dyker initiated and continued to engage in an unjustified verbal altercation. COPA does not dispute that Ms. [REDACTED] was argumentative and was not as quick [REDACTED] in complying with his order to leave the park. COPA recognizes that in situations like this, it is easy for officers to become frustrated. However, CPD requires that members, “treat all persons with the courtesy and dignity which is inherently due every person as a human being” and that CPD members, “act, speak and conduct themselves in a professional manner... and maintain a courteous, professional attitude in all contacts with the public.”⁶⁴

Video evidence confirms that throughout the encounter, Officer Dyker did very little to calm the situation, and to the contrary he continued to verbally escalate the encounter.⁶⁵ Officer Dyker threatened Ms. [REDACTED] with the loss of her dog, when she asked him to wear a mask, he (falsely) argued that she was wrong and screamed that she needs to know the ordinances, and he yelled “Good!” when she expressed fear. [REDACTED] as she was complying, he continued to follow her and argue with her, which made an already volatile situation worse. [REDACTED] it would have been sensible for Officer Dyker to continue coaxing Ms. [REDACTED] towards the exit instead of contributing to the argument with the previously stated comments. Officer Dyker’s participation in the verbal altercation violated Rules 2 and 9. For these reasons, COPA finds by a preponderance of the evidence that Allegation #3 is **SUSTAINED**.

d. Officer Dyker failed to complete a TRR.

COPA finds that Officer Dyker failed to complete a required TRR. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Officer Dyker grabbed Ms.

⁶³ G03-02-01(IV)(A).

⁶⁴ General Order 02-01 (3) (B)

⁶⁵ Due to Officer Dyker’s failure to timely activate his body worn camera, there is no audio of the beginning of the encounter, however, when audio begins Ms. [REDACTED] sounds calm while Officer Dyker is already using threats and aggressive tone.

██████████ by the wrist and arm, which are considered Level 1 force, and require the submission of a TRR even if the person is not injured. Moreover, this force was not used in conjunction with handcuffing, so they do not fall under the exception to the TRR requirement. ██████████

██████████ Therefore, Officer Dyker failed to comply with G03-02-02 in violation of Rules 2, 5, and 6 and COPA finds that Allegation #4 is **SUSTAINED**.

e. Officer Dyker failed to complete the required ISR.

COPA finds that Officer Dyker failed to complete a n ISR as required by Department policy.

██████████ there is no record of this stop on an ISR or any other document, and ██████████

Department policy required him to complete an ISR in this situation because it was a probable cause stop, with no other document that captured the reason for the detention.⁶⁷ As noted above,

██████████ Therefore, Officer Dyker failed to comply with S04-13-09 in violation of Rules 2, 5, and 6 and COPA finds that Allegation #5 is **SUSTAINED**.

f. Officer Dyker failed to properly secure his BWC and failed to timely activate his BWC.

COPA finds that Officer Dyker failed to comply with S03-14 in failing to secure his BWC and failing to activate it. ██████████

██████████
██████████
██████████
██████████

Moreover, Officer Dyker failed to timely activate his BWC, likely owing in part to him improperly removing it. ██████████

██████████
██████████
██████████

██████████ Moreover, he had exited his car, engaged in discussion with Ms. ██████████, and at the moment he activates the BWC was threatening her with arrest. This was law enforcement activity and his BWC was required to be activated. Therefore, Officer Dyker failed to comply with S03-14 in violation of Rules 2, 5, and 6 and COPA finds that Allegation #6 and Allegation #7 are **SUSTAINED**.

⁶⁶ See Att. 60 Chicago Park District Code – Ch. 7Sec. B10 a3

⁶⁷ See S04-13-09 (VII)(A)(4)(f)(providing an example of where an ISR is required when an officer initiates a stop based on probable cause but decides not to arrest or give an ANOV to the detainee).

⁶⁸ Att. 60 Chicago Park District Code – Ch. 7Sec. B10 a3

g. Officer Dyker was required to wear a mask at this time.

COPA finds that Officer Dyker was required to wear a mask in this situation and failed to do so. In the version of S04-09 which was in effect at this time, and had been in effect since January 29, 2021, officers were required to wear masks when they could not maintain 6 feet of distance, and the requirement extended to all locations. [REDACTED]

[REDACTED] Officer Dyker failed to comply with S04-19, in violation of Rules 2, 3, and 6 and COPA finds that Allegation #8 is **SUSTAINED**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Bruce Dyker

i. Complimentary and Disciplinary History

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Dyker's complimentary and disciplinary histories. Officer Dyker has received 29 honorable mentions, four complimentary letters, two attendance recognition awards, and two Department commendations, in addition to other achievements. He has no disciplinary history in the last five years.

ii. Recommended Penalty

COPA has Sustained Allegations 2, 3, 4, 5, 6, 7, and 8 against Officer Dyker. COPA finds that Officer Dyker used excessive force on [REDACTED] by grabbing her right wrist, and around her waist without justification. Officer Dyker's use of force was excessive and he failed to document his encounter with Ms. [REDACTED] in a Tactical Response Report. Officer Dyker also did not provide Ms. [REDACTED] with the required Investigatory Stop Report as required by CPD Special Order. Officer Dyker escalated the interaction with Ms. [REDACTED] by making verbally abusive statements against her. Furthermore, Officer Dyker's failure to document the encounter is also deeply troubling. Video footage of this incident has been widely circulated and brought significant discredit to the Department. [REDACTED]

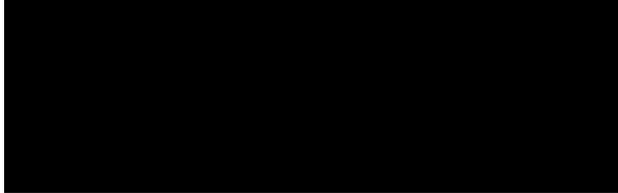
[REDACTED] Officer Dyker's entire interaction with Ms. [REDACTED] was an abject failure. The encounter did nothing to ensure public safety and only served to highlight the longstanding fracture between police and the communities they serve. That Officer Dyker, with over 20 years of experience, could walk away from an interaction such as this [REDACTED]

Accordingly, COPA questions his fitness to serve as a Chicago police officer.

⁶⁹ Att. 65 Page 55 at Lines 6-11.

COPA recommends that Officer Dyker receive a penalty between 180 days Suspension and Separation from the Department.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

10-26-2021

Date



Andrea Kersten
Interim Chief Administrator

10-26-2021

Date

Appendix A

Assigned Investigative Staff

Squad#:	8
Investigator:	Marquita Pittman
Supervising Investigator:	Jessica Ciacco
Deputy Chief Administrator:	Angela Hearts-Glass