

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 8, 2018
Time of Incident:	10:21 p.m.
Location of Incident:	39 E. Illinois Street, Chicago, IL 60611
Date of COPA Notification:	November 9, 2018
Time of COPA Notification:	9:18 p.m.

On Thursday, November 8, 2018, on or about 10:21 pm, Police Officer Michael Seiser was patrolling alone near 39 E. Illinois St., Chicago IL. Officer Seiser observed [REDACTED] ([REDACTED] walking on the sidewalk while holding an open can of what appeared to be an alcoholic beverage. Officer Seiser initiated a street stop of [REDACTED]. After confirming that [REDACTED] was holding a can of Miller Lite, an alcoholic beverage, Officer Seiser informed [REDACTED] that he was issuing a citation to [REDACTED] for Drinking Alcohol on the Public Way. [REDACTED] attempted to convince Officer Seiser not to issue the citation and their verbal exchange became heated. Officer Seiser entered his vehicle to write the citation and to call for assistance while continuing the verbal exchange with [REDACTED].

Officer Seiser exited the vehicle to give [REDACTED] the citation. As Officer Seiser presented the citation to [REDACTED] uniformed patrol officers, Officers Maciej Mastalerczyk and Joseph Dinanno arrived and stood near [REDACTED] and Officer Seiser. When [REDACTED] began to walk away with the citation, Officer Seiser told [REDACTED] to “stay out of his 7-Eleven,” referring to the 7-Eleven convenience store where [REDACTED] purchased the beverage he had been drinking. [REDACTED] then turned to confront Seiser about the comment. During this exchange, an unmarked police vehicle pulls up and two officers in civilian clothes, Officers Crane Julamoke and Rocco Fagiano, exit and stand near [REDACTED] and the other officers. Shortly thereafter, Officer Seiser walked closer to [REDACTED] and spat in the vicinity of [REDACTED]. [REDACTED] then aggressively approached Officer Seiser and Officer Sieser backs [REDACTED] up by pushing [REDACTED] toward the sidewalk. [REDACTED] complained to Officers Mastalerczyk and Dinanno after Officer Seiser and Officers Julamoke and Fagiano drove away.

II. INVOLVED PARTIES

Involved Officer #1:	Michael Seiser, star #4615, employee ID # [REDACTED], Date of Appointment: July 10, 1995, Police Officer, Unit of Assignment: 018, DOB: [REDACTED] 1962, male, white
Involved Officer #2:	Maciej Mastalerczyk, star #13967, employee ID # [REDACTED], Date of Appointment: December 12, 2016, Police Officer,

Unit of Assignment: 018, DOB: ██████████ 1983, Male, White.

Involved Officer #3: Joseph Dinanno, star #6621, employee ID # ██████████, Date of Appointment: October 16, 2017, Police Officer, Unit of Assignment: 044/018, DOB: ██████████, 1994, Male, White.

Involved Officer #4: Crane Julamoke, star #13038, employee ID # ██████████, Date of Appointment: February 16, 2017, Police Officer, Unit of Assignment: 018, DOB: ██████████ 1988, Male, Asian / Pacific Islander.

Involved Officer #5: Rocco Fagiano, star #15499, employee ID # ██████████, Date of Appointment: February 29, 2016, Police Officer, Unit of Assignment: 018, DOB: ██████████ 1993, Male, White.

Involved Individual #1: ██████████ DOB: ██████████ 1981, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Michael Seiser	<ol style="list-style-type: none"> 1. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Michael Seiser, #4615 engaged in an unjustified verbal altercation with ██████████ 2. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Michael Seiser, #4615 engaged in an unjustified physical altercation with ██████████ 3. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Michael Seiser, #4615 failed to follow Special Order S03-14 by deactivating his body warn camera from event mode prior to the conclusion of an incident. 	<p>Sustained / 15-day Suspension with training</p> <p>Sustained / 15-day Suspension with training</p> <p>Sustained / Reprimand</p>

	<p>4. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Michael Seiser, #4615 stated, without justification, that he would lock up ██████████ for entering his 7-11.</p>	<p>Sustained / 15-day Suspension with training</p>
<p>Officer Maciej Mastalerczyk</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St., Officer Maciej Mastalerczyk, #13967 failed to follow Special Order S03-14 by not activating his body warn camera to event mode at the beginning of an incident.</p> <p>2. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St., Officer Maciej Mastalerczyk, #13967 observed misconduct and/or received an allegation of misconduct and failed to notify a supervisor and prepare a written report, as required by General Order G08-01-02.</p>	<p>Sustained / Reprimand</p> <p>Sustained / Reprimand with training</p>
<p>Officer Joseph Dinanno</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Joseph Dinanno, #6621 failed to follow Special Order S03-14 by deactivating his body warn camera from event mode prior to the conclusion of an incident.</p> <p>2. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Joseph Dinanno, #6621 observed misconduct and/or received an allegation of misconduct and failed to notify a supervisor and prepare a written report, as required by General Order G08-01-02.</p>	<p>Sustained / Reprimand</p> <p>Sustained / Reprimand with training</p>
<p>Officer Crane Julamoke</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39</p>	<p>Sustained / Reprimand</p>

	E. Illinois St. Officer Crane Julamoke, #13038 failed to follow Special Order S03-14 by not activating his body worn camera to event mode at the beginning of an incident.	
Officer Rocco Fagiano	1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois St. Officer Rocco Fagiano, #15499 failed to follow Special Order S03-14 by not activating his body worn camera to event mode at the beginning of an incident.	Sustained / Reprimand

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 5: Failure to perform any duty.
3. Rule 6: Disobedience of an order or directive, whether written or oral.
4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
5. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G08-01-02 Specific Responsibilities Regarding Allegations of Misconduct
2. G03-02-01 Force Options (effective 10/16/17 – 2/28/20)

Special Orders

1. S03-14 Body Worn Cameras.

State Law

1. 50 ILCS 706/10-20(a)(3) Law Enforcement Officer-Worn Body Camera Act
2. 720 ILCS 5/12-1(a) Assault

V. INVESTIGATION¹

a. Interviews

Complainant [REDACTED] gave a digitally recorded statement to COPA on November 13, 2018. [REDACTED] stated that on November 8, 2018, he was drinking a 24 ounce can of Miller Lite beer under a viaduct located between Illinois Street and Rush Street. It was the second 24 ounce can of Miller Lite that [REDACTED] consumed that night. [REDACTED] said that he was walking northbound when a marked police SUV met him at the corner as he was making a right hand turn onto Illinois Street. The officer that exited the vehicle, now known as Officer Seiser, saw that [REDACTED] was drinking a beer and stated that he was going to issue [REDACTED] a citation.

[REDACTED] asked Officer Seiser if he could give [REDACTED] a break and not issue the citation. [REDACTED] stated that Officer Seiser responded rudely which resulted in a heated verbal exchange between [REDACTED] and Office Seiser. [REDACTED] said that Officer Seiser spoke to him in a very aggressive manner. He stated that Officer Seiser told [REDACTED] that [REDACTED] was being recorded but [REDACTED] stated that to him it appeared that the officer was turning the camera off. [REDACTED] stated that the exchange continued to escalate.

[REDACTED] then stated that as Officer Seiser was going to his vehicle to write the citation, he spat in the direction of [REDACTED] and that some of the spit landed on [REDACTED]. This caused [REDACTED] to become irate and [REDACTED] told Officer Seiser that that was why Officer Seiser turned his camera off, because he “did not want that to be seen.”³ [REDACTED] stated he then followed Officer Seiser to the driver’s side of his vehicle and that Officer Seiser deliberately stepped on his foot. [REDACTED] stated that he told Officer Seiser that [REDACTED] just saw him in a 7-Eleven located on State and Illinois where [REDACTED] had purchased the beer. [REDACTED] stated that Officer Seiser told [REDACTED] that the 7-Eleven belonged to Officer Seiser and that [REDACTED] was not allowed in there.

[REDACTED] stated that two additional uniformed officers, now known as Officer Mastalerczyk and Officer Dinanno, arrived on scene and that he spoke to them about Officer Seiser’s spitting on him and stepping on [REDACTED] foot. [REDACTED] stated that the officers advised [REDACTED] to go to his hearing and explain what happened to the judge. After the incident, [REDACTED] stated that he returned to the 7-Eleven.

Complainant [REDACTED] gave a second digitally recorded interview to COPA on January 16, 2019. At the interview, [REDACTED] reviewed surveillance footage of the incident. [REDACTED] recalled Officer Seiser stating words to the effect of “Go find a bar.”⁵ [REDACTED] stated that he told Officers Mastalerczyk and Dinanno that Officer Seiser spat on him and asked them if that was okay. [REDACTED] also stated that Officers Mastalerczyk and Dinanno did not witness Officer Seiser spitting in the direction of [REDACTED] stated that he pointed out to Officer Seiser and Officers

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. 6.

³ Att. 39, 15:16-19.

⁴ Att. 25.

⁵ Att. 40, 5:15-17.

Mastalerczyk and Dinanno that some of Officer Seiser's saliva landed on his [REDACTED] coat. [REDACTED] could not recall whether Officer Seiser confirmed or denied spitting on [REDACTED] reiterated, while watching the surveillance footage, that Officer Seiser intentionally stepped on [REDACTED] foot, with the officer's left foot meeting [REDACTED] right. Watching the footage, [REDACTED] also stated that Officer Seiser pushed him twice in the chest area. [REDACTED] stated that until watching the surveillance video, he had not realized that Officer Seiser pushed him or that an unmarked vehicle unit with plainclothes officers in it had pulled up to the scene.

After officer Seiser drove away, [REDACTED] stated that he went to the passenger side of the marked vehicle and he continued to speak with Officers Mastalerczyk and Dinanno stating to them that what happened to [REDACTED] was not right and asking what he could do to get justice. [REDACTED] stated that he wanted the officers to acknowledge that he had been wronged and to point him in the right direction for reporting what happened. [REDACTED] said that Officers Mastalerczyk and Dinanno acknowledged his complaint and one of the officers told him to tell the judge. Although he believed Officers Mastalerczyk and Dinanno were more gracious than Officer Seiser, [REDACTED] said he did not feel that the officers helped him.

[REDACTED] stated that he was wrong for drinking but that Officer Seiser handled the situation totally wrong.

Accused Police Officer Michael Seiser⁶ gave a digitally recorded interview to COPA on February 25, 2019. Officer Seiser stated that while on patrol duty on November 8, 2018, he saw [REDACTED] drinking an alcoholic beverage on the sidewalk in the proximity of 39 E. Illinois Street. Officer Seiser recalled that he exited his squad car, approached [REDACTED] and activated his body worn camera.

Officer Seiser asked [REDACTED] for identification and removed the alcohol container, a 24 ounce can of Miller Lite, from [REDACTED] hands and dumped it in the street. Officer Seiser stated that during the first 30 seconds of his body worn camera, before the sound came on, [REDACTED] was being uncooperative and did not want to give Officer Seiser his identification. Also, Officer Seiser stated that [REDACTED] initially did not sign the citation but instead drew a straight line. Officer Seiser stated that [REDACTED] provided his signature when Officer Seiser asked him to sign again.

Officer Seiser recalled that the conversation between he and [REDACTED] was adversarial. He described [REDACTED] as being angry and intoxicated. Officer Seiser stated that he knew [REDACTED] was intoxicated based on experience, because [REDACTED] smelled of alcohol and because Officer Seiser had to repeat certain things to [REDACTED] Officer Seiser also stated that [REDACTED] used profanity and insinuated that Officer Seiser was less than a man if he did not give [REDACTED] a break on the citation. Officer Seiser also stated that [REDACTED] claimed that if [REDACTED] was Caucasian, Officer Seiser would not have issued the citation. Officer Seiser stated that [REDACTED] aggressively grabbed the pen out of Officer Seiser's hand when [REDACTED] was asked to sign the citation. Officer Seiser further stated that he believed that [REDACTED] may become physical with him.

Officer Seiser stated that he could have done a better job interacting with [REDACTED] by using less banter and being more professional. Officer Seiser also stated that [REDACTED] "pushed a couple

⁶ Att. 36 and 37.

of buttons”⁷ and that Officer Seiser probably wasn’t having the best day. Officer Seiser stated that was “embarrassed”⁸ after watching his behavior on the body-worn camera.

Officer Seiser stated that he told ██████ that he was banned from Officer Seiser’s 7-Eleven and that he would lock him up for trespass if ██████ returned. Officer Seiser explained that he said this because the 7-Eleven where ██████ purchased the alcohol ██████ was drinking is on Seiser’s beat, and the owner of the 7-Eleven recorded images of people who were not wanted in the store. Officer Seiser stated that the owner gave Officer Seiser permission to inform such people that they were not welcome in the store. Officer Seiser further stated that if such a person continued to come to the store, they would be arrested on a signed complaint for criminal trespass after they’ve been identified and given a verbal criminal trespass warning. Officer Seiser stated he believed ██████ to be someone who had caused trouble in the past at the 7-Eleven even though he never observed ██████ engaging in criminal activity at the 7-Eleven. In addition, Officer Seiser indicated that he saw cell phone or video footage from the store that led him to believe ██████ may have been such an individual but stated that he merely suspected that ██████ may have been a person that caused trouble at the 7-Eleven in the past. Officer Seiser also stated that he did not own the 7-Eleven where ██████ purchased the beer.

Officer Seiser quoted the portion of Special Order 03-14 that states that “[a] member will deactivate his body-worn camera when the lawful purpose has been concluded.”⁹ Officer Seiser stated that when he gave ██████ the citation for Drinking on the Public Way, ██████ signed it, and Officer Seiser gave ██████ his options, the lawful purpose was over. Officer Seiser deactivated his camera after he went back to his squad car to record the event number. After obtaining the event number, Officer Seiser recalled walking back toward the other officers to provide them with the event number.

After Officer Seiser turned off the camera, he stated he walked back to his squad car. Officer Seiser stated that at that time, ██████ was standing close to another officer. Officer Seiser did not recall spitting on ██████ or stepping on his foot. Officer Seiser did not recall having any physical contact with ██████ during the incident. Officer Seiser estimated that three minutes or less passed from the time he turned off his body worn camera to the time he left the scene.

Accused Police Officer Maciej Mastalerczyk¹⁰ gave a digitally recorded interview to COPA on April 1, 2019. Officer Mastalerczyk stated that on the date of the incident he was on patrol with Officer Dinanno. They heard a call over the radio that an officer needed assistance. When he arrived at the scene, Officer Mastalerczyk stated he observed Officer Seiser and ██████ and that ██████ was upset about being given a citation. Officer Mastalerczyk also heard Officer Seiser tell ██████ to “stay out of his 7-Eleven.”¹¹ Officer Mastalerczyk did not see Officer Seiser spit on ██████ and did not recall any physical contact between ██████ and Officer Seiser. Officer Mastalerczyk also stated that no supervisor came to the scene and that he could not recall if ██████ asked to speak with a supervisor.

⁷ Att. 41, 17:14-16.

⁸ Id.

⁹ Id. at 24:17-19.

¹⁰ Att. 61.

¹¹ Att. 70, 6:11-14.

Officer Mastalerczyk explained that he understood that CPD policy required body worn cameras to be activated “before the job and after the job.”¹² Officer Mastalerczyk stated that he was wearing his body worn camera at the time of the incident and that he thought he turned it on but was mistaken. Officer Mastalerczyk explained that he understood that CPD policy required that if he observed misconduct by an officer, he was to notify a supervisor and write a report. Officer Mastalerczyk stated that he did not report any misconduct by Officer Seiser toward ██████ because he did not observe any misconduct.

Officer Mastalerczyk stated that he stood between ██████ and Officer Seiser because ██████ seemed agitated about something that happened before he and Officer Dinanno arrived and Officer Mastalerczyk wanted to maintain a safe distance between Officer Seiser and ██████

After Officer Seiser left, Officer Mastalerczyk recalled ██████ at his patrol car upset, and asking for Officer Seiser’s badge number. Officer Mastalerczyk stated that he told ██████ that Office Seiser’s name and badge number were on the citation and that if ██████ wanted to file a complaint he could follow up with the information on the citation. Officer Mastalerczyk stated that ██████ asked if Officer Mastalerczyk saw Officer Seiser spit on ██████ Officer Mastalerczyk told him that he did not.

Accused Police Officer Joseph Dinanno¹³ gave a digitally recorded interview to COPA on April 1, 2019. Officer Dinanno stated that on the date of the incident he was on patrol with Officer Mastalerczyk when they received a call for an officer in need of assistance. When he arrived at the scene, Officer Dinanno observed ██████ receiving a citation and Officer Seiser saying, ‘stay out of my 7-Eleven.’¹⁴ Officer Dinanno assumed that ██████ may have been removed from a 7-Eleven. Officer Dinanno stated that an officer may enforce an owner or manager’s ban of an individual from private property. However, he was unaware whether the owner of the 7-Eleven Officer Seiser referenced had given Officer Seiser that authority.

Officer Dinanno stated that he did not see Officer Seiser spit on ██████ Officer Dinanno stated that on the pod camera footage he was shown, he saw Officer Seiser guide ██████ back to the sidewalk but Officer Dinanno did not recall observing that on scene.

After Officer Seiser left, Officer Dinanno stated ██████ came over to his patrol car. Officer Dinanno stated that he was sitting in the passenger’s seat. Officer Dinanno recalled speaking to ██████ and that ██████ was upset about his encounter with Officer Seiser. Officer Dinanno stated that ██████ said that Officer Seiser spit on him. Officer Dinanno could not recall if ██████ called for a supervisor. Officer Dinanno said that he did not call for a supervisor because he did not observe any reason to call for a supervisor.

Officer Dinanno explained that he understood that CPD policy required body worn cameras to be activated at the commencement of an event and they are to be turned off at the conclusion of an event. Officer Dinannao stated that in case of the incident, the event concluded “when the

¹² Id. at 8:24.

¹³ Att. 66.

¹⁴ Att. 71, 6:16-17.

ANOV was received and parties were ready to go their separate ways.”¹⁵ Officer Dinanno stated that he did not turn his body worn camera back on when he was speaking with ██████ because he believed it was “back-and-forth stuff”¹⁶ that would be done in a second.

Accused Police Officer Crane Julamoke¹⁷ gave a digitally recorded interview to COPA on March 25, 2019. Officer Julamoke stated that he was on patrol with Officer Fagiano on the date of the incident and heard a radio call that an officer needed assistance with a stop. Officer Julamoke stated that when they arrived at the scene, they observed Officer Seiser conducting a stop, two other officers, Officer Dinanno and Officer Mastalerczyk, and ██████ Officer Julamoke stated that it appeared that ██████ was being given a citation and that he was not happy about it.

Officer Julamoke further stated that it appeared to him that the stop was over and that the officers or officer conducting the stop turned off their body worn cameras so Officer Julamoke never activated his body worn camera. Officer Julamoke stated that he knew the body worn cameras were being deactivated because he heard the noises the body worn cameras make when being deactivated. Officer Julamoke explained that his understanding is that CPD policy regarding the activation of body worn cameras requires that they be activated with any use of force or any job to which an officer responds. This includes a response to assist. However, Julamoke stated that he did not feel it necessary to turn on his camera because the stop was ending even though Officer Seiser was still interacting with ██████

Officer Julamoke stated that he did not see Officer Seiser spit at ██████ Nor did he see Officer Seiser push or shove ██████ Officer Julamoke stated that Officer Seiser and ██████ were both speaking with raised voices but that he would not recognize Officer’s Seiser’s voice. Officer Julamoke also stated that he had no contact with ██████

Accused Police Officer Rocco Fagiano¹⁸ gave a digital recorded interview to COPA on March 27, 2019. Officer Faginao stated that he and his partner, Officer Julamoke, were on duty at the time of the incident and responded to a call to assist. When arriving at the scene, Officer Fagiano stated that he saw three other officers on the scene and ██████ and that he observed one officer issuing ██████ a citation. Officer Fagiano stated that Officer Seiser was tearing out a copy of the citation from a ticket book when Officer Fagiano arrived. Officer Fagiano stated that when a citation is issued, it indicates that the stop is over, and the subject is free to leave.

Fagiano described ██████ demeanor as agitated and said that he was raising his voice but Fagiano could not recall what he was saying. Officer Fagiano stated that Officer Seiser was trying to keep ██████ under control with verbal commands. Officer Fagiano recalled that he observed ██████ approach Officer Seiser and saw the other officers trying to separate ██████ and Officer Seiser. Officer Fagiano stated that ██████ kept advancing toward Officer Seiser and so Officer Seiser directed ██████ back to the sidewalk. Officer Fagiano stated that he did not know why ██████ did not leave after being issued the citation or why ██████ advanced upon Officer Seiser.

¹⁵ Id. at 12:13-15.

¹⁶ Id. at 14:11-15.

¹⁷ Att. 51.

¹⁸ Att. 56.

Officer Fagiano recalled Officer Seiser spitting but stated that he did not spit directly at [REDACTED]. Officer Fagiano stated that he saw Officer Seiser step back as if walking to his car, turn his head, and then spit at the ground.

Officer Fagiano stated that at no point did a supervisor respond. Officer Fagiano explained that he understands that body worn cameras should be turned on upon the assignment to an event by a dispatcher or if an officer views something. Officer Fagiano stated that he did not activate his body worn camera at the scene because when he arrived, it appeared the stop was ending, and the other officers were deactivating their body worn cameras. Officer Fagiano had no contact with [REDACTED].

b. Digital Evidence

Body Worn Camera (“BWC”) footage from Officer Seiser¹⁹ records the stop of [REDACTED] from the time Officer Seiser approached [REDACTED] up to the time Officer Seiser reads off the event number. The footage corroborates all parties’ versions of events for that time period, including the verbal altercation between [REDACTED] and Officer Seiser. Officer Seiser can be heard speaking to [REDACTED] in an aggressive manner. For example, Officer Seiser asks [REDACTED] “Why do you have to drink like a bum on the sidewalk for?”²⁰ and further asks if [REDACTED] “doctor drinks a beer on the sidewalk...does the scientist drink a beer on the side walk?”²¹ Later in the exchange, Officer Seiser tells [REDACTED] that he “Probably has more money than him,”²² then denies making the statement and asks [REDACTED] to guess what he said. [REDACTED] can be heard claiming that Officer Seiser would not have given him the citation if he were white. [REDACTED] can also be heard calling Officer Seiser several names including an “asshole”²³ and a “pussy.”²⁴ Officer Seiser can be heard saying, “Don’t come into our 7-Eleven anymore, you’re banned”²⁵ and asserting that the 7-Eleven is Officer Seiser’s and that if [REDACTED] comes in again, Officer Seiser would lock him up.

Officer Seiser and other officers continue to interact with [REDACTED] after Officer Seiser cuts off his BWC and the BWC provides no corroboration for any of those interactions.

The BWC footage from Officer Dinanno²⁶ is brief and captures only the portion of the stop relating to a verbal exchange between Officer Seiser and [REDACTED] when Officer Seiser tells [REDACTED] not to return to the 7-Eleven. Immediately before Officer Dinanno shuts off his BWC, it captures Officer Seiser stating that he is shutting his camera off while asking [REDACTED] “Is there anything else you need to know--?”

No other officers present at the incident activated their body worn cameras.

¹⁹ Att. 20.

²⁰ Id. at 2:10 -2:13.

²¹ Id. at 2:18-2:24

²² Id. at 5:00-5:28.

²³ Id. at 1:13-15

²⁴ Id. at 9:18.

²⁵ Id at 9:19-9:24.

²⁶ Att. 20.

POD camera footage from a City of Chicago Pod Camera²⁷ located at 50 E. Illinois Street records the incident beginning from the time that Officer Seiser indicates ██████ should sign the citation. The POD footage records ██████ initially appearing to mark a straight line on the citation and then signing the citation. Officer Seiser rips off a copy of the citation for ██████ and ██████ takes it. Officers Mastalerczyk and Dinanno arrive as ██████ appears to walk away. Officers Julamoke and Fagiano arrive a short time later. Officer Seiser is then recorded appearing to say something to ██████ which causes ██████ to turn around and advance toward Officer Seiser. At the approximately 10:29:15 mark in the footage, Officer Seiser and Officer Dinanno can be seen appearing to turn their BWC's off. ██████ continues to speak with Officer Seiser, Officer Mastalerczyk and Officer Dinanno after this point. At approximately 10:29:40, Officer Seiser is recorded spitting in ██████ direction. ██████ is then recorded following Officer Seiser back to his police vehicle. ██████ moves close to Officer Seiser while Officer Mastalerczyk and Officer Dinanno observe the exchange nearby. At 10:29:49 ██████ then appears to look down toward his feet after Officer Seiser advances towards him. ██████ attempts to speak to Officer Mastalerczyk and Officer Dinanno as Officer Seiser advances toward ██████. At 10:30:00 Officer Seiser is shown twice pushing ██████ toward the sidewalk. Soon after, Officers Julamoke and Fagiano and are shown driving away in their unmarked car and Officer Seiser pulls away from the curb immediately after. As Officers Mastalerczyk and Dinanno begin pulling away, ██████ approaches the passenger side window of their patrol car and engages in a conversation with the officers. The POD camera rotates away from ██████ and the officers before Officers Mastalerczyk and Dinanno pull away.

OEMC dispatch audio records²⁸ Officer Seiser requesting assistance with a street stop on 39 E. Illinois and the dispatcher transmitting the request.

c. Documentary Evidence

An Administrative Notice of Violation, P005680817 10²⁹ was issued to ██████ at the time of the incident and cites him for Drinking Alcohol on the Public Way. In the signature box of the citation, there is a hand-drawn straight line with ██████ signature above it.

VI. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

²⁷ Att. 18.

²⁸ Att. 30.

²⁹ Att. 35.

3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

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

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

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

VII. ANALYSIS

a. Officer Seiser improperly engaged in an unjustified verbal altercation with [REDACTED]

Officer Seiser's verbal altercation with [REDACTED] violates Rules 2 and 9 of the Chicago Police Department Rules of Conduct. Rule 9 prohibits engaging in an unjustified verbal altercation with any person by an officer³⁰ and Rule 2 prohibits any conduct by an officer that would "impede the Department's efforts to achieve its policy and goals."³¹ One of the Department's goals is the promotion of respect and cooperation of all citizens for the law and for those sworn to enforce it."³² Officer Seiser's comments to [REDACTED] as captured on his BWC, were unjustified, unnecessary and disrespectful. By stating such comments, Officer Seiser engaged in behavior that he recognized as embarrassing. By engaging in unprofessional and embarrassing behavior with [REDACTED] Officer Seiser impeded the Department's goal of promoting respect for officers. Therefore, COPA finds Allegation #1 against Officer Seiser is sustained.

b. Officer Seiser improperly engaged in an unjustified physical altercation with [REDACTED] when Officer Seiser spat in [REDACTED] direction.

Rule 8 of the Chicago Police Department Rules of Conduct prohibits an officer from disrespecting or mistreating any person.³³ However, officers may use force with a civilian when

³⁰ Chicago Police Department, Rules of Conduct, Rule 9.

³¹ Chicago Police Department, Rules of Conduct, Rule 2.

³² Chicago Police Department, (II)(F), Regulations Establishing the Goals of the Department.

³³ Chicago Police Department, Rules of Conduct, Rule 8.

the force used meets specific criteria. The use of force must be objectively reasonable, necessary under the circumstances and proportional to the threat presented.³⁴

Here, there is verifiable video evidence supporting that immediately before Officer Seiser pushed ██████ repeatedly advanced toward Officer Seiser in an aggressive manner. Officer Seiser was authorized to move ██████ away from him to maintain a safe distance. Officer Seiser's action of pushing ██████ toward the sidewalk and away from him were therefore reasonable under the circumstances and justified. Also, there is insufficient evidence to support ██████ claim that Officer Seiser deliberately stepped on this foot. ██████ and Officer Seiser's feet cannot be seen at the moment the stepping is alleged to have occurred. Further, no one present recalls the event happening except for Mr. ██████

Conversely, there is sufficient evidence to support that Officer Seiser spat near and in the direction of ██████ and that when he did so Officer Seiser was engaging in an unjustified physical altercation with ██████ Verifiable video evidence and well as witness testimony corroborates ██████ claim that Officer Seiser spat. And, although Officer Fagiano stated that Officer Seiser spat away from ██████ the pod video records Officer Seiser spitting toward ██████ Officer Seiser's intentions behind his decision to spit where and when he did, must be considered in light of the totality of circumstances. Specifically, prior to spitting in the direction of ██████ Officer Seiser had already conveyed his disrespect of ██████ through his improper and unnecessary comments toward ██████ and by improperly claiming to ban ██████ from 7-Eleven. In this context, Officer Seiser's spitting may be viewed as an action that more likely than not was intended to convey contempt toward ██████ COPA therefore finds Allegation #2 against Officer Seiser is sustained.

c. Officer Seiser improperly banned and threatened to detain ██████ for entering a 7-Eleven convenience store.

It is undisputed that Officer Seiser told ██████ that he was banned from visiting the 7-Eleven convenience store where ██████ purchased the beer he was drinking when he encountered Officer Seiser. Based on the evidence, Officer Seiser's ban and related comments were wholly inappropriate.

Sworn CPD members are required to immediately service all requests for service in accordance with Department Orders.³⁵ Thus, if a business owner, experiencing problems with certain individuals, requests an officer's assistance in keeping those individuals out of their business, that officer may provide that service. Officer Seiser claimed that he suspected that ██████ was a person who had caused trouble in the 7-Eleven store in the past and was therefore a person the owner did not want in the store. However, there is no evidence that the 7-Eleven owners requested that Officer Seiser keep ██████ out of the 7-Eleven. Officer Seiser admitted that he had never observed ██████ engaging in criminal activity at the 7-Eleven. Officer Seiser also admitted that he did not verify with the owner of the 7-Eleven that she wanted ██████ banned before telling ██████ that he was banned. Officer Seiser explained the proper procedure for acting on the authority of the owners of the 7-Eleven with respect to helping them keep identified troublemakers

³⁴ G03-02-01(II)(C).

³⁵ Chicago Police Department, (IV)(C), Regulations Establishing the Duties of Members.

out of their store. He did not follow that procedure here. Instead, Officer Seiser acted beyond the scope of his authority and in so doing, violated Rule 2 of the Chicago Police Department Rules of Conduct. COPA finds Allegation #4 against Officer Seiser is sustained.

d. Officer Seiser improperly deactivated his body-worn camera from event mode prior to the conclusion of the law-enforcement related activity.

Illinois law and Special Order S03-14 (III)(B)(1)(a) provide that an officer's body-worn camera should not be deactivated until the officer is no longer engaged in a law-enforcement related activity.³⁶ Officer Seiser asserts that the law-enforcement activity in which he was engaged was issuing a citation to Mr. [REDACTED] and the activity ended once Mr. [REDACTED] received the citation and was told about his options. However, the law-enforcement activity involving Mr. [REDACTED] extended beyond the rendering of the citation considering the continued adversarial nature of the encounter between [REDACTED] and Officer Seiser reflected in the record.³⁷ Officer Seiser's deactivation of his body-worn camera immediately after issuing the citation was therefore a failure to perform a duty in violation of Rule 5 and improper. COPA finds Allegation #3 against Officer Seiser is sustained.

e. Officers Mastalerczyk, Julamoke and Fagiano failed to activate their body worn cameras to event mode during the stop of [REDACTED]

Officers Mastalerczyk, Julamoke and Fagiano explained their decision not to activate their body worn cameras to event mode by, like Officer Seiser, identifying the law-enforcement-related activity only as the issuing of the citation to [REDACTED]. However, the officers were present for the adversarial exchange that occurred between [REDACTED] and Officer Seiser after the citation was issued to [REDACTED] and were required to activate their body worn cameras to event mode until the conclusion of the encounter. COPA finds Allegation # 1 against Officer Mastalerczyk, Allegation #1 against Officer Julamoke and Allegation #1 against Officer Fagiano are all sustained.

f. Officer Dinanno improperly deactivated his body warn camera from event mode prior to the conclusion of the stop of Redmond.

The evidence shows that Officer Dinanno properly activated his body worn camera when he arrived at the incident. However, like the officers discussed above, Officer Dinanno improperly deactivated his body worn camera before the conclusion of the adversarial encounter between Officer Seiser and [REDACTED]. COPA finds Allegation #1 against Officer Dinanno is sustained.

g. Officers Mastalerczyk and Dinanno failed to notify a supervisor regarding Officer Seiser's alleged misconduct.

General Order G08-01-02 requires that when an officer receives an allegation of misconduct, that member must immediately notify a supervisor and prepare a written report to his or her unit

³⁶ 50 ILCS 706/10-20(3); Special Order S03-14(III) (B)(1)(a).

³⁷ S03-14 (III)(A)(2)(p), "Law-enforcement-related activities include but are not limited to: ...any encounter with the public that becomes adversarial after the initial contact."

commanding officer.³⁸ ██████ claim that he complained to Officers Mastalerczyk and Dinanno about alleged misconduct by Officer Seiser is supported by the record. Officer Mastalerczyk and Officer Dinanno state that ██████ approached them and specifically mentioned to them that Officer Seiser spit on him. Considering ██████ allegations of misconduct, Officers Mastalerczyk's and Dinanno's position that they did not request a supervisor or report any misconduct because they did not observe any misconduct is insufficient. COPA finds Allegation #2 against Officer Mastalerczyk and Officer Dinanno are sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Michael Seiser #4615

i. Complimentary and Disciplinary History

Officer Seiser's complimentary history includes two Life Saving Awards; one Superintendent's Award of Tactical Excellence; three Department Commendations; 25 Complimentary Letters; one Honorable Mention Ribbon Award; 83 Honorable Mentions; one Crime Reduction Ribbon (2004); two Crime Reduction Awards (2009 and 2019); one NATO Summit Service Award; one Presidential Election Deployment Award (2008); and one Democratic National Convention Award. In the past five years, Officer Seiser has been disciplined for a domestic altercation / disturbance occurring on 2016, for which he received a reprimand. He has not received any SPAR's during that same period.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1** – 15-day suspension with Procedural Justice training
2. **Allegation No. 2** – 15-day suspension with Procedural Justice training
3. **Allegation No. 3** – Reprimand
4. **Allegation No. 4** – 15-day suspension with Procedural Justice training

b. Officer Maciej Mastalerczyk, #13967

i. Complimentary and Disciplinary History

Officer Mastalerczyk's complimentary history includes eight Honorable Mentions; two Emblems of Recognition for Physical Fitness; one Crime Reduction Award (2019); and one Attendance Recognition Award. In the

³⁸ G08-01-02 (II)(B)(1).

past five years, Officer Mastalerczyk has no disciplinary history nor has he received any SPAR's.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1**– Reprimand
- 2. Allegation No. 2**– Reprimand with Procedural Justice training

c. Officer Joseph Dinanno

i. Complimentary and Disciplinary History

Officer Dinanno's complimentary history includes one Department Commendation; 28 Honorable Mentions; one Emblem of Recognition for Physical Fitness; and one Crime Reduction Award (2019). In the past five years, Officer Dinanno has no disciplinary history nor has he received any SPAR's.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1**– Reprimand
- 2. Allegation No. 2**– Reprimand with Procedural Justice training

d. Officer Crane Julamoke

i. Complimentary and Disciplinary History

Officer Julamoke's complimentary history includes one Unit Meritorious Performance Award; one Traffic Stop of the Month Award; 28 Honorable Mentions; one Crime Reduction Award (2019); and one Attendance Recognition Award. In the past five years, Officer Julamoke has no disciplinary history nor has he received any SPAR's.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1**– Reprimand

e. Officer Rocco Fagiano

i. Complimentary and Disciplinary History

Officer Fagiano's complimentary history includes 22 Honorable Mentions; one Crime Reduction Award (2019); three Emblems of Recognition for Physical Fitness; and one Attendance Recognition Award. In the past five years, Officer Fagiano has no disciplinary history. He did receive a SPAR for a court appearance violation occurring on January 21, 2020, for which no disciplinary action was taken.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1 – Reprimand

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Michael Seiser	<ol style="list-style-type: none"> 1. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Micael Seiser engaged in an unjustified verbal altercation with ██████████ 2. It is alleged by ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Michael Seiser engaged in an unjustified physical altercation with ██████████ 3. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Michael Seiser failed to follow Special Order S03-14 by deactivating his body warn camera from event mode prior to the conclusion of an incident; and 4. It is alleged ██████████ that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Michael Seiser stated, without justification, that he would lock up ██████████ ██████████ for entering his 7-11. 	<p>Sustained / 15-day Suspension with training</p> <p>Sustained / 15-day Suspension with training</p> <p>Sustained / Reprimand</p> <p>Sustained / 15-day Suspension with training</p>
Officer Maciej Mastalerczyk	<ol style="list-style-type: none"> 1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Maciej Mastalerczyk failed to follow Special Order S03-14 by not activating his body warn camera to event mode at the beginning of an incident; and 	<p>Sustained / Reprimand</p>

	<p>2. It is alleged by [REDACTED] that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Maciej Mastalerczyk observed misconduct and/or received an allegation of misconduct and failed to notify a supervisor and prepare a written report, as required by General Order G08-01-02.</p>	<p>Sustained / Reprimand with training</p>
<p>Officer Joseph Dinanno</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Joseph Dinanno failed to follow Special Order S03-14 by deactivating his body warn camera from event mode prior to the conclusion of an incident; and</p> <p>2. It is alleged by [REDACTED] that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Joseph Dinanno observed misconduct and/or received an allegation of misconduct and failed to notify a supervisor and prepare a written report, as required by General Order G08-01-02.</p>	<p>Sustained / Reprimand</p> <p>Sustained / Reprimand with training</p>
<p>Officer Crane Julamoke</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Crane Julamoke failed to follow Special Order S03-14 by not activating his body warn camera to event mode at the beginning of an incident.</p>	<p>Sustained / Reprimand</p>
<p>Officer Rocco Fagiano</p>	<p>1. It is alleged by Jessica Ciacco #55 that on or about November 8, 2018, at approximately 10:21 p.m., at or near 39 E. Illinois Street, Officer Rocco Fagiano failed to follow Special Order S03-14 by not activating his body warn camera to event mode at the beginning of an incident.</p>	<p>Sustained / Reprimand</p>

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

8-26-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	05
Investigator:	Vanessa McClinton-Jackson
Supervising Investigator:	Loren Seidner
Deputy Chief Administrator:	Angela Hearts-Glass