

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	September 13, 2017
Time of Incident:	Approximately 3:26 p.m.
Location of Incident:	4934 S. Wabash Avenue, Chicago, Illinois
Date of COPA Notification:	September 13, 2017
Time of COPA Notification:	7:47 p.m.

While on-duty, Officer Darwish A. Arekat observed and then disrupted a three-on-one battery in progress in a street adjacent to the DuSable High School Campus. As Officer Arekat approached the offenders, three teenage males, he shouted, “Hey! Hey! Asshole! You!” Officer Arekat then arrested one of the offenders through the use of a takedown.² While kneeling over the arrestee to handcuff him, Officer Arekat shouted profanities at a woman, who he later discovered to be the arrestee’s mother, who was standing close by. A number of other civilians in the immediate vicinity witnessed the incident. Afterwards, CPD Lieutenant Michelle Wilson created an Initiation Report after reviewing Officer Arekat’s Tactical Response Report and Body Worn Camera footage of the incident.

COPA recommends findings of EXONERATED as to allegations that Officer Arekat used excessive force and findings of SUSTAINED as to allegations arising out of Officer Arekat’s use of insult and profanity.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Darwish A. Arekat, Star #8679, Unit 002, Employee # [REDACTED], 35 yoa, Male/Asian-Pacific Islander
Subject #1	[REDACTED] 17 yoa, Male/Black
Subject #2	[REDACTED] [REDACTED] age unknown, Female/Black (mother of Mr. [REDACTED])

¹On 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.

²A “takedown” is the “act of directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject.” CPD General Order G03-02-01.IV.2.c.3 (Issued 16 October 2017).

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Darwish A. Arekat	1. Performed a takedown on [REDACTED] without justification in violation of Rule 8;	Exonerated
	2. Used physical force to effectuate the arrest of [REDACTED] without first using de-escalation techniques, verbal techniques, persuasion, advice, or any warning in violation of Rule 8;	Exonerated
	3. Verbally abused [REDACTED] by calling him “asshole” in violation of Rule 8;	Sustained
	4. Brought discredit upon the Department by calling [REDACTED] “asshole,” in the presence of many civilians in violation of Rule 2;	Sustained
	5. Verbally abused [REDACTED] by telling her to “shut the fuck up” ³ in violation of Rule 2; and	Sustained
	6. Brought discredit upon the Department by telling [REDACTED] to “shut the fuck up” ⁴ in the presence of many civilians in violation of Rule 8.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. CPD Rule 2 (prohibiting any action or conduct that brings discredit upon the Department).
2. CPD Rule 8 (prohibiting disrespect to or maltreatment of any person, while on or off duty).

General Orders

1. CPD General Order G03-02 (Issued 23 September 2002, rescinded 16 October 2017).
2. CPD General Order G03-02-01 (Issued 16 May 2012, rescinded 16 October 2017).
3. CPD General Order G03-02-02 (Issued 01 January 2016, rescinded 16 October 2017).

Federal Laws

1. U.S. Constitution, Fourth Amendment.

³In the Notice of Allegations that COPA served upon Officer Arekat in connection with this investigation, COPA incorrectly alleged that Officer Arekat had said “shut the fuck up.” In fact, Officer Arekat said, “back the fuck up.”

⁴See *fn.* 3 above.

State Laws

1. 720 ILCS 5/7-5 (peace officer's use of force in making arrest).

V. INVESTIGATION⁵**a. Interviews**

Accused Officer Arekat gave a **Digitally Recorded Statement** on December 1, 2017⁶ in which he stated that he arrested Mr. [REDACTED] after observing [REDACTED] and two others run to and attack another person by punching, striking, and knocking that person to the ground. During his statement, Officer Arekat confirmed that he used the word "asshole" in addressing [REDACTED] and he acknowledged that doing so was unprofessional.

Officer Arekat also confirmed that he had used the word "fuck" in shouting at [REDACTED] mother, Ms. [REDACTED]. However, Officer Arekat stated that he had done so because he wanted her to back away, as he then thought that she and others who had gathered nearby might attack him as he was completing [REDACTED] arrest. Officer Arekat also acknowledged that it had been wrong for him to speak to [REDACTED] the way that he had. Officer Arekat further stated that he did not know the whereabouts of his partner, Officer Lisa Locke, while he was arresting [REDACTED]. He later learned that Officer Locke had gone to an adjacent sidewalk to tend to [REDACTED] victim.

In response to the allegation that he had used physical force in his takedown of [REDACTED] without first using de-escalation techniques prescribed by CPD policy, Officer Arekat responded in part, as follows:

There was absolutely not enough time... This offender proved himself to be incredibly violent. ...I wanted to take him into custody without any incident, or without him trying to escape ... I believe that I had to ... perform an emergency takedown ...as immediately as I could ... I didn't want to take the chance of him getting away or escaping and then it turning into something worse.

COPA

Was there time to yell, 'Hey! Asshole! Turn around?'

Officer Arekat

I mean I was saying ... I guess I could ... the way I said it I was like ... in motion ready to take him down ... It's not like I could have stopped and said hey asshole turn around. Maybe in retrospect I could have done it that way. ... But I wanted to take this guy into custody before he ran away and ... caused more harm or the

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁶ Attachment 23.

fight escalated. ...If I can get this guy as fast as possible, as immediately as possible, I can prevent ... other people getting hurt.

Ms. [REDACTED] gave a **Digitally Recorded Statement** on December 14, 2017.⁷ She is the Principal of Bronzeville Scholastic Academy (“BSA”), which is within the DuSable High School campus that is adjacent to the arrest scene. [REDACTED] confirmed witnessing the violent incident that led to [REDACTED] arrest, stating that she had observed [REDACTED] and two others assault the victim by punching and kicking him. [REDACTED] denied hearing Officer Arekat call [REDACTED] “asshole.” However, she confirmed that she had heard Officer Arekat shout “back the fuck up” to [REDACTED]. When asked if she thought that Officer Arekat brought discredit to the Department by speaking to [REDACTED] that way, [REDACTED] responded,

Yes and no. Yes in a way that if you are wanting the community with which you are dealing to deal with you in a different way, deal with them differently ... There is already a high level of distrust between the Chicago Police Department and several of the communities that they serve, and I don’t think necessarily that responding to them that way even in the heat of the moment helps that cause.

Separately, Ms. [REDACTED] noted that, after the incident, she observed Officer Arekat having positive and professional interactions with male students, which, in her opinion, brought credit to the CPD.

BSA Assistant Principal [REDACTED] also gave a **Digitally Recorded Statement** on December 14, 2017.⁸ In her statement, [REDACTED] acknowledged that she was present with [REDACTED] at the time of the incident, but she claimed to have little memory of the event. She denied recalling hearing Officer Arekat use profanity during the incident.

Officer Lisa Locke, Unit 002, Star #13240, gave a **Digitally Recorded Statement** on December 21, 2017.⁹ Officer Locke, Officer Arekat’s partner, described the incident that led to [REDACTED] arrest as involving three students and a parent aggressively running towards another student, followed by the three students “stomping on” and beating the other student. Officer Locke stated that Officer Arekat turned their vehicle around, they exited their vehicle at the same time, and she then pursued the victim of the attack, incorrectly believing at the time that the victim had been one of the offenders. She did not observe Officer Arekat perform the subject takedown.

COPA investigators contacted [REDACTED] by telephone on September 18, 2017, for purposes of arranging interviews with [REDACTED] and her. [REDACTED] expressed uncertainty about why a complaint had been made about [REDACTED] arrest, and she denied that [REDACTED] had been injured as a result of the arrest. [REDACTED] then claimed an immediate inability to talk further by telephone, and stated that she would contact COPA by return telephone call. Receiving no further contact, COPA

⁷ Attachment 26.

⁸ Attachment 28.

⁹ Attachment 30. In her statement, Officer Locke acknowledged that she was equipped with a BWC but that she failed to activate it due to the stress of the moment. This investigation determined that Officer Locke’s omission here was inadvertent and did not result in the failure to record material evidence.

investigators made repeated, unsuccessful attempts to contact her.¹⁰ To date, COPA has received no response from [REDACTED]

b. Digital Evidence

OEMC Video (“POD”) Footage¹¹ taken by a security camera positioned above the scene of the incident shows [REDACTED] run up to and strike a victim, knocking him down. The footage then shows two other offenders join the assault by kicking and jumping atop the victim. The video then shows Officer Arekat arriving and disrupting the attack. Altogether, approximately twelve seconds elapse between the moment that [REDACTED] is first shown to have struck the victim and the moment of Officer Arekat’s arrival.

Body Worn Camera (“BWC”) Footage¹² begins where Officer Arekat makes a U-turn, drives for a few seconds, stops, exits his vehicle, and then quickly approaches a group of three teenage males and one adult female who are standing in the street, none of whom appears to be acting violently. The footage depicts Officer Arekat shouting, “Hey! Hey! Asshole! You!” as he approaches the group. The footage then shows Officer Arekat apprehend [REDACTED] forcing him to the street, simultaneously saying, “Get the fuck down!” Altogether, approximately five seconds elapse from the moment that the video shows Officer Arekat leaving his vehicle and the moment that the video first shows him making physical contact with [REDACTED]

The footage then shows Officer Arekat kneeling over [REDACTED] to handcuff him while [REDACTED] stands several feet away, shouting. Officer Arekat shouts “back the fuck up” to [REDACTED] within apparent hearing distance of [REDACTED] and a number of other civilians who had gathered nearby. He then calls for assistance on his radio. The video then shows Officer Arekat placing [REDACTED] in handcuffs, and escorting him from the scene, followed by [REDACTED]. The footage then shows [REDACTED] and [REDACTED] exchange angry words with each other, along with [REDACTED] making an unsolicited admission, stating words to the effect that he had been acting in his brother’s defense. The video then shows the incident concluding with Officer Arekat apologizing to [REDACTED] for shouting at her and with [REDACTED] appearing to accept his apology.

c. Documentary Evidence

Officer Arekat’s **Tactical Response Report (“TRR”)**¹³ for this incident reveals that Lt. Michelle E. Wilson, Unit 002, Star #281, initiated this investigation after reviewing Officer Arekat’s BWC footage of the incident. According to the TRR, Lt. Wilson concluded from reviewing the BWC footage that Officer Arekat used excessive force because he had used a takedown on [REDACTED] without first giving him an opportunity to comply with an arrest order. Lt. Wilson noted in the TRR that [REDACTED] did not appear to resist arrest.¹⁴

¹⁰ See Attachment 31.

¹¹ Attachment 17.

¹² Attachment 13.

¹³ Attachment 4.

¹⁴ In the TRR, Officer Arekat classified [REDACTED] as a “passive resister.” It is apparent from Officer Arekat’s BWC footage and his statement, that he classified [REDACTED] as such due to [REDACTED] immediate post-takedown behavior, where [REDACTED] demonstrated some resistance as Officer Arekat tried to handcuff him. Thus, the “passive resister” classification was erroneous because [REDACTED] post-takedown resistance was not an action leading to Officer Arekat’s

In her **Initiation Report**,¹⁵ Lt. Wilson wrote that she “observed [Officer Arekat] use excessive force in that after [he] ordered the above arrestee to get on the ground in order to place the arrestee into custody, [he] did not allow arrestee to comply before immediately taking arrestee to the ground.”

VI. ANALYSIS

A. Allegations 1 and 2: Excessive Use of Force

After reviewing Officer Arekat’s actions in light of his statement, the other available evidence, and the CPD use of force guidance, COPA recommends a finding of EXONERATED as to the allegations that his use of force in the arrest of Mr. ██████ was excessive.

Under Illinois law, “A peace officer ... is justified in the use of any force which he reasonably believes to be necessary to effect [an] arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest.”¹⁶ Similarly, the CPD Use of Force General Order authorized members to “use an amount of force reasonably necessary based on the totality of circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.”¹⁷ That directive also provided that “the central inquiry in every use of force is whether the amount of force used . . . was objectively reasonable in light of the particular circumstances faced by the officer.”¹⁸ The circumstances governing that reasonableness inquiry include, but are not limited to, the severity of the crime at issue, whether the subject posed an immediate threat to the member or public safety, and whether the subject was actively resisting arrest or attempting to evade arrest by flight.¹⁹ The directive also provides that the reasonableness inquiry is to be applied “under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene.”²⁰

In setting out examples of appropriate methods for member use, the CPD Force Options policy directive expressly authorized the use of a takedown for dealing with a person whose aggressive actions place a member in reasonable apprehension of receiving a battery.²¹ That directive also provided that “[w]henver reasonable,” members were to “exercise persuasion, advice and warning prior to the use of physical force.”²²

Here, Officer Arekat and his partner, Officer Locke, observed from their patrol vehicle three assailants attack a victim, driving him to the ground, at which time they began kicking him. Officer Arekat made a U-turn, approached the scene of the attack, and exited his vehicle. The

use of force. Based on Officer Arekat’s statement and the evidence, he should have instead classified ██████ as an “assailant,” presenting an “imminent threat of battery” and/or “perceived as an escape risk.”

¹⁵ Attachment 3.

¹⁶ 720 ILCS 5/7-5(a).

¹⁷ See General Order G03-02.III.B (Issued 23 September 2002, rescinded 16 October 2017).

¹⁸ *Id.*, Section III.C.

¹⁹ *Id.*, Section III.C.1.

²⁰ *Id.*, Section III.C.2.

²¹ See General Order G03-02-02.IV.C.1.A (Issued 01 January 2016, rescinded 16 October 2017).

²² *Id.*, Section III.D.2.

confusion of the situation was such that Officer Locke exited the vehicle and immediately pursued the victim, who was fleeing the attackers, mistakenly believing that she was chasing an assailant.

Now alone, Officer Arekat was facing the three assailants and an angry adult woman, who he initially thought was part of the battery he witnessed. In his interview, Officer Arekat stated that there was not enough time to go through de-escalation techniques before executing the “emergency takedown” on [REDACTED]. When pressed, Officer Arekat acknowledged that, although he possibly could have verbally engaged [REDACTED] he chose to immediately use the takedown because he perceived that [REDACTED] escape could have resulted in more harm or the escalation of violence where others might get hurt.

Under the totality of the circumstances, Officer Arekat’s use of the takedown was reasonable – he was responding to what he assessed to be an “incredibly violent” event, he was alone, confronting four people, and he was concerned that [REDACTED] would pose a threat to the public if he fled the scene. Footage from the POD and Officer Arekat’s BWC corroborate his account in that he observed an act of violence by three or more individuals on one victim and that he had only a short time to respond (twelve seconds from the initial attack to officer response, per the POD). Officer Locke’s account of chasing the victim highlights the confusion and uncertainty facing the officers who had only seconds to respond to the incident. Finally, although Officer Arekat failed to apply one or more de-escalation techniques, he did employ a minimally violent use of force to neutralize a violent situation for which he had minimal time to respond. Thus, Officer Arekat’s use of force here was reasonable given the particular circumstances he faced during this encounter. Accordingly, COPA recommends findings of EXONERATED as to Allegations 1 and 2 against Officer Arekat, that he violated CPD Rule 8 by performing a takedown without justification and without first using de-escalation techniques.

B. Allegations 3 through 6: Verbal Abuse

COPA finds that there is substantial evidence to support Allegations 3 and 4 against Officer Arekat, that he verbally abused [REDACTED] by calling him “asshole” in violation of CPD Rule 8, and that he brought discredit to the Department in doing so, in violation of CPD Rule 2. Officer Arekat is heard in his BWC footage using the word “asshole” in addressing [REDACTED]. Though a CPD use-of-force directive then in effect encouraged members to use attention-getting verbal control devices prior to resorting to physical force,²³ it should go without saying that Officer Arekat easily could have used a different and non-insulting expression to gain [REDACTED] attention. Though [REDACTED] declined to give an interview or to make [REDACTED] available for one, Officer Arekat’s BWC footage shows that [REDACTED] and [REDACTED] were only steps away from Officer Arekat at the time that Officer Arekat shouted the insult, and that they more probably than not heard it. COPA therefore recommends findings of SUSTAINED as to Allegations 3 and 4 against Officer Arekat.

There is also substantial evidence to support Allegations 5 and 6 against Officer Arekat, that he verbally abused [REDACTED] by telling her to “back the fuck up!” in violation of CPD Rule 8, and that he brought discredit to the Department in doing so, in violation of CPD Rule 2. Video

²³ See CPD General Order G03-02, Section III.A (Issued 01 January 2016, rescinded 16 October 2017). That directive also required members to treat the public with “the respect and dignity to which all persons are entitled” and to “maintain a courteous and professional demeanor when dealing with the public.” See *id.*, Section II.D.

footage shows that [REDACTED] was only steps away from Officer Arekat when he commanded her to “back the fuck up,” and that, therefore, [REDACTED] more probably than not heard it. In her statement, [REDACTED] acknowledged hearing that command. Accordingly, COPA recommends findings of SUSTAINED as to Allegations 5 and 6 against Officer Arekat.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer Darwish A. Arekat	1. Performed a takedown on [REDACTED] without justification in violation of Rule 8;	Exonerated
	2. Used physical force to effectuate the arrest of [REDACTED] without first using de-escalation techniques, verbal techniques, persuasion, advice, or any warning in violation of Rule 8;	Exonerated
	3. Verbally abused [REDACTED] by calling him “asshole” in violation of Rule 8;	Sustained
	4. Brought discredit upon the Department by calling [REDACTED] “asshole,” in the presence of many civilians in violation of Rule 2;	Sustained
	5. Verbally abused [REDACTED] by telling her to “shut the fuck up” ²⁴ in violation of Rule 2; and	Sustained
	6. Brought discredit upon the Department by telling [REDACTED] to “shut the fuck up” ²⁵ in the presence of many civilians in violation of Rule 8.	Sustained

Approved:

[REDACTED]
 Joshua Hunt
 Deputy Chief Administrator – Chief Investigator

27 Feb 2018
 Date

²⁴ In the Notice of Allegations that COPA served upon Officer Arekat in connection with this investigation, COPA incorrectly alleged that Officer Arekat had said “shut the fuck up.” In fact, Officer Arekat said “back the fuck up.”

²⁵ See fn. 22 above.

Appendix A

Assigned Investigative Staff

Squad#:	Squad 11
Investigator:	Francis Tighe
Supervising Investigator:	Brian Dollar
Deputy Chief Administrator:	Joshua Hunt