

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 22, 2018
Time of Incident:	Approximately 2:30 PM
Location of Incident:	6958 S. Carpenter Street
Date of COPA Notification:	February 22, 2018
Time of COPA Notification:	11:16 PM

On February 22, 2018 at approximately 2:30 PM, Officers Jerald Williams #3317 (“Officer Williams”), Jaime Garcia-Ocon #2961 (“Officer Garcia-Ocon”), and Derek Golak #5771 (“Officer Golak”) were patrolling the area of 6958 S. Carpenter Street when they observed a vehicle occupied by [REDACTED] (“[REDACTED]”). Officers Williams and Garcia-Ocon detained [REDACTED] and moments later, [REDACTED] ran away and Officers Williams and Garcia-Ocon gave chase. Officer Williams caught up to [REDACTED] and punched [REDACTED]. After the officers secured [REDACTED] they began escorting him to the squad vehicle. At this time, one of [REDACTED] cuffs came off of his wrist. Officer Williams then performed an emergency takedown and delivered additional punches to [REDACTED]. [REDACTED] was arrested and transported to the 7th District. Lt. Curtis Mullenix #396 (“Lt. Mullenix”) interviewed [REDACTED] and reviewed the arrest report, case report, and tactical response report authored by Officer Williams. Lt. Mullenix determined that Officer Williams’ use of force was not in compliance with the Force Options model or other Department Directives, and referred this incident to COPA. COPA reviewed this incident and recommends a Sustained finding.

II. INVOLVED PARTIES

Involved Officer #1:	Jerald Williams, Star #3317, Employee # [REDACTED], Date of Appointment: August 26, 2013, Police Officer, Unit of Assignment: 312, Date of Birth: [REDACTED], 1987, Male, Black
Involved Officer #2:	Jaime Garcia-Ocon, Star #2961, Employee # [REDACTED], Date of Appointment: August 26, 2013, Police Officer, Unit of Assignment: 312, Date of Birth: [REDACTED], 1981, Male, Hispanic
Involved Officer #3:	Derek Golak, Star #5771, Employee # [REDACTED], Date of Appointment: March 9, 2009, Police Officer, Unit of Assignment: 312, Date of Birth: [REDACTED], 1977, Male, White
Involved Officer #4:	William Watson, Star #8986, Employee # [REDACTED], Date of Appointment: April 25, 2016, Police Officer, Unit of

Assignment: 007, Date of Birth: [REDACTED], 1990, Male, Black

Involved Officer #5: Brendan Cimaglia, Star #14997, Employee # [REDACTED], Date of Appointment: October 31, 2016, Police Officer, Unit of Assignment: 007, Date of Birth: [REDACTED], 1989, Male, White

Involved Lieutenant #1: Curtis Mullenix, Star #396, Employee # [REDACTED], Date of Appointment: June 8, 1998, Police Officer, Unit of Assignment: 007, Date of Birth: [REDACTED], 1969, Male, White

Subject #1: [REDACTED] Date of Birth: [REDACTED] 1987, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Jerald Williams	1. Used excessive force when he punched [REDACTED] about the body, in violation of Rules 2, 3, 8, 9, and 10	Sustained

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 8: Disrespect to or maltreatment of any person, while on or off duty
4. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty
5. Rule 10: Inattention to duty

General Orders

1. G03-02: Use of Force (Effective October 16, 2017)
2. G03-02-01: Force Options (Effective October 16, 2017)

Federal Laws

1. The Fourth Amendment of the United States Constitution

State Laws

1. Justifiable Use of Force 720 ILCS 5/7-5 (1986)

V. INVESTIGATION¹

a. Interviews

COPA spoke to ██████████ (“██████████”) to schedule a statement. However, ██████████ stated he did not wish to provide a statement to COPA.²

COPA interviewed Officer Jerald Williams #3317 (“Officer Williams”) on June 6, 2018. While patrolling with Officers Garcia-Ocon and Golak, Officer Williams stated he noticed a child in the back seat of a running vehicle. Officer Williams stated he believed the child was left unattended. Officer Williams stated he pulled alongside the vehicle to check on the child when he observed two occupants in the vehicle with their seats reclined back. Officer Williams indicated one of the individuals was ██████████. Officer Williams stated ██████████ opened his door and Officer Williams smelled and observed cannabis on the dashboard and on top of the air bag compartment. Officer Williams said he began to conduct a field interview. Officer Williams stated he asked ██████████ if he was smoking weed, but he did not remember ██████████ answer. Officer Williams stated he went to retrieve the weed and told Officer Garcia-Ocon to detain ██████████. Officer Williams stated he did not conduct a pat down of ██████████ and did not recall if Officers Garcia-Ocon or Golak conducted a pat down. Officer Williams did not recall whether Officer Garcia-Ocon handcuffed ██████████ but Officer Williams indicated that he thought ██████████ was handcuffed.

Officer Williams stated when he was retrieving a bag of cannabis, he heard a loud commotion so he looked up and saw ██████████ run down the street. Officer Williams indicated that Officer Garcia-Ocon first began running after ██████████ then he proceeded after ██████████. Officer Williams said ██████████ tripped and fell onto his stomach, which is why he was able to catch up to ██████████ within one to two minutes. Officer Williams stated he told ██████████ he was under arrest and to put his hands behind his back, but ██████████ did not comply. Officer Williams stated there was a struggle in that ██████████ pushed and grabbed Officer Williams’ vest to evade arrest, and kicked his leg. Officer Williams stated he did not sustain any injuries, just wear and tear. Officer Williams stated he felt ██████████ was committing a battery, but did not charge ██████████ with battery, only with resisting arrest because he believed that encompassed the battery. Officer Williams stated he did not state that ██████████ battered or assaulted him on his TRR. Officer Williams stated he delivered approximately two closed fist strikes about ██████████ chest area. Officer Williams said Officer Garcia-Ocon caught up to them after he delivered the strikes. Officer Williams stated both officers handcuffed ██████████ behind his back to the best of their ability. Officer Williams did not remember

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Attachment 18

if the officers conducted a protective pat down at that moment, but stated that an officer would normally pat down the person after the given circumstances.

After reviewing the Original Case Incident Report, Officer Williams stated when walking back to the vehicle, he performed an emergency takedown because [REDACTED] slipped out of his handcuffs and began to take flight to evade arrest. Officer Williams stated he attempted to place [REDACTED] into custody by attempting to handcuff him at which time there was another struggle. Officer Williams said [REDACTED] pushed, elbowed, and struck him around his vest and legs with [REDACTED] forearms, as well as, pulled away to evade arrest. During the struggle, Officer Williams said he delivered a couple of closed fist strikes about [REDACTED] head and body. After the punches, Officer Williams indicated the officers were able to handcuff [REDACTED] and walk [REDACTED] to the vehicle. Officer Williams stated he sustained minor injuries which he believed were not worth noting. On his TRR, Officer Williams stated he wrote that [REDACTED] struggled and kicked, but he checked the 'no' box for 'Did your subject commit an assault or battery against the involved member performing a police function?' Officer Williams stated an assisting unit transported [REDACTED] to the 7th District.

Officer Williams stated that officer is authorized to punch an assailant. Officer Williams defined an assailant as one whose actions are aggressive in a fighting position. Officer Williams stated that [REDACTED] was an assailant because, while on the ground, [REDACTED] had an aggressive fighting posture, [REDACTED] was kicking, pushing, and shoving him, and [REDACTED] would not allow him to handcuff him; thus, he delivered the strikes.

Officer Williams stated he went to the 7th District, processed and Mirandized [REDACTED] and checked on his well-being. Officer Williams did not recall if he observed injuries on [REDACTED]. Officer Williams stated he and Officer Garcia-Ocon decided to send [REDACTED] to the hospital because he struck him, [REDACTED] fell, and wanted to make sure [REDACTED] was okay. Officer Williams stated [REDACTED] said he was good. Officer Williams stated he completed the case report, arrest report, and then the TRR. Officer Williams stated Lt. Chris Mullenix instructed him to complete the TRR.³

COPA interviewed Lieutenant Curtis Mullenix #396 ("Lt. Mullenix") on May 30, 2018. Lt. Mullenix stated he met [REDACTED] at the 7th District after his arrest. Lt. Mullenix stated he read [REDACTED] arrest report that included information that did not comport with the use of force model. Lt. Mullenix stated he reviewed the arrest report and case report and believed there was a use of force violation, therefore, in addition to pulling a complaint register number, he had Officer Williams complete a TRR.

Lt. Mullenix stated the officer used focused pressure strikes to subdue [REDACTED] who attempted to defeat arrest by fleeing, which is an excessive use of focused pressure strikes/punching. Lt. Mullenix stated he talked to [REDACTED] in lockup. Lt. Mullenix stated [REDACTED] told him to avoid arrest, he ran at which time he tripped and fell to the ground. [REDACTED] further stated Officer Williams caught up at which time [REDACTED] gave up because he knew he was caught, and the officer began punching him with a closed fist in his face even though he was not struggling.

³ Attachment 43

Lt. Mullenix stated [REDACTED] told him that the other officer caught up, lifted [REDACTED] off the ground which is when one of the cuffs became loose, and the officers did not realize it because they had [REDACTED] hand up behind his back. Lt. Mullenix stated [REDACTED] indicated that his jogging pants were falling and he reached down to grab them at which time the officers realized the cuff was off, then Officer Williams did an emergency takedown to better control [REDACTED] and began punching [REDACTED] in the face. [REDACTED] told Lt. Mullenix that he did not try to run away again. Lt. Mullenix stated [REDACTED] told him that his face and neck hurt, he was taken to the hospital, and given pills. Lt. Mullenix said the TRR is true and accurate with respect to his interaction with [REDACTED] and what he learned about the incident. Lt. Mullenix stated he noticed swelling and bruising to [REDACTED] face and forehead. Lt. Mullenix stated [REDACTED] story was credible to him.

Lt. Mullenix stated if someone was attacking the officer or there was an assailant relationship, not a resisting relationship, then focused pressure strikes would have been acceptable. Lt. Mullenix said, according to what Officer Williams wrote in the reports [REDACTED] was never an assailant. Lt. Mullenix stated no officer on scene relayed to him that [REDACTED] used or threatened force towards the officers.⁴

COPA interviewed Officer Jaime Garcia-Ocon #2961 (“Officer Garcia-Ocon”) on May 30, 2018. While patrolling with Officers Williams and Golak, Officer Garcia-Ocon stated he observed a running vehicle with an infant in the rear seat. Officer Garcia-Ocon stated after moving next to the vehicle, he observed [REDACTED] who was seated in the driver’s seat, move his seat in the upright position and open his door. Officer Garcia-Ocon stated the officers exited their vehicle and Officer Williams related to him that there were narcotics on the front dash. Officer Garcia-Ocon did not observe the narcotics. Officer Garcia-Ocon stated Officer Williams told him that [REDACTED] would be placed into custody.

Officer Garcia-Ocon said he attempted to place handcuffs on [REDACTED] but [REDACTED] ran away from them. Officer Garcia-Ocon said he and Officer Williams gave chase behind [REDACTED] while Officer Golak remained next to [REDACTED] vehicle. Officer Garcia-Ocon indicated he ran slower than Officer Williams and [REDACTED] and Officer Williams caught up to [REDACTED] first. Officer Garcia-Ocon did not know how Officer Williams eventually stopped [REDACTED] because they ran out of his line of sight. Officer Garcia-Ocon stated when he gained sight of them, [REDACTED] was on the ground laid on his stomach and Officer Williams was kneeling right next to [REDACTED]

While on the ground, Officer Garcia-Ocon stated [REDACTED] was struggling by flailing his arms and attempting to defeat his arrest. Officer Garcia-Ocon stated Officer Williams told him to help handcuff [REDACTED] so he ordered [REDACTED] to place both of his hands behind his back, but he did not immediately comply. Officer Garcia-Ocon stated [REDACTED] flailed his arms, pulled his arms away when he grabbed them, and kicked for five to 10 seconds. Officer Garcia-Ocon stated he and Officer Williams assisted [REDACTED] in standing up and began to walk back to the vehicle. Officer Garcia-Ocon stated, before going back to vehicle, he did not observe Officer Williams deliver closed fist strikes [REDACTED]

Officer Garcia-Ocon stated [REDACTED] was completely secure and handcuffed in the back. Officer Garcia-Ocon believed he conducted a pat down on [REDACTED] after the chase. As they were

⁴ Attachment 33

walking back, Officer Garcia-Ocon stated [REDACTED] placed his hands in the back of his jogging pants, which appeared as if he reached for something. Officer Garcia-Ocon stated he could not determine if [REDACTED] pants were loose, but his pants were not falling. Officer Garcia-Ocon indicated he alerted Officer Williams that he could not see [REDACTED] hands as they were inside his pants. Officer Garcia-Ocon stated he gave verbal instruction for [REDACTED] to lift his hands, show his hands, and asked him what he was reaching to grab.

Officer Garcia-Ocon stated he tried to remove [REDACTED] hands from inside of his pants, at which point [REDACTED] produced his arm and raised it above Officer Garcia-Ocon's head. Officer Garcia-Ocon stated [REDACTED] slipped out of the handcuff. Officer Garcia-Ocon stated he held [REDACTED] arm closer to his armpit. Officer Garcia-Ocon stated [REDACTED] broke free. Officer Garcia-Ocon did not know if Officer Williams gave instruction to take down [REDACTED] but [REDACTED] collapsed on top of Officer Garcia-Ocon. Officer Garcia-Ocon stated, once on the ground, it appeared that [REDACTED] grabbed him towards his midsection and [REDACTED] arm was near his thigh like he was holding on. Officer Garcia-Ocon stated he did not know [REDACTED] intention at this time, but [REDACTED] was struggling. Officer Garcia-Ocon stated he did not feel safe, but was not fearful. Officer Garcia-Ocon did not know what Officer Williams was doing or his position. Officer Garcia-Ocon stated he did not conduct the emergency takedown. Officer Garcia-Ocon did not observe Officer Williams do an emergency takedown. Officer Garcia-Ocon stated Officer Williams told him to give [REDACTED] hand to which he grabbed [REDACTED] and redirected [REDACTED] towards Officer Williams. While he was on the ground, Officer Garcia-Ocon said he could not see much. Officer Garcia-Ocon did not observe Officer Williams punch [REDACTED] Officer Garcia-Ocon stated that after he read the report, he found out that Officer Williams punched [REDACTED] Officer Garcia-Ocon stated as they walked to the vehicle, [REDACTED] kept pulling away from the officers and would not calm down when instructed by both officers. Officer Garcia-Ocon stated [REDACTED] calmed down when the additional unit arrived on scene.

Officer Garcia-Ocon stated he conducted a protective pat down on [REDACTED] prior to [REDACTED] sitting inside the assisting unit's vehicle and nothing was found. Officer Garcia-Ocon did not observe any injury on [REDACTED] Officer Garcia-Ocon stated [REDACTED] was taken to the hospital.⁵

COPA interviewed Officer Derek Golak #5771 ("Officer Golak") on June 13, 2018. Officer Golak stated he was patrolling the area with Officers Williams and Garcia-Ocon when they observed [REDACTED] vehicles occupied with two individuals. Officer Golak stated they exited to conduct a field interview. Officer Golak stated he saw the passenger with weed and on the dashboard. Officer Golak said Officers Williams and Garcia-Ocon were on the driver's side and at least one of them spoke to [REDACTED] Officer Golak stated the officers conducted a field interview with [REDACTED] but he did not hear the conversation.

Officer Golak stated he then went to his vehicle with the passenger to look up his information. While he was in his car, Officer Golak said he saw [REDACTED] take off running then saw Officers Williams and Garcia-Ocon give chase. Officer Golak stated he did not observe if [REDACTED] was handcuffed prior to running. Officer Golak stated the officers and [REDACTED] were not in his line of sight once they ran away. Officer Golak stated he did not give chase because he was with the passenger and the baby, other people came out of the buildings, and he had to make sure no one

⁵ Attachment 30

entered the car to take the contraband or baby. Officer Golak said he did not observe a pat down of [REDACTED]. Officer Golak stated five to ten minutes passed prior to the officers and [REDACTED] return. Officer Golak observed Officers Williams and Garcia-Ocon holding [REDACTED] arms, their arms were interlocked, and [REDACTED] was handcuffed when they came back. Officer Golak stated he heard Officers Williams and Garcia-Ocon say [REDACTED] was a flight risk, resisted by running and pulling away while handcuffed, stiffened his body, and moved around.

Officer Golak stated the officer did not tell him about any force or threat of force by [REDACTED]. Officer Golak stated the only contact he had with [REDACTED] was related to the baby's mother. Officer Golak did not observe any injury on [REDACTED]. Officer Golak stated he did not find weapons in the passengers seating area. Officer Golak said he was focused on the passenger and the baby.^{6,7}

b. Digital Evidence

In Officers Watson and Cimaglia's **body-worn cameras**, Officer Williams is heard saying [REDACTED] is a flight risk and he ran twice. Officer Garcia-Ocon is heard saying [REDACTED] slipped the cuffs and almost took off twice.⁸

c. Physical Evidence

COPA received [REDACTED] **medical records** from St. Bernard Hospital. The records state that [REDACTED] had head and neck pain. The records state that [REDACTED] had an abrasion on the right side of his forehead. The records indicate that [REDACTED] informed the hospital he ran from the police, fell, and hit his head on the ground.⁹

COPA received the City of Chicago Fire Department **EMS Incident Record**, Incident #180531698, listing [REDACTED] as the patient. The record states [REDACTED] complained of a headache caused by being struck during a scuffle with officers. The record also states there is an abrasion, bruise, and contusion on the right side of [REDACTED] forehead.¹⁰

d. Documentary Evidence

Lt. Curtis Mullenix's #396 **Initiation Report** indicates he determined that Officer Williams' use of force was not in compliance with the Force Options model or other Department directives.¹¹

[REDACTED] **Arrest Report**, CB #19605339, states he was charged for possession of cannabis and resisting peace officers. The report states Officers Williams and Garcia-Ocon initiated an investigatory stop after observing a running vehicle occupied with a baby parked in front of an abandoned building. As the officers repositioned their vehicle, [REDACTED] exited the vehicle and

⁶ Attachment 46

⁷ COPA also interviewed the transporting officers, but they did not recall any information material to this investigation. Attachments 35 and 37.

⁸ Attachment 13

⁹ Attachment 16

¹⁰ Attachment 26

¹¹ Attachment 3

Officer Williams observed cannabis. The report states that during the field interview, the officers handcuffed ██████ to place him into custody when ██████ pulled away and began to flee. The officers chased after ██████. The report states the officers were able to place ██████ into custody. The reports states that ██████ refused to comply with orders and continued to struggle in attempt to evade arrest. The report states that ██████ slipped out of one handcuff and began to take flight to evade arrest. The report indicates that Officer Williams initiated an emergency takedown, and an assisting vehicle arrived to transport ██████ to the 7th District. The report also indicates ██████ was transported to St. Bernard Hospital.¹²

The **Original Case Incident Report**, RD #JB161403 and Event #1805308731, compliments the arrest report with the following information. As the officers attempted to handcuff ██████ he pulled away and began to flee. The report states the officers gave chase and were able to place ██████ into custody. The report further states that while Officer Williams attempted to properly restrain ██████ he delivered several closed fist strikes as ██████ refused to comply with orders and continued to struggle in an attempt to evade arrest. The report states that when the officers and ██████ began to walk towards the initial location ██████ put his hands into the back of his pants. The report indicates that ██████ would not comply with an order to keep his hand behind his back. The report further indicates that ██████ slipped out of both handcuffs and began to take flight to evade arrest. The report states that both officers initiated an emergency takedown, and during a struggle to regain control of ██████ Officer Williams delivered additional closed fists strikes to properly restrain ██████¹³

A **Tactical Response Report** (“TRR”) authored by Officer Williams and reviewed by Lt. Mullenix has the following information. Under Type of Member Injury, Officer Williams checked the ‘none/none apparent’ box. Under Subject’s Actions, Officer Williams checked the following boxes: did not follow verbal direction, stiffened, pulled away, fled, defeated handcuffs, and kicked. Under “Did the subject commit an assault or battery against the involved member performing a police function?”, Officer Williams checked the ‘no’ box. Under Member’s Response, Officer Williams checked the following boxes: force mitigation efforts by member presence, verbal direction/control techniques, and additional unit members; control tactics by escort holds, wristlock, pressure sensitive areas, and emergency handcuffing; and response without weapons by take down, and closed hand strike/punch. Officer Williams wrote he viewed ██████ as a threat due to his size and aggression.

The report states that after ██████ was Mirandized, stated he understood his rights, and wished to give a statement, Lt. Mullenix interviewed ██████ in the holding cell of the 7th District lockup. ██████ told Lt. Mullenix the following information. ██████ was sitting in his car with his friend in front of his friend’s residence when a police car pulled up at which time ██████ exited his car. ██████ said the officers exited their car and said they smelled cannabis and immediately began to place handcuffs on ██████ stated he began to flee from the officers to avoid arrest. As ██████ ran he tripped and fell to the ground. ██████ stated that Officer Williams caught up to him and ██████ stopped moving because he knew he was caught. Officer Williams then started punching ██████ in the face with a closed fist even though ██████ was not struggling. Officer Garcia-Ocon caught up to them and ██████ was lifted off the ground. Due to a loose cuff on one

¹² Attachment 4

¹³ Attachment 5

hand, ██████ said his hand came free when Officer Williams lifted him up. ██████ indicated that Officer Williams was unaware of the free hand because he kept lifting ██████ arm high on his back and missed the missing cuff. As they walked back to the cars, ██████ sweatpants were falling so he grabbed at his rear waistband to prevent it from falling further. ██████ stated that this time Officer Williams grabbed ██████ arm again and when he tried to raise his arm behind his back, Officer Williams realized only one cuff was on. Officer Williams then knocked ██████ to the ground and started punching him in the face. ██████ indicated he was handcuffed and taken back to the police car. ██████ informed Lt. Mullenix that his face, head, and neck hurt so he was taken to the hospital and given pills.

Lt. Mullenix wrote he noticed an abrasion and swelling to the right side of ██████ forehead and an abrasion to the left side of his neck.¹⁴ The report indicated that Lt. Mullenix reviewed the arrest report, case report, and TRR. Lt. Mullenix states in the report that Officer Williams' use of force was not proportional or objectively reasonable. Lt. Mullenix wrote that ██████ was an active resister during the initial use of force, and focused pressure strikes against an active resister are not proportional based on the Force Options Model. During the second use of force, Lt. Mullenix wrote, resolving all doubt in favor of Officer Williams, ██████ was again an active resister as he attempted to defeat his arrest by fleeing alone. As such, the force used was not proportional. Lt. Mullenix determined that the use of force used against ██████ was not in compliance with the Force Options Model or Department directives.¹⁵

e. Additional Evidence

COPA conducted a canvass of the incident area; however, it was met with negative results.¹⁶

VI. ANALYSIS

COPA recommends a finding of **Sustained for Allegation #1** against Officer Williams, that he used excessive force when he punched ██████ about the body. It is undisputed that Officer Williams punched ██████ on two occasions during ██████ arrest. The issue is whether Officer Williams' use of force, based on the totality of the circumstances, was appropriate, proportional, and reasonable.

Determining whether the force used to effect a particular seizure is "reasonable" requires balancing the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interest alleged to justify the intrusion. Such an analysis is inherently fact-dependent and requires consideration of multiple factors, such as the severity of the crime at issue, whether the person posed an immediate threat to the safety of the officers or others, and whether the person was actively resisting the officers.¹⁷ Furthermore, the analysis of the reasonableness of an officer's actions must be grounded in the perspective of "a

¹⁴ Although there was no indication of Evidence Technician photos existing of these injuries, COPA sent a request, however it was met with negative results (Attachments 44 and 50).

¹⁵ Attachment 6

¹⁶ Attachment 15

¹⁷ *Graham v. Connor*, 490 U.S. 386, 395-396 (1989).

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.”¹⁸ The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors.¹⁹

According to General Order G03-02-01, force is authorized when it is “objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject. Members will continually assess the situation and determine: the authorized force option based on the totality of the circumstances; if the seriousness of the situation requires an immediate response or whether the member can employ other force options or the Force Mitigation Principles.” The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances. Department members must escalate or de-escalate the amount of force, which is reasonably necessary to overcome the subject’s resistance and to gain control over the subject.

G03-02-01 characterizes “a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest” as an active resister. This type of resistance includes but is not limited to evasive movement of the arm, flailing arms, and full flight by running.”

G03-02-01 further characterizes a person “who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury” as an assailant. Assailants are subdivided into two categories. The first category is when the person’s “actions are aggressively offensive with or without weapons. This category of assailant may include a subject who is armed with a deadly weapon but whose actions do not constitute an imminent threat of death or great bodily harm.” Force options authorized on this type of assailant consist of direct mechanical techniques that are forceful, concentrated striking movements such as punching.

Based on the totality of the circumstances, Officer Williams’ use of force was not appropriate, proportional, or reasonable. Officer Williams’ use of punches on ██████ was a direct mechanical technique authorized on an assailant. However, on neither occasion, was ██████ an assailant. At most, ██████ was an active resister. In order to defeat arrest, ██████ (1) created distance between himself and other officers by running away, and (2) flailed his arms and legs. Officer Williams was not authorized to punch ██████ to gain control because he was an active resister, not an assailant.

██████ said he was not struggling whereas Officer Williams stated he was. Even if all doubt is resolved and the evidence is weighed in favor of Officer Williams, he was not authorized to punch ██████ on either occasion.

Officer Williams said he punched ██████ the first time because ██████ (while on the ground) pushed, grabbed, and kicked him to evade arrest, in addition to, refusing verbal commands. Officer Garcia-Ocon said ██████ flailed his arms, pulled away, and kicked the officers.

¹⁸ *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted).

¹⁹ *Id.*; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

██████ did not use force that would likely cause injury to the officers or act in an aggressively offensive manner amounting to Officer Williams punching him and categorizing him as an assailant. ██████ attempted to defeat his arrest by pulling away and flailing his limbs, which classifies him as an active resister. Although ██████ kicked the officers, kicking is congruent to flailing arms. If Officer Williams believed ██████ used force or acted in an aggressively offensive manner, then he should have noted ██████ assaulted or battered him on his TRR, and charged him accordingly.

After conducting an emergency takedown and while on the ground, Officer Williams said he punched ██████ the second time because while he attempted to handcuff ██████ he pulled away, pushed, elbowed, and struck Officer Williams with his forearms to evade arrest. Here, ██████ attempted to evade arrest by creating distance and flailing his limbs, again, classifying him as an active resister. Although Officer Williams said that ██████ elbowed and struck him with his forearms, these actions are not aggressively offensive because there is minimal force used, if any.

Moreover, Officer Williams indicated he viewed ██████ as a threat due to his size and aggression, but his perception of ██████ does not make ██████ limb movements force against the officers. CPD officers are trained to interact with all types of sizes and body types. Also, there were two officers present to gain control of ██████. A reasonable officer has the requisite training to use different tactics and utilize additional officers on scene to gain control of subjects.

According to G03-02, “[m]embers will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances.” Officer Williams only used verbal direction and control techniques to de-escalate ██████ from struggling and attempting to evade his arrest. Officer Williams should have warned ██████ that he would have to use force if he believed ██████ to be an assailant. Since there were two officers present, they could have positioned themselves in a way to gain control of ██████. Officer Williams’ punches were unnecessary because he had other force options. A reasonable officer would have assessed ██████ actions and determined that other force options were available because the seriousness of ██████ actions were minimal and he did not pose a threat to the safety of the officers or others.

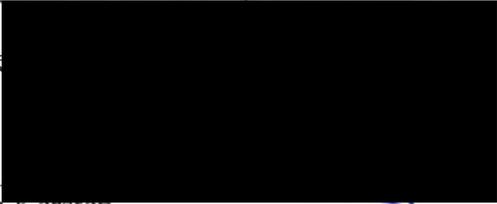
Lt. Mullenix, an objectively reasonable officer, concluded that Officer Williams’ use of force was not proportional, objectively reasonable, or in compliance with Department Directives. As an experienced and high ranking CPD member, Lt. Mullenix’s conclusion gives credence and substantiates COPA’s analysis and conclusion. For the above reasons, Officer Williams’ use of force was inappropriate, unproportional, and unreasonable.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following finding:

Officer	Allegation	Finding
Officer Jerald Williams	1. Used excessive force when he punched [REDACTED] about the body, in violation of Rules 2, 3, 8, 9, and 10	Sustained

Approved



Andrea Kersten
Deputy Chief Administrator

7/30/18
Date

Appendix A

Assigned Investigative Staff

Squad#:	10
Investigator:	Anish Shah
Supervising Investigator:	Erica Sangster
Deputy Chief Administrator:	Andrea Kersten

