

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 21, 2015
Time of Incident:	11:45 a.m.
Location of Incident:	5010 W. 50 th Street (Vittum Park)
Date of COPA Notification:	July 22, 2015
Time of COPA Notification:	12:18 p.m.

On July 21, 2015, at approximately 11:45 a.m., Officer Brian Josephs #4077 and Officer Robert Bilotti #46219 arrived at Vittum Park, located at 5010 W. 50th Street, in response to a request for a transporting unit. Officer Rafael Borja #12800 made the request after he responded to a police call to Vittum Park and encountered a juvenile subject, ■■■, ² a fourteen-year-old male with autism. AC was attending day camp at Vittum Park. AC had engaged in a physical altercation with his aunt, ■■■■■■■■■■, and a fellow camper. ■■■'s mother, ■■■■■■■■■■, had requested via telephone for ■■■ to be taken to Hartgrove Hospital. ³ Officer Borja called for a transporting unit because his police vehicle was not equipped for transport.

Upon arrival to Vittum Park, Officers Josephs and Bilotti encountered ■■■, who was calm. As the officers were escorting ■■■ to their vehicle, ■■■ became upset and resisted in entering the police wagon. As a result, the officers physically restrained ■■■ in order to get him into the police wagon and proceeded to transport him to Hartgrove Hospital. Upon arriving at the hospital, ■■■ was taken inside an examination room where he kicked a staff member in her shin area. Officer Bilotti entered the examination room and ■■■ kicked Officer Bilotti in his shin area. Officer Josephs responded by stepping on ■■■ foot. Shortly thereafter, hospital staff members attended to ■■■ who had begun to cry and complained of pain in his foot. Officers Josephs and

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

² As the subject of this investigation is a juvenile, his full name is not being referenced and only his initials.

³ Hartgrove Hospital, located at 5730 W. Roosevelt Road, is a behavioral and mental health treatment facility.

Bilotti left the hospital a short time later and [REDACTED] mother and aunt, [REDACTED] arrived at the hospital.

II. INVOLVED PARTIES

Involved Officer #1:	Brian Josephs, Star #4077, Employee ID#[REDACTED], Date of Appointment October 26, 1998, Police Officer, Unit 008, DOB [REDACTED], 1975, Male, White
Subject #1:	[REDACTED] (Juvenile), DOB [REDACTED], 2000, Male, White Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Brian Josephs	1. Grabbed and squeezed [REDACTED] by the back of his neck, in violation of Rule 8.	Exonerated
	2. Placed his foot on [REDACTED]s foot and stood on it, in violation of Rule 8.	Exonerated
	3. Failed to complete a Tactical Response Report (TRR), in violation of Rule 6.	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 6:** Prohibits any disobedience of an order or directive, whether written or oral.
3. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. **General Order G03-02-05:** Incidents Requiring the Completion of TRR

V. INVESTIGATION⁴

a. Interviews

On August 17, 2015, IPRA interviewed ██████^{5 6} the juvenile subject of this investigation, at his residence. ██████ stated that on the date of incident, he was playing soccer with his friends at a summer camp. ██████ stated that police came because he kicked a friend. ██████ stated there were two white male officers with one being short (now known as Officer Bilotti) and one being tall (now known as Officer Josephs). He stated that when the police arrived, they told ██████ to get in the van.⁷ ██████ stated that the officers put handcuffs on him.⁸ ██████ stated that he was handcuffed because he was kicking the officers. ██████ further specified that while at the park, he kicked Officer Josephs. ██████ stated that he was kicking the officer “because [he] was [inaudible] at Vittum Park forever.”⁹

████████ explained that when he was placed inside of the van, Officer Josephs grabbed and squeezed him “hard”¹⁰ by the back of the neck. ██████ stated only Officer Josephs grabbed him hard by the neck. Officer Bilotti did not grab or squeeze him in any way.

According to ██████, he was then taken to Hartgrove hospital. ██████ stated that at Hartgrove Hospital the “older”¹¹ officer, whom he stated was tall, stepped on ██████’s “[right] foot really hard on the ankle.”¹² ██████ stated that at the time the officer stepped on him, he was seated [inside of a room] and was no longer handcuffed.¹³ According to ██████, the officer had asked ██████ to stop kicking. ██████ stated that the officer stepped on his right ankle for a “short time”¹⁴ and it caused his foot to “hurt bad.”¹⁵ ██████ further explained that his foot was hurting prior to the officer stepping on it because ██████ had kicked the officer. He later stated that he had swelling and pain in his foot after the officer stepped on it. Subsequently, ██████ informed a nurse of the pain in his foot and he

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

⁵ ██████ is a juvenile with autism and permission was granted by his mother, ██████, to interview him (Att. 5).

⁶ Att. 6, 47

⁷ ██████ referred to the police transport wagon (also known as a squadrol) as “the van.”

⁸ ██████ demonstrated that he was handcuffed behind his back.

⁹ Att. 6 at 06:32

¹⁰ *Id.* at 05:19

¹¹ *Id.* at 06:57

¹² *Id.* at 06:49

¹³ According to attachment #44, the Hartgrove Hospital surveillance video, ██████ was seated in a chair inside of a room and still handcuffed behind his back at the time the taller, white male officer stepped on his right foot.

¹⁴ Att. 6 at 09:11

¹⁵ *Id.* at 09:20

received an ice pack. In addition, [REDACTED] recalled that his mother and “[REDACTED]” (now known as his Aunt [REDACTED]) were inside of the room at the time the officer stepped on his foot.¹⁶

[REDACTED] stated that he was frustrated the day of the incident and that is why he kicked the officer. He described himself as having a “bad day.”¹⁷ [REDACTED] stated that he kicked the tall officer only once. [REDACTED] stated that the officers did not do anything other than to step on his foot. [REDACTED] specifically denied that the officer(s) pushed him down, whispered or screamed in his ear at any time on the date of incident.¹⁸

[REDACTED] further stated that he previously had a deep cut on his right foot that resulted in a cast. [REDACTED] stated that he notified the officers of this injury during the time of incident.¹⁹

On August 17, 2015, IPRA interviewed [REDACTED]²⁰ at residence [REDACTED]. [REDACTED] stated that on the date of incident, she received a call²¹ from her sister-in-law, [REDACTED], asking her to go to Vittum Park and pick up [REDACTED] because he was not behaving. When she arrived at Vittum Park, [REDACTED] could tell that [REDACTED] was already agitated. [REDACTED] told [REDACTED] that they had to go and [REDACTED] started to hit and kick her. [REDACTED] started crying after this occurred and then called her sister to ask if she could call the police because [REDACTED] had never seen [REDACTED] act like that. [REDACTED] said that [REDACTED] gave [REDACTED] permission to call the police. [REDACTED] stated that the park counselors, a female named “[REDACTED]” and an unknown black male, were helping her. They grabbed [REDACTED]’s arms so that he would no longer hit [REDACTED]. [REDACTED] stated that she then called the police but was unable to speak due to her nerves. Therefore, “[REDACTED]” got on the phone and told the police that they needed assistance and that [REDACTED] had severe autism.

Approximately 20 to 30 minutes later, the first officer, Officer Borja, arrived on scene, at which time [REDACTED] had calmed down. Officer Borja never exited his police vehicle and asked [REDACTED] if she was okay in which she responded that she was. Officer Borja explained that they needed to wait for a police transport van to transport [REDACTED].

¹⁶ According to attachment #44, the Hartgrove Hospital surveillance video; neither [REDACTED]’s mother, nor aunt were inside of the room at the time the officer stepped on his foot. [REDACTED] also stated that “[REDACTED]” and “[REDACTED]” were present when the officer stepped on his foot. However, neither of these individuals are shown in the surveillance video.

¹⁷ Att. 6 at 14:16

¹⁸ Refer to attachment #44, Hartgrove Hospital video, at approximately 13:15:23 hours.

¹⁹ No further details were provided about this injury.

²⁰ Att. 10

²¹ The time of the phone call was not provided.

Approximately 20 to 30 minutes later, two white male officers, one taller (now known as Officer Josephs) and one shorter (now known as Officer Bilotti), arrived at the park in a police transport van. [REDACTED] described the demeanor of Officer Josephs to be angry.²² The two officers met [REDACTED], "[REDACTED]," and [REDACTED] near the basketball courts. [REDACTED] described [REDACTED] as being calm and compliant during his time. The officers explained to [REDACTED] that they were going to handcuff him and he complied. They began to walk towards the transport van, at which time [REDACTED] became upset and began to kick back towards the officers who were standing behind him. According to [REDACTED], [REDACTED] struck Officer Josephs as he was kicking. Officer Josephs responded by grabbing [REDACTED] by the neck. Officer Josephs let go of [REDACTED]'s neck once [REDACTED] was entering the van. [REDACTED] sat inside of the van and Officer Bilotti strapped one seatbelt over [REDACTED]'s lap. According to [REDACTED], Officer Bilotti was going to strap a second seatbelt over [REDACTED], but Officer Josephs told him not to and stated, "let him bounce, one side to the next, bounce inside the van."²³ The officers then left to transport [REDACTED] to Hartgrove Hospital. [REDACTED] left the park and met with [REDACTED]. They arrived at Hartgrove approximately 20 minutes after the officers left with [REDACTED] from the park.

Upon arriving at Hartgrove, [REDACTED] was notified that [REDACTED] was in a room and he was complaining of his foot. While [REDACTED], [REDACTED] and a female staff member were in the lobby, the officers were exiting and [REDACTED] heard Officer Josephs refer to a lawsuit. Shortly thereafter, [REDACTED] and [REDACTED] met with [REDACTED], who notified them that the officers had stepped on his foot real hard. [REDACTED] stated that [REDACTED]'s shoe was off and his right foot appeared to be swollen.

[REDACTED] stated that this incident was the first time she had seen [REDACTED] behave this way. [REDACTED] further stated that the park employees informed the officers that [REDACTED] had severe autism.

On July 31, 2015, IPRA interviewed [REDACTED]²⁴ at [REDACTED]. [REDACTED] stated that on the date and approximate time of incident, he was in his office at the Vittum Park District, where he works as a Park Supervisor. Other staff members informed [REDACTED] that a juvenile participant with autism, now known as [REDACTED], was having an "outburst"²⁵ in the park. [REDACTED] went outside and observed [REDACTED] physically attacking [REDACTED], [REDACTED]'s aunt. [REDACTED] was striking [REDACTED] on her shoulder with his fist. [REDACTED] believed that [REDACTED] was striking [REDACTED] because

²² [REDACTED] stated numerous times that she regretted calling the police.

²³ Att. 10 at 15:58

²⁴ Att. 20

²⁵ *Id.* at 3:15

she was there to take him home and he did not want to leave. [REDACTED] attempted to shield [REDACTED] from [REDACTED]. [REDACTED] and the park's Special Recreation Coordinator, [REDACTED], managed to calm [REDACTED] and [REDACTED] then distanced [REDACTED] from [REDACTED]. Both [REDACTED] and [REDACTED] agreed it would be best for [REDACTED] to leave the park and notified [REDACTED].

[REDACTED] stated that [REDACTED] called [REDACTED]'s mother, [REDACTED], who instructed [REDACTED] to tell the park staff to call the police and have [REDACTED] transported to Hartgrove Hospital. After the phone call with [REDACTED], [REDACTED] called the police. Due to [REDACTED] being "shaky with some of the wording"²⁶ when speaking to the operator, [REDACTED] then got on the phone and notified the police that [REDACTED] was 14 years of age, was being physically with other park participants, he was a child with autism and they needed police assistance. Shortly thereafter, a Hispanic male officer, now known to be Officer Borja, arrived to Vittum park. Officer Borja never exited his vehicle. [REDACTED] spoke with Officer Borja and told him that [REDACTED] had autism. Officer Borja stated that it was best if Officer Borja stayed in his police vehicle because if [REDACTED] got physical with him, he did not want to physically restrain [REDACTED]. Officer Borja then called for a police wagon to transport [REDACTED] [to Hartgrove Hospital] so they could treat his condition.

Shortly thereafter, two unknown officers, which were described as one white male (now known to be Officer Josephs) and one Hispanic male (now known to be Officer Bilotti), arrived to the park. Officer Borjas went to speak to the transport officer and Floyd had no knowledge as to what information was related. The officers then met [REDACTED], [REDACTED], [REDACTED], and [REDACTED] outside near the rear of the park field house.

According to [REDACTED], Officer Josephs began to speak to [REDACTED] in a "loud tone."²⁷ Subsequently, the transport officers began walking along each side of [REDACTED] to physically escort him to the wagon and [REDACTED] appeared to comply. [REDACTED] stated that as they approached the wagon, [REDACTED] realized that he would be leaving Vittum park and he just stopped walking. Officer Josephs again began to speak loudly to [REDACTED] in [REDACTED]'s ear and in his face. However, [REDACTED] could not hear what was said. At that time, both officers then lifted [REDACTED] by his arms in an attempt to carry him towards the wagon. [REDACTED] lifted his legs up as he was being carried so his legs would not drag. [REDACTED] stated that he could tell that [REDACTED] did not want to go into the wagon, and was giving a small

²⁶ *Id.* at 9:43

²⁷ *Id.* at 17:06

struggle. As they approached the side of the wagon, [REDACTED] slightly “yanked”²⁸ his arms away from the officers as they were attempting to handcuff him.

[REDACTED] stated that Officer Josephs then placed his hand around the back of [REDACTED]'s neck, squeezed it and pushed his face against the wagon while instructing [REDACTED] to “calm down.” Officer Josephs further stated words to the effect of “relax...I don’t want this to get physical.”²⁹ [REDACTED] appeared to have a scared look on his face and stopped moving at that time.

It also appeared that Officer Josephs was attempting to “sweep”³⁰ [REDACTED]'s foot, possibly to stop [REDACTED] from kicking him. However, the officer missed contacting [REDACTED]'s foot. Furthermore, [REDACTED] stated that he did not observe [REDACTED] kick any of the officers but he is not sure if [REDACTED] did or did not. After [REDACTED] was handcuffed, he became calm and the officers escorted him to the back of the police wagon in which [REDACTED] sat down. As Officer Bilotti was about to place a seatbelt on [REDACTED], Officer Josephs stated, “no...don’t put a fucking seatbelt on him, he doesn’t need a fucking seatbelt since he... made us struggle with getting him to the wagon.”³¹ The Officer Bilotti told Officer Josephs that they need to place a seatbelt on [REDACTED] and subsequently, they did. The officers then notified [REDACTED] they were going to transport [REDACTED] to Hartgrove Hospital and they drove off.

After the transport officers left, Officer Borja voluntarily told [REDACTED] and [REDACTED] that he was trained “30 hours”³² to deal with subjects with mental disabilities but not all officers are trained. The next day, [REDACTED]'s mother, [REDACTED], came to the park crying and reported to [REDACTED] that one of the officers kicked or stepped on [REDACTED] while at the hospital.

On July 31, 2015, IPRA interviewed [REDACTED]³³ at [REDACTED].

[REDACTED] stated that she is employed by the Chicago Park District at Vittum Park as a Special Recreation Coordinator. [REDACTED] stated that on the date and approximate time of incident, [REDACTED] was in soccer practice when he kicked another camper in the stomach. As a result, [REDACTED] contacted his mom, [REDACTED], who stated that she would send [REDACTED]'s aunt, [REDACTED], to pick him up. When [REDACTED] arrived, [REDACTED] began punching her in the face because he did not want to leave the park. At that time, [REDACTED], Park Supervisor, came outside to assist [REDACTED]

²⁸ *Id.* at 22:45

²⁹ *Id.* at 31:50

³⁰ *Id.* at 24:45

³¹ *Id.* at 26:07

³² *Id.* at 27:44

³³ Att. 14, 15

with [REDACTED]. Both [REDACTED] and [REDACTED] attempted to shield [REDACTED] from [REDACTED]. However, [REDACTED] continued to attempt to strike [REDACTED].

According to [REDACTED], [REDACTED] called [REDACTED] who instructed [REDACTED] to call the police. [REDACTED] then called 9-1-1, but due to crying she was unable to speak to the operator. Therefore, [REDACTED] got on the phone, spoke to the police operator and notified them that they needed assistance restraining a teen who suffers with autism and was being aggressive with his aunt.

Shortly thereafter, a Hispanic male officer (now known to be Officer Borja), further described as short and “stocky,”³⁴ arrived at the park and while seated in his police car, spoke to [REDACTED] and [REDACTED]. At that time, [REDACTED] was no near the officer as she was distracting [REDACTED] who was calm at this time.

According to [REDACTED], a short time later [REDACTED] notified [REDACTED] that per the request of [REDACTED], [REDACTED] would be taken to Hartgrove Hospital. [REDACTED] further notified [REDACTED] that the Hispanic male officer would be calling a [police] wagon to escort [REDACTED]. [REDACTED] requested that the transport unit meet them by the basketball courts.

Shortly thereafter, a tall white male officer with blonde hair (now known to be Officer Josephs) and a shorter white male officer (now known to be Officer Bilotti), arrived and approached the basketball courts. [REDACTED] was calm at that time. Officer Josephs then began to ask [REDACTED], “Are you having a good day?”³⁵ and [REDACTED] responded with, “Yes.”³⁶ Officer Josephs asked [REDACTED], “do you know why we’re here?”³⁷ and [REDACTED] responded saying, “yes, because I was hitting people and kicking...”³⁸ According to [REDACTED], Officer Josephs proceeded to ask [REDACTED] if he would walk to the [police] van³⁹ and [REDACTED] agreed; but when asked if he would get inside of the van, [REDACTED] did not agree. [REDACTED] stated that [REDACTED] spoke in a monotone manner, with no expressions, which is his normal way of speaking. [REDACTED] described Officer Josephs’ tone to be aggressive, but the words he was saying to [REDACTED] was not aggressive. Officer Josephs then explained to [REDACTED] that if he got in the van by himself, they would not need to place handcuffs on him. However, if he did not then they would need to place handcuffs on him.

³⁴ Att. 14 at 09:05

³⁵ *Id.* at 15:05

³⁶ *Id.*

³⁷ *Id.* at 15:10

³⁸ *Id.*

³⁹ Throughout the remainder of this statement, [REDACTED] interchanged the word “van” and “wagon” when described the police transport vehicle.

█████ stated █████ then proceeded to walk to the [police] wagon independently with an officer walking along each side of him. █████ and █████ walked directly behind █████ and █████ walked behind █████ and █████. As they approached the wagon, the officers began to unlock the vehicle door at which time the █████ “jumped back”⁴⁰ and the officers grabbed █████ by “the back of the elbow.”⁴¹ █████ told █████ that if he didn’t get in [the wagon] the officers would need to handcuff him. █████ told █████ that he did not want to leave the park. At that time, █████ stated that █████ extended his arm and began to push himself away from the officer(s) by physically placing his hands on the officers and pushing his body away. Both [transport] officers responded by grabbing █████ to place handcuffs on him. However, the Officer Josephs put his hand around the back of █████’s neck and each officers placed one of their feet in between █████’s legs in an attempt to spread his legs apart. █████ further described that both officers then placed their bodies alongside █████’s to hold █████ in place and to control him as they unlocked the van door. As the officer’s attempted to place █████ in the van, █████ began stiffening his body and resisting by leaning back. Furthermore, █████ kicked one of the officers on his “shoe area.”⁴² █████ recalled that during the “tussle”⁴³ between the officers and █████, the officer(s) pushed █████ against the side of the van. Then, Officer Josephs grabbed █████ by the back of his neck and pushed him into the van.

█████ stated that she then began to distance herself as she did not want to become emotional in front of █████ or the other campers. She stated that in her opinion, she felt that the officers were behaving “too aggressive with him”⁴⁴ because they pushed █████ against the van too hard and then Officer Josephs squeezed the back of his neck. Shortly thereafter, the police wagon left the scene with █████.

On August 14, 2015, IPRA interviewed █████⁴⁵ at Hartgrove Hospital, 5730 W. Roosevelt Road. █████ stated that on the date of incident, she met █████ after two white male officers brought him to Hartgrove Hospital. █████ was working at Hartgrove as an Intake

⁴⁰ *Id.* at 18:38

⁴¹ *Id.* at 18:43

⁴² *Id.* at 21:11

⁴³ *Id.* at 21:57

⁴⁴ *Id.* at 23:50

⁴⁵ Att. 25

Coordinator. She was notified of [REDACTED]'s arrival to the hospital and walked into the "TV room"⁴⁶ where she observed [REDACTED] on the ground, in a "fetal position,"⁴⁷ while handcuffed with his hands behind his back. One officer was holding down [REDACTED]'s legs with his forearms while "almost laying next to him."⁴⁸ The other officer, who she described as being taller than the officer on the ground, was standing. [REDACTED] learned from the officers that [REDACTED] had been kicking them. As a result, the officers placed him on the ground and held his legs down so that he could no longer kick. According to [REDACTED], she attempted to speak to [REDACTED] by asking him questions. However, he did not appear to fully comprehend her questions and all his answers were, "no." [REDACTED] stated that at that time, [REDACTED] appeared agitated that the officer was holding down his feet and stated words to the effect of "please let go of my feet." However, when the officer asked [REDACTED] if he would stop kicking, [REDACTED] replied "no" and then attempted to "jerk" his legs. Shortly thereafter, [REDACTED] and the officers agreed that it would be best for [REDACTED]'s safety to take [REDACTED] to an assessment room. [REDACTED] was placed onto his feet by the officers and escorted into the next room.

While en route to the next room, [REDACTED] was walking in front of [REDACTED] and the officers, who were holding [REDACTED] by his arms. Suddenly, [REDACTED] kicked [REDACTED] in the calf area. The officers told [REDACTED] that he could not kick people. It was at that time that one, or possibly both of the officers⁴⁹ placed their forearm(s) and weight on [REDACTED]'s back and "pushed [REDACTED]'s] back to almost make it flat like a table"⁵⁰ which caused [REDACTED] to bend at his waist. According to [REDACTED], one of the officers also yelled into [REDACTED]'s ear and asked [REDACTED] if he knew was not supposed to kick them and [REDACTED] also responded, "no." [REDACTED] took [REDACTED]'s repeated responses of "no" to mean that he was not comprehending what was taking place. [REDACTED] further stated that the presence of the officers was escalating [REDACTED], as he became agitated, and [REDACTED] was also escalating the officers.

[REDACTED] continued to open the door to the assessment room. While inside of the room, [REDACTED] asked [REDACTED] that if the officers were to take off the handcuffs if he would stop kicking and [REDACTED] responded "no." As a result, [REDACTED] was left inside of the room, sitting on a chair, while still handcuffed. [REDACTED] stated that she did not observe any further physical contact between the

⁴⁶ *Id.* at 03:08

⁴⁷ *Id.* at 03:57

⁴⁸ *Id.* at 07:38

⁴⁹ [REDACTED] was not able to identify which of the officer's placed their forearm on [REDACTED]'s back.

⁵⁰ *Id.* at 11:25

officers and [REDACTED], to include in the assessment room. [REDACTED], as well as both officers exited the room. She called for assistance from additional staff and explained the situation to the staff.

Shortly thereafter, [REDACTED] left the assessment room area while additional staff attended to [REDACTED] inside of the room and the officers were standing in the hallway. [REDACTED] went to the main lobby area where she met with [REDACTED]'s mother and his aunt. It was at this time that [REDACTED] learned that [REDACTED] has autism. While in the lobby area, both officers were about to leave the facility and notified [REDACTED] that [REDACTED] had calmed down. Furthermore, [REDACTED] had overheard the shorter white male officer tell [REDACTED]'s mother that because of [REDACTED] kicking him multiple times, he was in pain and that she should be prepared to contact an Attorney because they would "potentially press charges."⁵¹

Approximately 20 minutes later, [REDACTED] returned to the assessment room, along with [REDACTED]'s mother and aunt, and met with [REDACTED]. [REDACTED] observed that [REDACTED] had one foot exposed, without a sock and a shoe, and he complained that his foot hurt. [REDACTED]'s mother asked him why it hurt and [REDACTED] stated that the officers had hurt him. [REDACTED] could not visibly tell of an injury to his foot. However, a nurse at Hartgrove was attending to [REDACTED] for the pain he complained of and may have provided him an ice pack. [REDACTED] never left the facility for additional medical treatment. [REDACTED] continued an assessment with [REDACTED] to decide the appropriate level of care for him while at Hartgrove hospital.

According to [REDACTED], she stated that in her opinion, she felt that the force used by the officers was excessive in that any type of movement [REDACTED] would make, the officers would place more pressure to hold him down. When [REDACTED] was kicked by [REDACTED], she was not in any pain and took it as a "14-year-old kicking me in the back of the leg."⁵² When the officers "put their arms on the back of [REDACTED] and were screaming into his ear,"⁵³ she did not deem it to be an appropriate response for him kicking [REDACTED].

On March 11, 2016, IPRA interviewed Officer Brian Josephs⁵⁴ at 1615 W. Chicago Avenue. Officer Josephs stated that on the date and approximate time of incident, while on-duty,

⁵¹ *Id.* at 23:51

⁵² *Id.* at 21:19

⁵³ *Id.* at 21:32

⁵⁴ Att. 52

he and his partner, Officer Bilotti, responded to a call for a transport unit. Officer Josephs stated that he was going to refer to the Case Report⁵⁵ “for some of [his] answers.”⁵⁶ Officer Josephs stated that according to the case report, there was a “mental disturbance regarding a violent subject”⁵⁷ at Vittum Park and Officer Borja “came on the air and asked for the wagon”⁵⁸ to transport the subject, now known as ■■■, to Hartgrove Hospital. The initial 9-1-1 call came from Rodriguez, a staff member at Vittum Park. Upon arrival to the park, Officer Josephs was notified by Officer Borja and ■■■■■■■■■■, that ■■■ had been violent to both staff and other children at the park. Officer Josephs and Bilotti spoke to staff members and ■■■’s aunt, ■■■■■■■■■■ prior to having contact with ■■■. ■■■■■ had informed both officers that ■■■ has autism. Officer Josephs and his partner then met with ■■■ and explained to him that they were going to transport him to the hospital. According to Officer Josephs, Officer Bilotti is CIT trained and he was not. Therefore, Officer Josephs believed that Officer Bilotti was most likely speaking with ■■■ but he could not recall for certain.

Officer Josephs stated that at this time, ■■■ was extremely cooperative and calm. As the officers and ■■■ began walking towards the transport wagon, and about 20 feet from the wagon, ■■■ “swings at both of [the officers], kind of”⁵⁹ and strikes Officer Bilotti “in the chest.”⁶⁰ Officer Josephs demonstrated and described ■■■ flailing his arms while swinging. Furthermore, ■■■ also began to kick at both officers. Officer Josephs stated that ■■■ never struck him.

Officer Josephs said that when ■■■ started getting violent, he grabbed ■■■ by the arm and by the neck. Officer Josephs called this type of hold an “escort hold.”⁶¹ Officer Josephs explained that he exerted a bit of pressure when he grabbed ■■■’s neck but not an extreme amount. Officer Josephs was grabbing ■■■ by the neck while Officer Bilotti handcuffed ■■■. Officer Josephs stated that it seemed that ■■■ was kicking the entire time while being escorted to the wagon. According to Officer Josephs, upon ■■■ entering the wagon he remained kicking. Subsequently ■■■ sat down and Officer Bilotti placed a strap over ■■■ as they drove to the hospital.

⁵⁵ Refer to attachment 28.

⁵⁶ Att. 52 at 03:55

⁵⁷ *Id.* at 04:03

⁵⁸ *Id.* at 04:17

⁵⁹ *Id.* at 12:44

⁶⁰ *Id.* at 12:48

⁶¹ *Id.* at 17:36

Upon arriving at Hartgrove hospital, ■ continued to kick Officer Bilotti as they escorted him inside. They entered a waiting room where ■ was seated. They met with an Asian female staff member whom attempted to speak to ■. While in the waiting room, ■ went back and forth from being calm and from attempting to kick. At one point, ■ attempted to kick the female staff member. Because of ■ continuing to kick, the officers pulled ■ off the chair and placed him on the ground. Officer Josephs described that ■'s behavior was that of an "active assailant" as he just committed a Battery offense towards a civilian. ■ laid on his side as he was on the ground and both officers held him down. Officer Josephs described that he held down ■'s legs with his hands, and Officer Bilotti held ■ down by his upper body. Officer Josephs stated that at one point he stood up, due to having back problems, and placed one of his feet on ■'s lower leg or ankle area to hold him down. However, at no time did he place both of his feet on ■ nor did he stand on him. Officer Josephs explained that he only applied his weight and pressure on ■ when ■ would tense up and put pressure up as if he were to kick. ■ on occasion was crying and appeared upset.

Shortly thereafter, ■ calmed down and the officers picked him up off the floor and escorted him into an examination room. While being lead into the examination room, ■ kicked a second female staff member as well the officers. The officers continued to lead ■ into the room at which time ■ kicked Officer Bilotti which resulted in a small laceration. Officer Josephs stated that he did not recall how he reacted to ■'s last kick to Officer Bilotti. However, he may have placed his foot on ■'s foot to stop him from kicking. Subsequently, additional staff members arrived at the examination room to speak with ■. Officer Josephs recalled that ■ was complaining of his foot. ■ had also began talking about an incident that took place in Streamwood, IL where he had also hurt his foot. However, Officer Josephs did not recall any other details.

Officer Josephs explained that ■ became cooperative enough to be assisted by the hospital staff. The officers removed ■'s handcuffs and the staff removed ■'s shoe and began looking at the foot that ■ was complaining about. Officer Josephs did not observe injury on ■'s foot. ■ did not complain of pain to his foot prior to be inside of this examination room. According to Officer Josephs, ■ had been kicking the back of the wagon while en route to the hospital which could have been why he was complaining of injury.

Officer Josephs explained that once this was occurring, he and his partner left the exam room. The officers spoke to ■■■'s aunt and mother and explained to them what had occurred to include how ■■■ was being violent and how they restrained ■■■ to stop him from hurting himself or others.

Officer Josephs explained that he did not fill out a TRR report at the time. According to Officer Josephs, he believed that because he was not struck by ■■■, he did not have to fill one out. However, Officer Josephs stated that due to the use of force, to include a take-down technique and certain escort and pressure compliance holds that he used with ■■■, he should have in fact completed a TRR.⁶² Officer Josephs described ■■■ as a threat in that he committed a Battery. However, he did not consider ■■■ to be enough of a threat to employ some of the options that they could have used within the use of force model for an "active assailant."⁶³

Officer Josephs explained that based on the Use of Force model, ■■■'s actions as an assailant would have allowed the officers to use force such as a taser, impact, knee and/or elbow strikes. However, due to the awareness of ■■■ having autism, the officers chose not to use such tactics as they took into account the totality of the circumstances.

Officer Robert Bilotti stated in an interview with IPRA on March 11, 2016 at 1615 W. Chicago Avenue, that the date and approximate time of incident, while on-duty Officer Bilotti and his partner, Officer Josephs were assigned to a "squadrol."⁶⁴ They responded to a call, as a transport unit, for a disturbance with a "mental" subject who was being violent at a Vittum park with other children as well as park employees. Officer Bilotti stated that he was unaware that ■■■ has autism until they were notified by Officer Borja. Officer Bilotti further stated that he had CIT training and has encountered subjects with autism before but he could not initially tell ■■■ has autism until he further observed his demeanor. Officer Bilotti did not know if Officer Josephs had also had CIT training. However, both Officer Bilotti and Officer Josephs have previously encountered and dealt with mentally challenged subjects.

Upon their arrival, they met with Officer Borja who was with ■■■ ■■■ aunt, an unknown black male who was an employee of the park, and possibly a few other people. Officer

⁶² Att. 52

⁶³ Refer to the audio statement, Att. 52, at the approximate time of 1:00:12.

⁶⁴ A squadrol is also known as a wagon.

Bilotti described ■■■'s demeanor as initially being calm as well as confused. Officer Josephs spoke to ■■■ and asked him what was wrong. He explained to ■■■ that he would be going to the hospital and told ■■■ that there was no need to handcuff him as long as he behaved. ■■■ responded with "yes" and "okay."

Officer Bilotti and Officer Josephs proceed to escort ■■■ towards their wagon. Officer Bilotti described that he recalled ■■■ walking freely, without handcuffs, in the middle of both officers and ■■■'s aunt and the male employee were walking behind them. As they approached the wagon and were approximately 20 to 30 feet away, ■■■ stopped and attempted to strike Officer Bilotti by swinging his arm. At that time, both officers grabbed ■■■ by his arms. ■■■ did not wish to further advance to the wagon. Therefore, Officer Bilotti and Josephs had to "push him along"⁶⁵ and ■■■ also began to kick. As they arrived to the wagon, the door to the wagon was closed. They placed ■■■ against the wagon so that Officer Bilotti could let go of ■■■'s arm and handcuff him, as well as open the wagon door. It may have been at this time that Officer Josephs grabbed and squeezed ■■■ by the back of his neck as a "pressure point"⁶⁶ to gain better control of ■■■ while Officer Bilotti was handcuffing him. Officer Bilotti believed that the grab to the back of the neck was necessary and a better option than using a different use of force such as an ASP, taser or OC spray.

The officers then proceeded to place ■■■ inside of the police wagon. Officer Bilotti described that ■■■ walked in and sat down. Officer Bilotti placed a seatbelt over ■■■ to keep him from moving around. As they proceeded to transport ■■■ to Hartgrove Hospital, ■■■, while seated, proceeded to stomp his feet inside of the wagon and attempted to kick the back of the seat.

Upon their arrival at Hartgrove, Officer Josephs went inside and spoke to the hospital staff regarding the situation. Officer Bilotti escorted ■■■ inside the hospital at which time ■■■ repeatedly kicked Officer Bilotti on his shin area. Officer Bilotti stated both himself and Officer Josephs were trying to act cautiously with ■■■. He stated that "[■■■] didn't know what he was doing but at the same time he was doing what he was doing so we had to deal with that to."⁶⁷

⁶⁵ Refer to Att. 54, at 19 minutes and 09 seconds.

⁶⁶ Refer to Att.54, at 20 minutes and 55 seconds.

⁶⁷ Refer to Att. 54, at 30 minutes and 32 seconds.

While inside of the waiting area, ■■■ was seated but then continued to attempt to kick and stand up. ■■■ continuously used his left foot to kick Officer Bilotti. As a result, the officers grabbed ■■■ by his arms and legs and “slid him down onto the ground from [his] chair”⁶⁸ in an attempt to gain better control of his legs and to stop him from kicking or attempting to stand up. While ■■■ laid on the floor while on his side, the officers held him down by his legs and upper body. Officer Bilotti described that they did not force him on the floor but, he also did not recall ■■■ volunteering to go to the floor nor, was it recalled if the officers asked ■■■ to go lay on the floor.

Subsequently, after a few minutes of ■■■ being laid on the floor, a white female employee, with blonde hair, came to speak to him. ■■■ was picked up off the floor and attempted to kick the female. Shortly thereafter, ■■■ was escorted by the officers to a holding room. While en route to the room, ■■■ again kicked Officer Bilotti on his shin and Officer Bilotti stated he began to bleed. Both officers continued to tell ■■■ to stop kicking. ■■■ was seated inside of the room and the female employee as well as the officers waited outside of the room while the door was closed. The female called for additional staff members who came to attend to ■■■. It was at this time when ■■■ began to cry. An older unknown white female attendant removed ■■■’s right shoe after he complained of pain in his right foot. Prior to this, ■■■ did not complain of any pain and was walking normally. Officer Bilotti did not know how ■■■ sustained pain to his right foot. ■■■ mentioned to the older female something about a hospital in Streamwood. Officer Bilotti did not observe the foot that ■■■ complained he felt pain in.

Subsequently, ■■■ calmed down and Officer Bilotti entered the room to unhandcuff ■■■. The officers left the holding room area and as they were nearing the entrance of the facility, they observed ■■■’s mother speaking with ■■■’s aunt, who was also acting as a Spanish translator. Officer Josephs began speaking with the aunt and told her that ■■■ was with the nurse, that he was complaining of pain to his foot and, he mentioned something of Streamwood Hospital. The aunt responded by stating something to the effect of ■■■ having surgery in Streamwood. ■■■’s mother then asked the aunt in Spanish if ■■■ was complaining of pain to his foot before or after the “police hit him.”⁶⁹ Officer Bilotti stated that although he is not fluent in Spanish he did understand some of what she was saying. Officer Bilotti told Officer Josephs what the mother

⁶⁸ Refer to Att. 54, at 33 minutes and 15 seconds.

⁶⁹ Refer to Att. 54, at 55 minutes and 35 seconds.

had said and Officer Josephs told the aunt that [REDACTED] complained of pain after they left him. There was no further verbal exchange between Officer Bilotti, Officer Josephs, and [REDACTED]'s mother and aunt.

Officer Bilotti stated that he filled out a Tactical Response Report (TRR), Officer's Battery Report (OBR) and Injury on Duty report (IOD) and, Officer Josephs filled out a "Mental Health Report." Officer Bilotti stated that he filled out a TRR due to Battery to an officer, "for holding him down,"⁷⁰ and because all the reports, to include the IOD, go hand in hand. Officer Bilotti did not know if Officer Josephs filled out a TRR. According to Officer Bilotti, when the officers laid [REDACTED] on the ground, that would also be considered a "take down." Furthermore, when the officers held [REDACTED] against the wagon to handcuff him, that would be considered "emergency handcuffing" as documented on the TRR. As Officer Josephs was involved in the emergency handcuffing of [REDACTED], as well as laying [REDACTED] on the ground, he should have filled out a TRR.

According to Officer Bilotti, he did not recall [REDACTED] kicking inside of the holding room. Officer Bilotti stated that the only time he observed Officer Josephs placing his foot on [REDACTED]'s lower leg area or possibly his foot, was when [REDACTED] was laying on the ground in the waiting room area. Officer Bilotti did not recall seeing Officer Josephs step on [REDACTED]'s foot. There was no further physical contact that took place inside of the holding room between [REDACTED] and Officer Josephs or [REDACTED] and Officer Bilotti.

Officer Rafael Borja stated in an interview with IPRA on March 10, 2016 at 1615 W. Chicago Avenue, that on the date and approximate time of incident, while on-duty Officer Borja was assigned to Beat 842, in a marked vehicle and was working alone. Officer Borja responded to an OEMC radio call of a "mental disturbance at the park."⁷¹ Upon arrival to Vittum park, Officer Borja spoke to a female staff member who was with [REDACTED] and notified the officer that he had an "outburst" and was now calm but [REDACTED]'s mother requested that [REDACTED] be taken for a "mental transport to get him evaluated."⁷² Officer Borja described [REDACTED]'s demeanor as calm. [REDACTED] continuously repeated out loud that he did not want to go home. Officer Borja stated that he had no knowledge that [REDACTED] has autism until the female staff member told the officer. Officer Borja

⁷⁰ Refer to Att. 54, at 1 hour and 50 seconds.

⁷¹ Refer to Att. 56, at 3 minutes and 25 seconds.

⁷² Refer to Att. 56, at 4 minutes and 50 seconds.

stated that he has obtained Crisis Intervention Training (CIT) and that he often encounters mentally challenged subjects but had not previously encountered a subject with autism.

Shortly thereafter, ■■■'s aunt arrived at the park. She explained to Officer Borja that at times ■■■ becomes violent. As ■■■'s mother had requested for ■■■ to be taken to the hospital, Officer Borja dispatched over the radio for a transport unit. Officer Borja did not recall if he stated over the radio that the subject was a juvenile or if he dispatched that the subject has autism.

Subsequently, transport Officer Bilotti and Officer Josephs, arrived to the park in a wagon. Officer Bilotti and Josephs spoke to the park staff members who were present. Officer Borja did not recall if the officers spoke to ■■■. A short time later, all parties began to walk together towards the wagon. Officer Borja described ■■■'s demeanor at this time as quiet. Officer Borja stated that he began to walk with them. However, to minimize the police presence in front of other children, he walked in a different direction which was towards the school buses. Officer Borja no longer had view of Officer Bilotti and Officer Josephs with ■■■ as he had his back towards them.

Officer Borja began to assist children into a school bus and when he looked back towards the police wagon, which was approximately 20 feet away, he observed one of the transport officers pushing ■■■'s body against the wagon while trying to handcuff him. ■■■ was moving his arms and appeared to be reluctant to comply to what the officers were attempting to do. Officer Borja then directed his attention towards the children getting into the school buses. When he looked back towards the police wagon, he observed the officers closing the wagon door. Officer Borja did not see when ■■■ entered the wagon.

Officer Borja then left the area and later learned that the transport officers took ■■■ to Hartgrove Hospital. Officer Borja stated that he also later learned, towards the end of his shift, that Officer Bilotti had been kicked and was hurt as a result. At no time did Officer Borja observe ■■■ kick. Officer Borja stated that he could not tell how Officer Josephs was physically handling ■■■. Officer Borja stated that he did not recall much of the incident.

b. Digital Evidence

Office of Emergency Management Communications (OEMC)⁷³ audio recordings of 911 calls and Police Radio Transmissions are consistent in that they report that on July 21, 2015, at approximately 11:56 AM, a female called 911 and explained that she needs assistance at Vittum Park and gave the address. The female states that she needs assistance because there is a 14-year-old child with autism attacking his family member. The dispatcher asks if the child needs a paramedic, and the female states that he does not need a paramedic but needs someone to restrain him. The female on the phone says her name was [REDACTED].

The police transmissions further announce a job for a “disturbance with a mental” at the location of incident. Beat 842 acknowledged the job. At approximately 35 minutes into the transmission Beat 872 announced they would be transporting the subject to Hartgrove Hospital.

Video footage from Hartgrove Hospital⁷⁴ was obtained from the date of incident, begins at approximately 13:13:44 hours⁷⁵ and ends at approximately 13:24:40 hours. The video is in color and includes two camera angles from the inside of the hospital which are titled “Assessment Room” and “Room 1.” The “Assessment Room” camera depicts a view of a hallway with a distant view of a door in the center and doors on each side. The camera titled “Room 1” depicts what appears to be a small waiting room with chairs on each side. Both camera angles appear to be stationary and positioned higher up as they are slightly facing downward.

At 13:13:21 hours, the video footage titled “Assessment Room” depicts two white male officers (now known to be Officer Josephs and Officer Bilotti), a white female (now known to be [REDACTED]), and a male juvenile (now known to be [REDACTED]) enter the assessment hall. [REDACTED] is handcuffed and the officers are escorting [REDACTED] with one officer on each side of him holding him by his arms. At 13:13:31 hours the video depicts [REDACTED] kicking [REDACTED] on one of her legs, near her shin area. The officers appear to grab a closer hold of [REDACTED] and slightly begin to lean him forward. [REDACTED] appears to be slightly bent at his waist, to face the floor, while Officer Josephs, whom is on [REDACTED]s left side, appears to be speaking to [REDACTED] closely near the left side of his ear. After a few seconds,

⁷³ Att. 39-41

⁷⁴ Att. 44

⁷⁵ The timestamp on the video is depicted in military time. Therefore, this summary report will also document the same format.

█ is observed standing up straight. █ enters a room and is followed by █ and both officers.

At 13:14:00 hours, the video footage titled "Room One" depicts all parties mentioned above enter the room and █ is placed in a chair. Officer Josephs exits to the hallway and Officer Bilotti and █ appear to be in a conversation. After a few minutes, they start walking out of the room. At 13:15:22 hours, █ stands up from the chair and attempts to kick Officer Bilotti. Officer Bilotti pushes █ back into the chair. Officer Josephs re-enters the room and places his right foot on top of what appears to be █'s inside area of his right foot. Officer Josephs appears to be leaning his weight, slightly forward and towards his right side. Officer Josephs foot is on top of █'s foot for approximately six seconds.

At 13:15:31 hours, the video depicts Officer Josephs slowly taking his right foot off of █'s right foot. Officer Bilotti is facing Officer Josephs while pointing his left arm towards the door. The video depicts Officer Joseph from █ while Officer Bilotti remained standing near █.

At 13:15:36 hours, █ is observed, while seated in his chair, again kick Officer Bilotti with his left foot in which he struck Officer Bilotti's lower right leg area. Officer Bilotti responds by slightly extending his right leg while appearing to push back █'s left foot. Officer Bilotti then steps away from █ and both officers exit the room. Ms. █ is observed shutting the door. After █ closes the door, █ remains seated with his hands behind his back and appears to be crying. He repeatedly looks down at the ground and appears to also look at his right foot.

Throughout the remainder of video hospital staff members are observed entering and exiting the room while appearing to engage in conversation with █. At 13:21:10 hours, █ is observed slipping of his right shoe. Hospital staff members then assist him in removing his right sock and his left shoe. At 13:22:45 hours, Officer Bilotti is observed entering the room, while in the presence of staff members, and unhandcuffing █. Officer Bilotti then exits the room. █ remains seated in his chair and staff members appear to engage in conversation with him.

c. Documentary Evidence

A **Behavior Incident report**⁷⁶ from the Vittum Park, written by [REDACTED], documents that on the date and approximate time of incident, [REDACTED], whom is a participant of summer camp, had kicked another camper in the stomach. The disciplinary action taken was that [REDACTED] was removed from the activity. [REDACTED] was told to go home for the day as “kicking means goodbye.” [REDACTED]’s aunt arrived to pick him up and [REDACTED] began “punching his aunt.” The aunt called [REDACTED]’s mother whom instructed her to call the police. Shortly thereafter, the police arrived and [REDACTED] was transported to a hospital. The report further documented a ‘staff recommendation’ which was that [REDACTED] be suspended from the program for four days. Furthermore, the staff contacted [REDACTED]’s mother and notified her to not have [REDACTED] return to the program until further notice.

The **Case Incident report, RD #HY349600**⁷⁷ documents that the incident type was non-criminal, mental health transport for juvenile, [REDACTED]. [REDACTED] was transported by Unit 0872, to Hartgrove Hospital on July 21, 2015, at 12:20 p.m. It was documented that [REDACTED] had a minor injury. The narrative documents that Officer Bilotti and Officer Josephs responded to a call of a mental disturbance regarding a violent subject who was at Vittum Park. Upon arrival, the officers were notified by Officer Borja that the subject, [REDACTED], had become violent. [REDACTED]’s aunt, [REDACTED], was on scene and notified the officers that [REDACTED]’s mother, [REDACTED], requested that [REDACTED] be transported to Hartgrove Hospital for a mental health evaluation “regarding his autism.”

Upon the officer’s arrival to Vittum Park, [REDACTED] was initially compliant. However, as they reached the “squadrol” (transport van), [REDACTED] [attempted] to kick both officers. He further struck Officer Bilotti in the right forearm with his fist. According to the report, the officers utilized the transport van to place [REDACTED]’s body against it to be able to place him in handcuffs. As the officers placed [REDACTED] inside of the squadrol, he continued to kick them both. While inside of the squadrol, [REDACTED] continued to kick his feet against the inside of the vehicle.

The report further documents that upon arriving at Hartgrove Hospital, [REDACTED] repeatedly kicked both officers.⁷⁸ The officers asked the staff for restraints, but there were none. Once inside of the hospital, [REDACTED] kicked one of the female staff members in the leg. According to the report, “the [officers] were forced to place [REDACTED] on the floor inside the facility and restrain him

⁷⁶ Att. 50

⁷⁷ Att. 28

⁷⁸ In Officer Josephs statement, he clarifies that the [REDACTED] never struck him when [REDACTED] attempted to kick.

from continuing to kick the [officers] or other medical personnel...the [officers] utilized pressure and hold techniques..." The officers held down ■■■ for several minutes until a second female staff member arrived. ■■■ calmed down and agreed to go to an exam room. As the officers assisted ■■■ to his feet, ■■■ kicked the second female staff member. While en route to the exam room, ■■■ delivered a kick to Officer Bilotti's lower left leg which resulted in a laceration. ■■■ was then placed inside of the room.

When ■■■ was inside of the examination room, additional staff members arrived to speak to him. ■■■ allowed the officers to get close enough to remove the handcuffs. As the officers exited the examination room, ■■■ began to complain of pain in his foot. He stated that he sustained injury to his foot at a different health facility in Streamwood, IL. The officers met with ■■■ at the hospital, informed her of the incident and that ■■■ was complaining of an injury to his foot. The report documents that the officers were "continually struck by the subject throughout the entire duration of this incident."⁷⁹

Tactical Response Report (TRR) for Officer Robert Bilotti #13232⁸⁰ documents that ■■■ did not follow verbal direction, pulled away, demonstrated an imminent threat of battery and attacked the officer in that ■■■ was kicking the officer in the shin. Officer Bilotti responded with member presence, verbal commands, escort holds, wristlock holds and takedown/emergency handcuffing. Furthermore, it is documented the officer issued a pressure hold to ■■■'s lower legs. Officer Bilotti sustained a laceration to his left shin as a result of ■■■ kicking him. It was further documented that ■■■ was on a mental health transport when the incident took place and there was no opportunity to interview him. Lieutenant John Dowd, documented that the officers demonstrated great restraint in dealing with "a combative juvenile with psychological issues" and their actions were consistent with department orders.

Officer's Battery Report (OBR) for Officer Bilotti #13232⁸¹ documents that on the date and time of incident, while he was on-duty and with a partner, Officer Bilotti had responded

⁷⁹ In Officer Joseph's statement to IPRA, he stated that he mis-wrote in this report when documenting that both officers were continuously kicked when only Officer Bilotti was repeatedly kicked.

⁸⁰ Att. 30

⁸¹ Att. 31

to a disturbance of a mental patient. Officer Bilotti was struck by the subject's () hands and feet. As a result, Officer Bilotti sustained a minor injury.

d. Additional Evidence

The **Chicago Police Department Event PCAD report, Event #1520206763**,⁸² is consistent with the OEMC 911 call.

General Order G03-02-05, issued October 30, 2014, titled **Incidents Requiring the Completion of a Tactical Response Report**⁸³ documents under Section II, letter A, number 1, that a TRR will be used to document all incidents which involve a subject fitting the definition of an assailant whose actions are directed against a Department member or directed against another person and the member intervenes. Under Section II, letter A, number 2 it documents that a TRR will be used in all incidents which involve a subject fitting the definition of an active resister except for incidents in which; the subject's only action for resisting is fleeing; and the members actions did not extend beyond verbal commands and/or control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury or allegation of injury.

VI. ANALYSIS

Pursuant to Department policy, Officer Josephs was justified when he grabbed and squeezed () in order to gain control of him. Although () is a juvenile with autism, and his actions were reasonably a result of his mental condition, his overall physical actions, i.e. repeatedly attempting to kick both officers and physically striking Officer Bilotti with a kick, met the actions of an assailant as defined in Department orders and the use of force model.⁸⁴

Officer Josephs, Officer Bilotti, (), (), and () all corroborate that () was compliant with the officers until he approached the wagon, at which time () became physically resistant. According to the use of force model, an assailant includes

⁸² Att. 38

⁸³ Att. 48

⁸⁴ G03-02-01: The Use of Force Model (The Use of Force Model does not recognize or account for mentally challenged subjects).

someone whose actions are aggressively offensive without weapons or whose actions will likely cause physical injury. Kicking at the officers and striking Officer Bilotti fall within these definitions. Officer Josephs explained that he grabbed and applied pressure to the back of ■■■'s neck area to control him as the officers attempted to handcuff him. The use of force model permits officers to respond to an assailant with an amount of force greater than that used by Officer Josephs against ■■■; including, but not limited to, direct mechanical strikes and impact weapons. Officer Bilotti stated that the grab to the back of ■■■'s neck was necessary to control ■■■ and was a better option than using a different or a greater use of force.

Of note is that ■■■ did not receive any visible physical injury, nor did he complain of any injury, because of Officer Josephs holding him in his neck area. The lack of injury during this encounter demonstrates an appropriately measured use of force. The totality of the circumstances in this case, provided justification for Officer Josephs' use of force as alleged in Allegation #1.

Additionally, there is no dispute that, while at Hartgrove Hospital, ■■■ repeatedly kicked, or attempted to kick, the officers as well as Hartgrove Hospital staff members. Although COPA acknowledges ■■■ autism as a factor leading to his actions, COPA cannot discount or ignore the numerous attempts made by Officer Josephs and Officer Bilotti, to control and/or stop ■■■ from kicking; such as, verbal commands, control holds and handcuffing. The Hartgrove Hospital video depicts Officer Josephs placing his right foot on top of ■■■'s right foot only after ■■■ kicked Officer Bilotti. Despite Officer Josephs and Officer Bilotti not recalling Officer Josephs stepping on ■■■'s foot while in the exam room, the video evidence proves that the use of force occurred. Officer Josephs' actions were made to control and/or stop ■■■ from kicking. Officer Josephs appeared to shift his weight over ■■■'s foot as he was stepping on it for approximately six seconds and then moved away.

Officer Josephs' large stature reasonably explains the discomfort and/or pain to ■■■'s right foot. However, there is no evidence of severe or extreme injury that would lead to the conclusion that the pressure applied to ■■■'s foot was excessive. Therefore, Department policy authorized Officer Josephs to step on ■■■'s foot as alleged in Allegation #2.

Although COPA finds that Officer Josephs was justified in his use of force as alleged in Allegation #1 and that was also authorized to use force as alleged in Allegation #2, COPA finds that Department Policy required Officer Joseph to complete a Tactical Response Report (TRR). General Order G03-02-05 regulates when an officer is required to complete a TRR report. In this

instance, Officer Josephs admitted grabbing [REDACTED] by the back of his neck and applying pressure to control [REDACTED] while Officer Bilotti was attempting to handcuff him. Officer Bilotti further described that both officers held [REDACTED] against the police wagon as they attempted to handcuff him and this was considered to be an emergency handcuff technique, as identified in the TRR. Officer Josephs further admitted to placing [REDACTED] on the ground, in which he described as a “takedown technique,” along with Officer Bilotti, while at Hartgrove Hospital. Although the placement of [REDACTED] onto the ground was not described to be excessive, Officer Bilotti confirmed that [REDACTED] did not voluntarily get to the ground. Therefore, a level of force was certainly used to place [REDACTED] on the ground. Officer Josephs further stated that he held down [REDACTED]’s legs while [REDACTED] was on the ground to stop him from further kicking. In addition, Officer Josephs repeatedly described [REDACTED] as an assailant due to [REDACTED] repeatedly kicking. Although Officer Josephs clearly explained that they could have used greater force options on [REDACTED] as an assailant, including, but not limited to, a baton or Taser, but were not used due to [REDACTED] disability. Both the handcuffing, as well as the takedown to the ground are listed on the TRR document. Such physical actions taken by Officer Josephs, as well as describing [REDACTED] as an assailant and [REDACTED] complaining of injury to his foot, all meet the requirements in which an officer is required to fill out a TRR based on General Order G03-02-05.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer Brian Josephs	1. Grabbed and squeezed [redacted] by the neck without justification, in violation of Rule 8.	Unfounded
	2. Placed his foot on top of [redacted]s foot and stood on it, in violation of Rule 8.	Exonerated
	3. Failed to complete a Tactical Response Report (TRR), in violation of Rule 6.	Sustained

Approved:

[redacted signature]
 Shannon Hayes
 Acting Deputy Chief Administrator/Chief Investigator

5/15/18
 Date

Appendix A

Assigned Investigative Staff

Squad#: 7

Major Case Specialist: Caterina Oliveri

Supervising Investigator: Mark A. Javier

Acting Deputy Chief Administrator: Shannon Hayes