

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 18, 2017
Time of Incident:	7:55 PM
Location of Incident:	[REDACTED]
Date of COPA Notification:	November 19, 2017
Time of COPA Notification:	1:08 AM

On November 18, 2017, the complainant, [REDACTED] was arrested by Officers David Michaelson and David Lopez. During the arrest, Officer Michaelson performed an emergency takedown and hit [REDACTED] in the head. [REDACTED] alleged that Officer Michaelson used excessive force while arresting him. Statements were taken from [REDACTED] Officer Michaelson, and Officer Lopez. After reviewing relevant evidence, COPA Unfounded and Exonerated the claims against Officer Michaelson.

II. INVOLVED PARTIES

Involved Officer #1:	David Michaelson, Star #19497, Employee ID # [REDACTED] Date of Appointment: December 17, 2001, Police Officer, 17 th District, Date of Birth: [REDACTED] 1971, Male, White
Subject #1:	[REDACTED] Date of Birth: [REDACTED] 1999, Male, White

III. ALLEGATIONS

Officer	Allegation	Finding
Officer David Michaelson	1. Used excessive force against [REDACTED] by hitting [REDACTED] while he was handcuffed, in violation of Rule 6 and Rule 9.	Unfounded
	2. Used excessive force against [REDACTED] by hitting him in the head, in violation of Rule 6 and Rule 9.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
 2. **Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
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General Orders

1. **General Order G03-02-01:** Force Options
2. **General Order G03-02:** Use of Force

V. INVESTIGATION¹**a. Interviews**

On January 12, 2018, COPA interviewed the complainant, ██████████² ██████████ stated that on November 18, 2017, he had been drinking excessively at a friend's party and came home where he continued drinking, upsetting his grandmother and father. ██████████ had difficulty breathing, was throwing up, and became aggressive towards his family. ██████████ stated he was on his asthma machine and lacked stability when police officers came in his kitchen. ██████████ remembered CPD telling him to put his hands behind his back. ██████████ did not remember the officers telling him to calm down or relax. According to ██████████ his memory of events was "fuzzed," due to his intoxication level. ██████████ reported that the officers came in and the next thing he remembered, he was on the back porch. ██████████ stated that on the back porch, he was laying down with an officer (identified as Officer Michaelson) on top of him. ██████████ remembered having his hand pushing up on Officer Michaelson and the officer hitting ██████████ was then handcuffed to the balcony. ██████████ believed Officer Michaelson was on top of ██████████ because ██████████ was resisting. ██████████ believed he did not "take kindly" to the officers telling him to put his hands behind his back." However, ██████████ did not know exactly how the situation escalated after he was told to put his hands behind his back. ██████████ did not remember threatening anyone. ██████████ stated his friend, ██████████ was present and told ██████████ that Officer Michaelson hit ██████████ in the face while ██████████ was handcuffed. ██████████ related that both officers placed him into handcuffs. ██████████ did not remember having his hand on Officer Michaelson's throat or how many times the officer struck him. ██████████ reported that he had a bruise on the left side of his face, but he did not obtain medical treatment. ██████████ was taken into custody and eventually to the Cook County Jail.

COPA interviewed **Officer David Lopez** on March 16, 2018.³ Officer Lopez related that on November 18, 2017, he and Officer Michaelson responded to ██████████ ██████████ for a radio call of a domestic disturbance. Officer Lopez stated that when he arrived, he met ██████████ (██████████ who led the officers upstairs where ██████████ was in the kitchen. ██████████ told officers that ██████████ was acting out, had been drinking, and wanted to take his

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 Att. 11

³ Att. 33

father's car. When [REDACTED] ([REDACTED] did not allow him to take the car, [REDACTED] threatened to shoot his [REDACTED], his [REDACTED], and the police. [REDACTED] corroborated [REDACTED] story and they wanted [REDACTED] arrested. Officer Michaelsen approached [REDACTED] and told him to put his hands behind his back. [REDACTED] responded by raising his fists near his chest with a staggered stance. Officer Michaelsen grabbed [REDACTED] and put his forearm on [REDACTED] fists. Officer Lopez then noticed knives in the kitchen and told his partner they should move to the porch. Once the officers and [REDACTED] were on the porch, [REDACTED] grabbed the porch rail. Officer Michaelsen had an arm around [REDACTED] shoulder while Officer Lopez tried to remove [REDACTED] hand. [REDACTED] responded by spitting on Officer Lopez's face. [REDACTED] grip on the railing loosened and Officer Michaelsen performed a takedown on [REDACTED]. Officer Lopez saw that [REDACTED] had his arms around Officer Michaelsen. Then, Officer Lopez saw Officer Michaelsen striking [REDACTED] two or three times. Officer Lopez was trying to handcuff [REDACTED] when Officer Michaelsen struck [REDACTED]. Once Officer [REDACTED] had one handcuff on [REDACTED] the struggle stopped. Officer Lopez was able to pull [REDACTED] out and Officer Michaelsen finished handcuffing [REDACTED]. Officer Lopez did not believe Officer Michaelsen could have hit [REDACTED] anywhere besides the head. Officer Michaelsen told Officer Lopez after the fact that [REDACTED] had his hand on Officer Michaelsen's throat. Officer Lopez saw redness on Officer Michaelsen's neck afterwards.

On March 27, 2018, COPA interviewed **Officer David Michaelsen**.⁴ Officer Michaelsen stated that on November 18, 2017, he was on patrol with Officer Lopez. The officers responded to 4027 W. Patterson Ave. and [REDACTED] family let them in. Officer Michaelsen believed Officer Lopez spoke to [REDACTED] family. Officer Michaelsen immediately approached [REDACTED] to perform a pat down because [REDACTED] had threatened to shoot his family and the officers. Officer Michaelsen recalled [REDACTED] was standing by the stove near the door to the back porch. When Officer Michaelsen told [REDACTED] he was going to pat him down, [REDACTED] told the officer not to touch him and "clenched his fists in a boxing stance." Officer Michaelsen then attempted an emergency takedown. [REDACTED] became combative, pulled his arms away, stiffened, and struggled with the officer. The fight went through the door to the back porch. Officer Michaelsen recalled [REDACTED] spitting on Officer Lopez's face. When Officer Michaelsen attempted to handcuff [REDACTED] began choking Officer Michaelsen. Officer Michaelsen elaborated that [REDACTED] palm was under his chin and [REDACTED] was squeezing near the officer's Adam's apple. Officer Michaelsen could not recall if he could breathe. Officer Michaelsen responding by striking [REDACTED] three times with a closed fist on the side of the head. Per Officer Michaelsen, [REDACTED] was not handcuffed when the officer struck him. Officer Michaelsen hit [REDACTED] head because he was being choked and it seem like the most effective place to strike [REDACTED] to get him to release the officer's throat. Officer Michaelsen recalled that one of [REDACTED] hands was temporarily handcuffed to the porch after the choking incident, to detain [REDACTED] before the officers could get both handcuffs applied. After Officer Michaelsen struck [REDACTED] the officers handcuffed [REDACTED] behind his back.

b. Digital Evidence

In Car Camera (ICC) footage was obtained from Officers Michaelsen and Lopez's CPD vehicle from [REDACTED] arrest.⁵ At approximately 7:45 PM, the vehicle left the 17th District. The officers arrived at [REDACTED] at roughly 7:48 PM and presumably entered the residence. At about 7:57 PM, [REDACTED] was put into the vehicle's backseat. [REDACTED] could be heard yelling

⁴ Att. 35

⁵ Att. 20

to his friend, [REDACTED] and referring to someone (possibly the officers) as “motherfuckers” and “nigger [REDACTED]. At about 8:18 PM, [REDACTED] was seen in the backseat of the vehicle with his shirt half on (see photo below). Throughout the drive, [REDACTED] was seen talking, but his statements are inaudible. At approximately 8:27 PM, one of the officers took [REDACTED] out of the vehicle, presumably to escort him into the 17th District.



[REDACTED] friend, [REDACTED] provided cell phone video of [REDACTED] November 18, 2017 arrest.⁶ The video was recorded at night and without flash, causing it to be dark and visually hard to decipher. However, audio can be heard. When the video begins, it appears [REDACTED] was being escorted out of his residence by CPD. [REDACTED] was heard calling an officer a “little bitch,” followed by [REDACTED] telling the officers to not “man handle” [REDACTED] also told [REDACTED] to “shut up and listen.” Both [REDACTED] and [REDACTED] sound intoxicated with slurred speech. [REDACTED] was heard telling officers to “unlock” [REDACTED] hand. [REDACTED] also asked [REDACTED] to “go peacefully” with the officers and asked the officers not to kill [REDACTED] and [REDACTED] are then heard shouting that the police only kill African Americans. Towards the end of the video, a man believed to be [REDACTED] father was heard yelling at [REDACTED] to get out of his house.

Crime Scene Evidence photos were obtained related to [REDACTED] arrest under RD # [REDACTED].⁷ Officer Michaelsen had scrapped and red knees, and a scrape on his wrist. Photos were included of Officer Lopez’s face and Officer Michaelsen’s face. However, no obvious injuries were seen on either officers’ face. Lastly, photos were included of [REDACTED] face. [REDACTED] had a red scrape left to his left eye and what appeared to be a bruise on the left side of his neck.

c. Physical Evidence

No physical evidence was identified pertaining to the present investigation.

⁶ Att. 23

⁷ Att. 25

d. Documentary Evidence

An **Office of Emergency Management and Communication (OEMC) Event Report** was located. At approximately 7:41 PM, a caller identified as [REDACTED] ([REDACTED] grandmother), reported that her 18-year-old grandson was intoxicated and “refusing to leave.” No weapons were reported. At about 8:28 PM, Officers Michaelsen and Lopez (Beat 1731) reported they were going to the station with one person in custody.

Similarly, **OEMC audio** was obtained from [REDACTED] arrest.⁸ At 7:39 PM, [REDACTED] (the complainant’s grandmother) called 911 and reported a problem with her grandson, who insisted on driving while intoxicated. [REDACTED] asked for the police to assist. [REDACTED] also reported there were no weapons present. Further, Dispatch related that there was a disturbance at [REDACTED] with an intoxicated 18-year-old refusing to leave.

[REDACTED] **Arrest Report** was obtained from November 18, 2017 with **RD #** [REDACTED].⁹ [REDACTED] was arrested at approximately 7:55 PM at his residence: [REDACTED]. Per this report, Officers Lopez and Michaelsen responded to a domestic battery at this location. When they arrived, [REDACTED] and [REDACTED] told the officers [REDACTED] threatened to shoot them. [REDACTED] family members wanted him arrested and they signed complaints. When the officers attempted to arrest [REDACTED] he, “stated ‘don’t touch me.’” [REDACTED] then “clenched his fists and took a boxing stance in an aggressive manner and spat in Officer Lopez’s [...] face.” [REDACTED] was then taken to the ground. While the officers tried to perform an emergency handcuffing, [REDACTED] grabbed Officer Michalesen’s throat. Officer Michaelson reportedly punched [REDACTED] in the left side of the head three times to get [REDACTED] to release the officer’s throat. [REDACTED] was eventually detained “[a]fter a brief struggle.” [REDACTED] was reported as a “self admitted Gaylord.”

Original Case Incident Reports were obtained for **RD #** [REDACTED].¹⁰ These reports elaborated that [REDACTED] father told officers that [REDACTED] “had been drinking and after having a verbal altercation,” [REDACTED] threatened to shoot his family members and the police. The responding officers found [REDACTED] in the kitchen. [REDACTED] “yelled obscenities” and took a fighting stance. [REDACTED] spat on Officer Lopez’s face, so the officers performed an emergency takedown. [REDACTED] grabbed Officer Michaelsen’s throat and the officer responded by striking [REDACTED] three times on the left side of the head. Once [REDACTED] was subdued, he was escorted out of the kitchen and spat in his [REDACTED] face. [REDACTED] was then taken to the 17th Police District for processing.

A **Detective Supplementary Report** was found for **RD #** [REDACTED] which contained no additional, relevant content.¹¹

A **Tactical Response Report (TRR)** was identified for **Officer Michaelsen** and for **Officer Lopez**, following their encounter with [REDACTED] on November 18, 2017.¹² Both reports related that the officers were responding to a domestic battery after [REDACTED] threatened to shoot his family

⁸ Atts. 31, 32

⁹ Att. 14

¹⁰ Atts. 15 - 16

¹¹ Att. 17

¹² Att. 13

members. According to Officer Michaelson's TRR, [REDACTED] family wanted him arrested. When the officers attempted to take [REDACTED] into custody, "he took a boxing stance with clenched fists." Officer Lopez's TRR specifically stated that when the officers, "approached offender and told him to place his hands behind his back [,] offender became aggressive" and assumed a fighting stance. Officer Lopez' TRR also stated that [REDACTED] was "yelling obscenities." [REDACTED] reportedly pulled away from the officers when they tried to arrest him and he spat on Officer Lopez. The officers performed an emergency takedown and [REDACTED] choked Officer Michaelson. Officer Michaelson then hit [REDACTED] on "the left side of the head" three times to get [REDACTED] to release the officer's throat and to "gain control of offender." According to these TRRs, neither officer had been assigned a Body Worn Camera on the date of the incident.¹³

e. Additional Evidence

Three relevant criminal dockets pertaining to [REDACTED] November 18, 2017 arrest were located through the Cook County Circuit Court.

- **Case Number [REDACTED]** was filed against [REDACTED] on November 19, 2017.¹⁴ [REDACTED] was charged with two felony counts of aggravated battery to a peace officer. [REDACTED] was placed on Electronic Home Monitoring on the same date. The complaint was amended on November 28, 2017 and transferred to the Criminal Division.
- **Case Number [REDACTED]** was filed on November 28, 2017.¹⁵ [REDACTED] was given two misdemeanor charges of simple assault and a misdemeanor charge of domestic battery. On December 12, 2017, the complaining witness was not in court and the case was stricken off with leave to reinstate.
- **Case Number [REDACTED]** was filed on December 4, 2017.¹⁶ [REDACTED] received four felony charges of aggravated battery of a peace officer and one felony charge of resisting a peace officer. [REDACTED] pleaded not guilty on December 11, 2017. On January 19, 2018, two counts of aggravated battery of a peace officer were amended to misdemeanors and [REDACTED] pleaded guilty. A finding of nolle prosequi was entered for the remaining three charges. [REDACTED] was sentenced to a conditional discharge of 18 months and 20 days of community service and fined \$409.00.

VI. ANALYSIS

Allegation 1 against Officer Michaelson, that he used excessive force against [REDACTED] by hitting [REDACTED] while he was handcuffed, is Unfounded. [REDACTED] acknowledged he did not have an accurate memory of the incident. It is possible [REDACTED] misremembered the sequence of events due to how intoxicated he was. While [REDACTED] friend, [REDACTED] believed he saw Officer Michaelson strike [REDACTED] while [REDACTED] was handcuffed, [REDACTED] was likely also intoxicated and it was dark outside

¹³ A request for Body Worn Camera (BWC) footage pertaining to [REDACTED] arrest confirmed the 17th District did not have BWC on November 18, 2017 (Att. 21).

¹⁴ Att. 29

¹⁵ Att. 28

¹⁶ Att. 27

during the incident. Both Officer Michaelsen and Officer Lopez related that Officer Michaelsen struck [REDACTED] before both hands were in handcuffs. Michaelsen Officer Lopez recalled that he was trying to handcuff [REDACTED] when Officer Michaelsen struck [REDACTED]. Both officers recalled that [REDACTED] was not handcuffed with both hands behind his back until after Officer Michaelsen hit [REDACTED]. Further, the incident is believed to have occurred because the officers were trying to handcuff [REDACTED] who was resisting. Due to the officers' credibility and [REDACTED] poor memory, COPA believes [REDACTED] was uncuffed at the time Officer Michaelsen hit him. Therefore, Allegation 1 against Officer Michaelsen is Unfounded.

Allegation 2 against Officer Michaelsen, that used excessive force against [REDACTED] by hitting him in the head, is Exonerated. Officer Michaelsen admitted he struck [REDACTED] three times in the head. However, available evidence indicates Officer Michaelsen did so in self-defense. While [REDACTED] did not specifically recall choking Officer Michaelsen, he reported having his hand on the officer while struggling Officer Michaelsen, making him an assailant. Further, Officer Lopez related to COPA that he saw red marks on Officer Michaelsen's throat after the incident. Unfortunately, evidence photos are of poor quality and COPA could not independently see this. In-Car Camera and [REDACTED] cellphone video both display that [REDACTED] was hostile, belligerent, and irrational. As stated above, Officer Michaelsen made no attempt to hide his use of force against [REDACTED]. The use of force was included in multiple department reports completed after the incident and the officer was frank about its occurrence during his COPA statement. Most convincingly, [REDACTED] pleaded guilty to misdemeanor aggravated battery to police officer in the Cook County Circuit Court following his COPA interview. In this situation, [REDACTED] could have seriously harmed or killed Officer Michaelsen. The officer was justified in using the necessary force to get [REDACTED] to release his throat. Officer Michaelsen had seconds to decide how to proceed and was likely concerned about his own well-being. Officer Michaelsen was not obligated to think of another use of force and was using an amount of force proportional to [REDACTED]. It was reasonable for Officer Michaelsen to hit [REDACTED] head, as [REDACTED] was an imminent threat to Officer Michaelsen and had threatened others. Since [REDACTED] was an assailant, Officer Michaelsen was authorized to use direct mechanical force. Once [REDACTED] released the officer's throat, Officer Michaelsen reportedly stopped using force and handcuffed [REDACTED]. Therefore, Allegation 2 against Officer Michaelsen is Exonerated.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer David Michaelsen	1. Used excessive force against [REDACTED] by hitting [REDACTED] while he was handcuffed, in violation of Rule 6 and Rule 9.	Unfounded
	2. Used excessive force against [REDACTED] by hitting him in the head, in violation of Rule 6 and Rule 9.	Exonerated

Approved



Andrea Kersten

Deputy Chief Administrator – Chief Investigator

Date

4/23/15

Appendix A

Assigned Investigative Staff

Squad#:	Four
Investigator:	Kelsey Fitzpatrick, #61
Supervising Investigator:	James Murphy-Aguilu, #19
Deputy Chief Administrator:	Andrea Kersten