

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	December 22, 2020
Time of Incident:	1:27 a.m.
Location of Incident:	1010 S. Campbell Avenue
Date of COPA Notification:	December 20, 2020
Time of COPA Notification:	4:31 p.m.

On December 22, 2020, at approximately 1:27 a.m., Officers Vincent Ryan, star #12351, Daniel Vazquez, star #11852, and Joel Soto, star #19351, were on routine patrol when they observed [REDACTED] fail to stop at a stop sign. The officers activated their emergency lights and pulled [REDACTED] over at or near 1010 S. Campbell Avenue. [REDACTED] briefly complied by pulling over, but then, attempted to drive away after Officer Ryan asked him for his driver's license and vehicle insurance. Officer Ryan immediately turned off the ignition and engaged in a struggle with [REDACTED]. Officer Vazquez instructed [REDACTED] a front passenger in [REDACTED] vehicle, to exit the vehicle to assist Officer Ryan. [REDACTED] was aggressive and would not stop resisting. Officer Vazquez grabbed [REDACTED] right hand and handcuffed it to the gear shifter. The officers gave [REDACTED] numerous orders to stop resisting, but he failed to comply. Officer Soto grabbed [REDACTED] vehicle keys and pulled [REDACTED] legs out of the car. Officer Ryan informed his partners that [REDACTED] had a firearm, and Officer Vazquez removed it from [REDACTED] coat pocket. Due to [REDACTED] non-compliance, Officer Soto struck [REDACTED] numerous times on the left leg with an ASP to gain compliance. Officer Soto then notified OEMC and requested police assistance. Additional officers arrived and assisted in removing [REDACTED] out of the vehicle. The officers placed [REDACTED] on the ground where he continued to resist. The officers handcuffed [REDACTED] and carried him to a police vehicle because [REDACTED] refused to walk. During this time, [REDACTED] kicked Officers Rhodes and Soto. [REDACTED] was then transported to the 010<sup>th</sup> District Station.<sup>1</sup>

Enroute to the station, [REDACTED] began striking his head inside the back of the police vehicle, causing injuries to his face. Upon entering the lockup area, [REDACTED] again refused to walk and sat on the floor. Lieutenant Steven Ciecziel, #770, told [REDACTED] that he had to be searched and asked for his cooperation. The officers lifted [REDACTED] up and carried him to a processing room. As Officer Vazquez began to search [REDACTED] and was in the process of removing [REDACTED] belt, [REDACTED] spit at Officer Vazquez's face. Officer Vazquez punched [REDACTED] twice on the face and referred to him as a "Motherfucker." The officers continued the custodial search and found a clear knotted bag containing capsules of white powdery substance, suspect Heroin, in [REDACTED] boxer shorts.<sup>2</sup> [REDACTED] was transported via ambulance to Mt. Sinai Hospital for medical treatment.<sup>3</sup>

<sup>1</sup> Beat 1031, assigned to Officers Anthony Bravo, star #6786, and Daniel Marquez, star #6851.

<sup>2</sup> [REDACTED] had an ankle monitor on his left leg.

<sup>3</sup> COPA received a web complaint from [REDACTED] on behalf of the subject [REDACTED] (refer to att. #1). After unsuccessful attempts to interview [REDACTED] COPA requested an affidavit override from the Bureau of Interval Affairs (BIA) to address the allegations against the involved officers, refer to att. #41.

**II. INVOLVED PARTIES**

Involved Officer #1:	Joel Soto, Star #19351, Employee ID [REDACTED], Date of Appointment: November 24, 2014, Police Officer, Unit of Assignment: 010, Date of Birth: [REDACTED] 1983, Male, Hispanic.
Involved Officer #2:	Daniel Vazquez, Star #11852, Employee ID [REDACTED] Date of Appointment: April 16, 2010, Police Officer, Unit of Assignment: 010, Date of Birth: [REDACTED] 1982, Male, Hispanic.
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1991, Male.

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Joel Soto	It is alleged that on December 22, 2020, at approximately 1:27 a.m., at or near 1010 S. Campbell Ave, <b>Officer Soto:</b>	
	<ol style="list-style-type: none"> <li>1. Threatened to break [REDACTED] legs without justification.</li> <li>2. Used excessive force by repeatedly striking [REDACTED] leg(s) with an ASP without justification.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p>
Officer Daniel Vazquez	It is alleged that on December 22, 2020, at approximately 1: 56 a.m., at 3315 W. Ogden Ave inside the 010 <sup>th</sup> District Station lockup area, <b>Officer Vazquez:</b>	
	<ol style="list-style-type: none"> <li>1. Referred to [REDACTED] as a “Motherfucker” without justification.</li> <li>2. Used excessive force by punching [REDACTED] in the face without justification.</li> </ol>	<p>Sustained/ 1 day suspension</p> <p>Unfounded</p>

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit to upon the Department.
2. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
3. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

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##### General Orders

1. **G.O. #03-02:** Use of Force Guidelines.
2. **G.O. #03-02-07:** Baton Use Incidents.

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##### Federal Laws

1. Constitution of the United States, Fourth Amendment

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##### State Laws

1. Constitution of the State of Illinois, Article 1, Section 6

#### V. INVESTIGATION<sup>4</sup>

On December 30, 2020, COPA received a web complaint from ██████████ ██████████ on behalf of ██████████. It is alleged that on December 21, 2020, at approximately 6:00 p.m., at 2450 W. Polk Street, during a traffic stop, approximately 20 police officers brutally beat ██████████ while handcuffed. The officers struck ██████████ with their hands and batons, which resulted in ██████████ sustaining a fractured neck, spine, and a bruised (black) eye. ██████████ was transported to Mt. Sinai Hospital where he received a blood transfusion and had a concussion for two days. Chicago Police Officers removed ██████████ from the hospital against the doctors' recommendation and took him to jail.<sup>5</sup>

After unsuccessful attempts to interview ██████████ and witness ██████████ COPA obtained an affidavit override from the Bureau of Interval Affairs (BIA) to address the allegations against the involved officers.<sup>6</sup>

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<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> Att. 1. It is unknown how ██████████ obtained the details of the web complaint. The date, time, and location documented in the complaint are incorrect, as well as the injuries ██████████ allegedly sustained. Refer to att. 15, (Mt. Sinai Hospital medical records), for details of ██████████ injuries.

<sup>6</sup> Atts. 16-18, and 41 (BIA override). Refer to Column notes for specific details of COPA's attempts to contact ██████████ ██████████ and the Cook County Public Defender's Office.

a. **Officer Interviews**<sup>7</sup>

In a statement to COPA on October 18, 2021, **Officer Joel Soto**<sup>8</sup> provided his account of the incident. On the date and time of the incident, Officer Soto was on on-duty, partnered with Officers Vincent Ryan and Daniel Vazquez, and assigned to Beat 1063C, an unmarked vehicle. The officers were on routine patrol when they observed ██████ fail to stop at a stop sign on Campbell Avenue, approximately one block from the location of the incident.<sup>9</sup> Officer Ryan activated the emergency lights to conduct a traffic stop. ██████ stopped his vehicle at approximately 1010 S. Campbell Avenue. Officers Ryan and Soto approach the driver's side and Officer Vazquez approached the passenger's side of ██████ vehicle. Officer Ryan asked ██████ for his driver's license and insurance, and ██████ knowing that he did not have his driver's license, began shuffling around as if he were looking for something. Officer Ryan opened the driver's side door and asked ██████ to remain still and asked for his name. ██████ provided his name but would not remain still.

Next, ██████ turned on his vehicle and attempted to drive away. Officer Ryan immediately placed his body on top of ██████ and they began to struggle. Officer Soto reached into the vehicle, grabbed ██████ vehicle keys, and pulled ██████ legs out of the vehicle. The officers gave ██████ numerous verbal commands to stop reaching (towards the area where they later found the gun) and resisting, but he would not comply. Officer Ryan yelled that ██████ had a "pole" (firearm).<sup>10</sup> Officer Soto removed his ASP and gave ██████ verbal commands to stop resisting. ██████ did not comply, and Officer Soto struck ██████ with the ASP on his left leg. ██████ still did not comply, and Officer Soto struck him again. It was at this time, that Officer Soto observed a female, later identified as ██████ on the sidewalk. Officer Soto got on his radio and requested police assistance. ██████ continued resisting and Officer Soto struck him multiple times on the same leg with the ASP to gain pain compliance.<sup>11</sup> Officer Soto stated that at some point, Officer Vazquez removed the firearm from ██████ coat pocket.<sup>12</sup>

Officer Soto admitted that he told ██████ that he was going to break his legs if he did not stop resisting because he was using a tactic to get ██████ to comply. Officer Soto stated that there was no sincerity in the statement. Officer Soto went on to explain that ██████ was an armed assailant that was capable of severely injuring the officers or himself, and he responded by using an impact weapon (ASP), as permitted by the department, to gain compliance. Officer Soto stopped hitting ██████ with the ASP when additional officers arrived at the scene. The officers eventually pulled ██████ out of the vehicle and placed him on the ground and ██████ continued to resist. The officers handcuffed ██████ and carried him to a police vehicle because ██████ refused to walk. In the process, ██████ kicked Officer Soto causing him to stumble backward and fall. ██████ was placed inside a police vehicle and transported to the 010<sup>th</sup> District Station.<sup>13</sup>

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<sup>7</sup> The BWC videos captured the entire incident, therefore COPA did not take a statement from Officer Ryan as there are no allegations against him. Officer Ryan did provide a statement to detectives, which is summarized in the Detective Supplemental Report (Att. 52).

<sup>8</sup> Att. 46 (audio) and Att. 47 (transcription).

<sup>9</sup> Officer Soto does not recall the exact location.

<sup>10</sup> Att. 47, pg.16, Lns. 16-18.

<sup>11</sup> According to Officer Soto, he struck ██████ a total of approximately seven times with the ASP. He documented the use of the ASP in his TRR.

<sup>12</sup> Att. 10-Inventory #14829006.

<sup>13</sup> Beat 1033R, assigned to Officers Anthony Bravo and Daniel Marquez.

Upon his arrival to the station, Officer Soto observed [REDACTED] was on the floor in the lock-up area. [REDACTED] had blood on his forehead area.<sup>14</sup> The officers carried [REDACTED] to a processing room and where Lt. Cieciel instructed the officers to search [REDACTED]. Officer Vazquez began to search [REDACTED] and he spit at Officer Vazquez' face. Officer Vazquez punched [REDACTED] on the facial area once or twice.<sup>15</sup> Officer Soto hit [REDACTED] head to prevent him from spitting again. The officers proceeded to search [REDACTED] and found 15 to 20 pills of suspect Heroin in his groin area.<sup>16</sup> Personnel from the Chicago Fire Department (CFD) arrived and transported [REDACTED] to Mt. Sinai Hospital for medical care.

In an interview with COPA on October 18, 2021, **Officer Daniel Vazquez**<sup>17</sup> provided an account of the incident that was materially consistent with Officer Soto's statement to COPA and the BWC videos of Officers Soto and Ryan.<sup>18</sup> Officer Vazquez added that he activated his BWC video when they observed [REDACTED] fail to stop at the stop sign. When Officer Vazquez approached [REDACTED] passenger side, he asked [REDACTED] what was going on, and she stated that they had consumed alcoholic beverages.<sup>19</sup> Simultaneously, Officer Ryan was speaking with [REDACTED] at the driver's side. Officer Vazquez requested [REDACTED] out of the vehicle when he observed [REDACTED] and Officer Ryan struggling. Officer Vazquez assisted Officer Ryan by grabbing [REDACTED] right hand and handcuffing it to the gear shifter to prevent him from further reaching toward his mid area. Officer Vazquez removed [REDACTED] firearm from his coat pocket, removed the magazine and live round in the chamber, and placed it in his pocket. Officer Vazquez stated that during the struggle with [REDACTED] his BWC fell off his vest. He later found it either inside [REDACTED] vehicle or near the vehicle and it was off.<sup>20</sup>

At the 010<sup>th</sup> District Station, per Lt. Cieciel's request, Officer Vazquez began to search and remove [REDACTED] belt when [REDACTED] stated, "stop touching my shit, bitch" and spit in Officer Vazquez' face.<sup>21</sup> Officer Vazquez was less than an arm's length to [REDACTED] when he spit at him. Officer Vazquez reacted quickly by punching [REDACTED] twice on the face and stated, "stop spitting in my face, Motherfucker."<sup>22</sup> Officer Vazquez explained that he punched [REDACTED] to prevent him from spitting at him again or causing battery to any other officers. This is not typical behavior of Officer Vazquez, but in this case, [REDACTED] got him mad.<sup>23</sup> Officer Vazquez had on a mask at the time of the traffic stop, but he may have lost it during the struggle with [REDACTED]. He did not have on a mask when [REDACTED] spit at him. Officer Vazquez exited the processing room, washed his face, and had no further interactions with [REDACTED].

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<sup>14</sup> Officer Soto does know how [REDACTED] sustained the injury. Att. 47, pg. 44, Lns. 22-24.

<sup>15</sup> Att. 47, pg. 47, Lns. 14-21.

<sup>16</sup> Att. 47, pg. 48, Lns. 6-9. Refer to Att. 10 for inventory (#14829019) of the firearm.

<sup>17</sup> Atts. 49-50 (audio) and att. 51 (transcription).

<sup>18</sup> Atts. 47, 23-29 (BWCs).

<sup>19</sup> Att. 51, pg. 13, Lns. 18-23 and pg. 14, Lns. 14-17.

<sup>20</sup> Att. 51, pg. 21, Lns. 5-17.

<sup>21</sup> Att. 51, pg. 26, Lns. 10-18. Officer Vazquez was less than an arm's length to [REDACTED] when he spit at him.

<sup>22</sup> Att. 51, pg. 28, Lns. 2-24 and pg. 29, Lns. 1-12.

<sup>23</sup> Att. 51, pg. 29, Ln. 9.

**b. Digital Evidence**<sup>24</sup>

**Body Worn Camera (BWC) videos from the incident**<sup>25</sup> capture the traffic stop and lock-up incident at 010<sup>th</sup> District Station. The following is a detailed description of the incident, as captured in the BWC videos. At 1:27:46, Officers Vincent Ryan, star #12351, Daniel Vazquez, star #11852, and Joel Soto, star #19351, exit their vehicle. Officers Ryan and Soto approach [REDACTED] driver side and Officer Vazquez approaches the passenger side. A female black, identified later as [REDACTED] is in the front passenger seat. Officer Ryan asks [REDACTED] for his driver's license and proof of car insurance. [REDACTED] could not produce either. Officer Ryan opens [REDACTED] driver's side door and tells [REDACTED] to put his cigarette down and asks for his name. [REDACTED] provides his name. Officer Ryan asks [REDACTED] to step out of the car. [REDACTED] turns on the car, and the officers immediately turn it off.<sup>26</sup> Officers Ryan and Vazquez get into a physical altercation with [REDACTED] inside the vehicle. The officers tell [REDACTED] to relax and stop resisting.

Officer Ryan states, "he has a pole," and [REDACTED] states, "no, I don't."<sup>27</sup> Officer Ryan's upper body is on top of [REDACTED] upper body at the driver's seat. Officer Ryan yells at [REDACTED] to stop. Officer Soto tells [REDACTED] that he is going to jail, and he gets on the police radio and informs the dispatcher of their location and requests assistance. [REDACTED] continues to resist the officers. Officer Soto grabs [REDACTED] leg and there appears to be aluminum foil inside his gym shoe and/or sock. The officers repeatedly tell [REDACTED] to stop resisting but he does not cooperate. Officer Soto removes his ASP and strikes [REDACTED] multiple times on left leg, while stating, "stop."<sup>28</sup> Two officers arrive on scene, and Officer Soto tells them that [REDACTED] will not get out and that he keeps reaching. Officer Vazquez states, "Dude, I'm getting the gun out, I'm getting the gun."<sup>29</sup> [REDACTED] continues to resist, and Officer Soto strikes [REDACTED] once on his left leg and tells [REDACTED] that he will continue to hit him until he gives up his hands. [REDACTED] tells Officers Ryan or Vazquez that they are breaking his wrist and Officer Soto responds, "Yo, I'm going to break your legs, stop fucking resisting,"<sup>30</sup> and he strikes [REDACTED] twice on the leg with the ASP. The officers pull [REDACTED] out of the car and put him on the ground. [REDACTED] continues to resist and refuses to give up his left arm. The officers handcuff [REDACTED] and search him. Officer Soto states that he feels "Dope" on [REDACTED] and that it is in his "balls"<sup>31</sup> [REDACTED] continuously says that his hand is broken. The officers lift [REDACTED] up by his arms and legs because [REDACTED] will not walk, and he kicks Officer Soto. The officers carry [REDACTED] to a police SUV and place him in the back.

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<sup>24</sup> Att. 3- Cellphone footage recorded by [REDACTED] has two clips labeled IMG\_1896 and IMG\_1897 and each video is approximately one minute. The footage on videos were captured on the BWC videos of Officers Ryan and/or Soto.

<sup>25</sup> Atts. 23-29- BWC videos of Officers Vincent Ryan and Joel Soto. During the struggle with [REDACTED] the BWC of Officer Daniel Vazquez fell and turned off, resulting in no video recording. COPA also obtained and reviewed the BWC videos of Officers Christopher Valdez, Anthony Bravo, Daniel Marquez, Jorge Cervantes, Mevludin Fejzic, and Admir Duratovic, refer to attachments 30-38. The videos captured portions of the incident.

<sup>26</sup> Att. 23, BWC of Officer Ryan, clip #1, at 01:29:16.

<sup>27</sup> Att. 28, Officer Soto BWC, clip #1, at 01:29:48.

<sup>28</sup> Att. 28, Officer Soto BWC, clip #1, at 01:30:53.

<sup>29</sup> Att. 28, Officer Soto BWC, clip #1, at 01:31:58.

<sup>30</sup> Att. 28, Officer Soto BWC, clip #1, at 01:32:34.

<sup>31</sup> Att. 28, Officer Soto BWC, clip #1, at 01:37:09.

While enroute to the 010<sup>th</sup> District Station, ██████ repeatedly bangs his head. The officers order him to stop but he does not comply. They arrive, and ██████ is still banging his head. The officers remove ██████ from the vehicle and place him on the ground. ██████ is bleeding from his forehead.<sup>32</sup> ██████ is then escorted to the lockup area, where he no longer wants to walk, and gets on the floor. Lieutenant Steven Cieciel, #770, tells ██████ what is going to happen, and he asks ██████ about the ankle monitoring device on his ankle. ██████ denies being on probation or parole. The officers carry ██████ to a processing room and Lieutenant Cieciel tells the officers that ██████ needs to be searched again for weapons. ██████ continues to resist the officers verbally and physically. Officer Vazquez begins to search ██████ and is removing his belt, ██████ spits at Officer Vazquez's face. Officer Vazquez immediately punches ██████ twice in the face and says, "Shit, don't fucken, fucken spit at me motherfucker."<sup>33</sup> Officer Soto holds ██████ head down and asks for a spit mask. Officers pull ██████ pants down and find suspect narcotics in his underwear. Officer Soto places ██████ shirt over his head and the officers leave the processing room.

Officers reenter the processing room and ██████ is yelling and crying that his right hand is broken. The Officers remove ██████ jeans and blood is observed on his left leg. The officers handcuff ██████ and escort him onto a stretcher. Chicago Fire Department (CFD) personnel secure a strap around ██████ escort him to an ambulance, and transport him to Mt. Sinai Hospital.<sup>34</sup>

**Evidence Technician photographs (E.T.)<sup>35</sup>** of ██████ depict photographs of ██████ injuries to his facial area.

### c. Physical Evidence

**Medical records from Mt. Sinai Hospital<sup>36</sup>** document that ██████ arrived at the hospital at approximately 2:56 a.m., in police custody and complaining of pain to his right wrist. ██████ was very agitated, uncooperative, and screaming. He was admitted for further mental health evaluation. ██████ was diagnosed with left periorbital soft tissue swelling and abrasions to his forehead, nasal bridge, and left shin. The report also documents that ██████ had a blood alcohol level of 132 mg/dl.

### d. Documentary Evidence<sup>37</sup>

The **Arrest and Case Incident Report of ██████ ██████** documents that on December 22, 2020, at approximately 1:30 a.m., ██████ was charged with numerous charges to include, Armed Violence/Category II weapon, Aggravated Battery, and Resisting/Obstructing a police officer. The incident narrative section of the report documents that police officers curbed ██████ vehicle after he failed to make a complete stop. ██████ failed to produce a valid driver's license and vehicle insurance. The officers asked ██████ out of the vehicle, but he refused and attempted to drive away.

<sup>32</sup> Att. 33, BWC of Officer Bravo at 01:43:35-01:47:44.

<sup>33</sup> Att. 28 BWC of Officer Soto, clip #2, 01:56:37-01:56:50.

<sup>34</sup> Att. 27, BWC of Ryan, clip #5, at 02:11:24-02:29:30.

<sup>35</sup> Att. 9. Refer to attachment 8 for the Crime Scene Processing Report.

<sup>36</sup> Att. 15.

<sup>37</sup> Att. 6-Investigatory Stop Report (ISR) and Att. 52-Detectvie Supplemental Report, essentially contain the same information as in the Department Reports and BWC videos.

<sup>38</sup> Atts. 4-5.

Officer Ryan began struggling with ██████ and, during this time, Officer Ryan felt a firearm in ██████ coat pocket. Officer Vazquez then removed the firearm from ██████ was removed from the vehicle where he continued to disobey verbal commands and kicked Officers Soto and Officer Rhodes. ██████ was placed into custody and transported by Beat 1031 to the 10<sup>th</sup> District police station. A custodial search of ██████ at the station, revealed that he had a plastic bag containing a white powder, suspect Heroin. It was later learned that ██████ was a convicted felon.<sup>39</sup> ██████ was transported to Mt. Sinai Hospital by ambulance.

**Tactical Response Reports (TRR)** <sup>40</sup> of Officers Ryan, Rhodes, Soto, and Vazquez, document that ██████ did not follow verbal direction, stiffened his body, and pulled away. The officers responded by applying escort holds, wristlocks, and emergency handcuffing and/or physical restraints to overcome ██████ resistance/aggression. Officer Soto utilized an expandable baton to strike ██████ lower left leg area to gain compliance. While officers attempted to gain compliance, ██████ kicked Officer Soto and Officer Rhodes. At the 010<sup>th</sup> District Station processing room, ██████ continued being uncooperative and refused to comply with verbal direction. ██████ spit at the face of Officer Vazquez' as the officer attempted to search him. Officer Vazquez responded by striking twice with a closed fist on the face to prevent any other battery to himself. Officer In addition, the TRR of Officer Vazquez documented that at the 010<sup>th</sup> District Station, ██████ did not comply with verbal direction and spat at Officer Vazquez' right eye. Officer Vazquez responded by striking ██████ about the face to prevent any other battery to himself. Officer Vazquez received an exposure report, for possible transmission of a communicable disease.<sup>41</sup> The TRRs also document that ██████ was armed with a handgun and in possession of suspect narcotics. ██████ alleged injury to his wrist and received medical treatment at Mt. Sinai Hospital.

The **Office of Emergency Management Communications (OEMC) Event Query Report** is consistent with the OEMC CPD radio transmissions.<sup>42</sup> The report documents the traffic stop by Beat 1063C, at approximately 1:30:06, at or about 1007 S. Campbell Avenue. At 1:30:27, Beat 1063C requested assistance. Additional officers responded to the location of the incident.

## VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
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

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<sup>39</sup> Case 11CR045501.

<sup>40</sup> Atts. 19-22.

<sup>41</sup> The COVID-19 pandemic was and currently still is ongoing and neither ██████ nor Officer Vazquez had on a face mask.

<sup>42</sup> Atts. 13-14.

4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

## VII. ANALYSIS AND CONCLUSION

### A. Allegations against Officer Joel Soto

1. Officer Soto threatened to break ██████ legs without justification.

The COPA allegation that Officer Soto threatened to break ██████ legs without justification is **Exonerated**. The BWC video of Officer Soto, substantiates Officer Soto's account that ██████ failed to comply to verbal commands and continuously resisted throughout the incident. The BWC video clearly depicts Officers Soto Vazquez, and Ryan attempting to de-escalate the situation by giving ██████ numerous commands to stop resisting and reaching for his midsection, but ██████ refused to comply. Officer Soto admitted that he told ██████ that was going to break his legs if he did not stop resisting because he was using a tactic to get ██████ to comply, but there was no sincerity in the statement. Although Officer Soto did make this statement, based on the totality of the circumstances and ██████ non-compliance during the incident, it was not in violation of policy. COPA finds Allegation 1 against Officer Soto is **Exonerated**.

2. Officer Soto used excessive force by repeatedly striking ██████ leg(s) with an ASP without justification.

The COPA allegation that Officer Soto used excessive force, by repeatedly striking ██████ leg(s) with an ASP, without justification, is **Exonerated**. It is evident that ██████ attempted to drive away from the location of the traffic stop. Instead of complying, ██████ resisted the officers during the incident. Officer Soto stated that he removed ██████ leg out of the vehicle to assist Officers Ryan and Vazquez in gaining control of ██████ After Officer Ryan found the firearm in ██████ coat pocket and ██████ non-compliance, Officer Soto struck ██████ numerous times on his left leg to gain pain compliance. ██████ was an armed assailant that was capable of

severely injuring the officers and Officer Soto responded by using an impact weapon (ASP), as permitted by the department. The BWC video of Soto, substantiates Officer Soto's account. Therefore, given [REDACTED] level of resistance, COPA finds that Officer Soto used a reasonable and necessary amount of force based on the totality of the circumstances, to ensure the safety of himself and his partners, control, gain compliance, and effect an arrest of [REDACTED] (General Order [REDACTED], Use of Force Guidelines, Section III, B). COPA finds Allegation 2 against Officer Soto is **Exonerated**.

#### B. Allegations against Officer Daniel Vazquez

1. Officer Vazquez referred to [REDACTED] as a "Motherfucker" without justification.

The COPA allegation that Officer Vazquez referred to [REDACTED] as a "Motherfucker" without justification is **Sustained**. Officer Vazquez admitted that after [REDACTED] spit at him, he stated to [REDACTED] "stop spitting in my face Motherfucker" because he was mad. Officer Vazquez stated that he typically does not behave in this manner. Additionally, the BWC video of Officer Soto confirms that Officer Vazquez referred to [REDACTED] as a "Motherfucker." Officer Vazquez let his emotions overcome his performance and duties as a police officer. COPA finds that Officer Vazquez referring to [REDACTED] as a "Motherfucker" was not justified, and he violated Rules 2 and 8 of the Rules and Regulations of the Chicago Police Department. Therefore, Allegation 2 is **Sustained**.

2. Officer Vazquez used excessive force by punching [REDACTED] in the face without justification.

The COPA allegation that Officer Vazquez used excessive force by punching [REDACTED] in the face without justification is **Unfounded**. The use of force directive essentially states that department members are often forced to make split-seconds decisions-in circumstances that are tense, uncertain, and rapidly evolving. Officer Vazquez was merely following Lt. Cieciel's orders to search [REDACTED] when [REDACTED] committed a battery against Officer Vazquez by spitting in his face. Officer Vazquez's split-second decision to punch [REDACTED] on the face, to prevent [REDACTED] from spitting at any other officers. Officer Vazquez appropriately documented punching [REDACTED] in his TRR. Additionally, the incident occurred during the COVID-19 pandemic and neither [REDACTED] nor Officer Vazquez had on a face mask. Due to the totality of the circumstances, COPA finds that Officer Vazquez did not use excessive force when he punched [REDACTED] on the face, therefore Allegation 2 is **Unfounded**.

### VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

#### a. Officer Daniel Vazquez

##### i. Complimentary and Disciplinary History

COPA has reviewed and considered Officer Vazquez' complimentary and disciplinary history when recommending discipline. Officer Vazquez has been a member of the of the Chicago Police Department since April 16, 2010. In that time, he has no sustained history of complaints.

He has 209 achievement awards that include, but are not limited to, 8 Department Commendations, 177 Honorable Mentions, and 1 lifesaving award.<sup>43</sup> COPA recommends a **1-day suspension** for Allegation 1 against Officer Daniel Vazquez.

**Approved:**

  
\_\_\_\_\_  
Sharday Jackson  
*Deputy Chief Administrator*

May 31, 2022  
\_\_\_\_\_  
Date

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<sup>43</sup> Att. 53.

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Twelve
<b>Major Case Specialist:</b>	Jessica Sanchez
<b>Supervising Investigator:</b>	Andrew Dalkin
<b>Deputy Chief Administrator:</b>	Sharday Jackson