

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	February 26, 2016
Time of Incident:	11:30 pm
Location of Incident:	██████████
Date of IPRA Notification:	February 27, 2016
Time of IPRA Notification:	2:42 am

On February 26, 2016 at 11:30 p.m., Chicago Housing Authority (CHA) Security Officers contacted the Chicago Police Department and reported that they were holding a male subject for beating a female tenant. CPD Officers Alex Conway and Kevin Brown arrived on scene and placed ██████████ in custody for Domestic Battery against ██████████. While in custody at the 001st District police station, ██████████ told Sgt. Carris Crawford, star 2518, that his wrist and head were injured during his arrest, and that one of the arresting officers told him to “shut the fuck up.”

II. INVOLVED PARTIES

Involved Officer #1:	Kevin Brown, star # 14840, employee # ██████████ Date of Appointment: September 5, 1995, Police Officer, unit 701, DOB: ██████████, 1970, Male, Black
Involved Officer #2:	Alex Conway, star # 6163, employee # ██████████ Date of Appointment: May 31, 1994, Police Officer, unit 701, DOB: ██████████, 1967, Male, Black
Subject #1:	██████████ Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Kevin Brown	1) failed to ensure ██████████ safety while he (Officer Brown) and Officer ██████████	Not Sustained

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.

	<p>Conway escorted ██████ from ██████ ██████ to a transport vehicle.</p>	
<p>Officer Alex Conway</p>	<ol style="list-style-type: none"> 1) grabbed ██████ shirt and/or neck and pushed him against a wall, 2) told him to “shut the fuck up,” 3) pushed him against a door frame, 4) struck him about the upper body while he was in handcuffs, 5) pushed him against a doorway in the vestibule causing him to strike his head, 6) pushed him against a police van, and 7) failed to complete a Tactical Response Report regarding the force he used against ██████ during his arrest. <p>It is further alleged that on October 6, 2016, Officer Alex Conway:</p> <ol style="list-style-type: none"> 8) provided a false statement to IPRA in that he said he did not grab ██████ shirt and/or neck and push him against a wall, 9) provided a false statement to IPRA in that he said he did not push ██████ against a doorframe, 10) provided a false statement to IPRA in that he said he did not strike ██████ about the upper body while he was in handcuffs, and 11) provided a false statement to IPRA in that he said he did not push ██████ against a police van, (allegations 8-11) in violation of Rules 2 and 14. 	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

Rule 10: Prohibits inattention to duty.

Rule 14: Prohibits making a false report, written or oral.

General Orders

General Order G03-02: Use of Force Guidelines (eff. 01 January 2016)

General Order G03-02-05: Incidents Requiring the Completion of a Tactical Response Report (eff. 30 October 2014)

General Order G06-01-01: Field Arrest Procedures (eff. 12 November 2015)

V. INVESTIGATION^{2,3}

a. Interviews

Attempts to contact ██████████ were unsuccessful. (Att. 16, 26)

██████████ failed to cooperate with the investigation. (Att. 9, 26, 89)

In an interview with IPRA on May 16, 2016, Security Officer ██████████ stated that on the date of this incident, he was working for Kates Detective and Security Agency as a guard supervisor at the main building of Dearborn Homes at ██████████, when he received a telephone call from ██████████ a guard at ██████████ Street. ██████████ informed ██████████ that a female tenant was getting "jumped on" (physically assaulted) by her boyfriend, now known as the complainant, ██████████ and two other guards, ██████████ and ██████████ went to the female tenant's apartment. The female tenant, now identified as ██████████ told the guards that she did not need their assistance. As ██████████ Brown and ██████████ were leaving the building, ██████████ son ran downstairs and told them that ██████████ was harming ██████████ again. ██████████ Brown and ██████████ returned to the apartment and ██████████ observed ██████████ grabbing ██████████ hair and shoving her. ██████████ stated that he believed that ██████████ had taken some kind of narcotic because ██████████ was foaming at the mouth and his eyes were dilated.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ On August 8, 2016 IPRA received an affidavit override authorizing this investigation. See attachment 50.

██████ told the security guards that ██████ was drunk. ██████ then “rushed” (ran toward) Brown and tried to pin him against the wall. At that point, ██████ and ██████ handcuffed ██████ and escorted him downstairs. ██████ believed that ██████ called the police. Two black uniformed officers arrived about five minutes later and asked the guards what happened. ██████ informed the officers that ██████ physically assaulted his girlfriend, ██████ and ██████ wanted to press charges. ██████ came downstairs and ██████ yelled and cursed at her. The officers placed ██████ inside the squadrol without incident, completed their paperwork and left the scene. ██████ stated that he did not see any officer strike or physically maltreat ██████ and ██████ was not aware of any injuries to ██████ denied hearing any Department member tell ██████ to “shut the fuck up.” (Att. 33)

In an **interview with IPRA** on May 16, 2016, **Security Officer ██████** stated that he was working as a security guard at the Dearborn Homes complex when his supervisor, ██████ asked ██████ and another guard, now identified as ██████ to accompany ██████ to ██████ stated that a female guard at that building had called ██████ to report a domestic violence incident in one of the apartments. When ██████ and his two colleagues arrived at the apartment, ██████ observed a young boy crying and found ██████ getting his belongings to leave. The female tenant, now identified as ██████ came up the elevator and told the security guards that she did not need their help and asked them to leave. As the security guards exited the building, the young boy came running and told them that ██████ was “beating up” his mother. ██████ and his colleagues returned to the apartment and attempted to handcuff ██████ ██████ refused to comply and instead moved around and swung his arms. ██████ stated that Brown ultimately handcuffed ██████ The security guards escorted ██████ to the first floor, sat him on a bench and waited for the police. ██████ stated that ██████ “wrestled” with the guards and tried to get out of the handcuffs. ██████ then complained that the handcuffs were too tight; Brown loosened the handcuffs. When two black male uniformed police officers arrived, ██████ fell to his knees and complained that he could not breathe. One officer picked up ██████ by the arm. ██████ stated that ██████ yelled and screamed and pulled away from the officer. The officer “hemmed him [██████] up,” which ██████ described as grabbing his arm. The officer told ██████ to calm down and “shut the fuck up.” The officer then escorted ██████ out of the building. The second officer grabbed ██████ other arm and both officers ushered ██████ to a police van. ██████ stated that he did not observe ██████ strike his head against any door or other object while he was being escorted to the van. ██████ stated that he did not observe the officers physically maltreat ██████ and he did not observe any injuries to ██████ (Att. 37)

In an **interview with IPRA** on May 16, 2016, **Security Officer ██████** stated that she was working at the front desk when a male child came down to the lobby and asked for help because his mother, ██████ and her boyfriend, ██████ were fighting. Ms. ██████ called her supervisor, ██████ and informed him of the incident. ██████ then came downstairs and told her son to go back to the apartment. When ██████ and two other security guards arrived, they and ██████ went to ██████ apartment. ██████ then returned to her apartment and told the security guards to leave. ██████ and her colleagues went back to the lobby. Moments later, ██████ son ran to the lobby a second time and told them that ██████ was hitting his mother and pulling her hair out. ██████ and her three colleagues went back upstairs and observed ██████ hitting ██████ and pulling her hair. The security guards told ██████ to leave; however, ██████ swung his fists at the security guards and wanted to fight. The security guards handcuffed ██████ and brought him downstairs where ██████ called the police. ██████ cursed and yelled at the

guards and told them he would “kick their asses” once they removed the handcuffs. Two black male uniformed police officers entered the building. [REDACTED] also directed profanities and threats at them. The police officers escorted [REDACTED] outside to the police vehicle, while [REDACTED] remained inside the building and wrote an incident report. [REDACTED] stated that she did not observe [REDACTED] strike his head against a door or any other object. She also said that she did not observe the officers strike [REDACTED] push him against the doorframe, or direct profanities toward him. In addition, [REDACTED] stated that she did not observe any injuries to [REDACTED] (Att. 41)

Attempts to interview Security Officer [REDACTED] were unsuccessful. (Att. 30, 31, 45, 46-48)

Attempts to obtain an **Incident Report from the Chicago Housing Authority** were unsuccessful. (Att. 30, 31, 44, 47-48)

In an **interview with IPRA** on August 25, 2016, **Officer Germaine Wrencher** stated that on the date of the incident, he and his partner, Officer Patricia Fong, were assigned to Beat 133HR. Both officers were in uniform and driving a marked police vehicle. Officer Wrencher stated that as a patrol officer in the 001st District, he responds to numerous calls involving domestic battery incidents. Officer Wrencher stated that he did not have any independent recollection of the arrest of [REDACTED]. He described the Dearborn Homes as a “hotspot,” a place he has responded to many times, and added that this incident was not “glaringly” different than others he has responded to. Officer Wrencher stated that neither the arrest photograph of [REDACTED] nor the related Department reports refreshed his memory of the incident. Officer Wrencher stated that he completed the reports based on information he gathered from whoever was at the scene of the arrest, although he purportedly did not recall who, besides his partner, was at the scene. In addition, Officer Wrencher stated that he did not remember whether Officers Brown and Conway were on scene and he did not recall who placed [REDACTED] into custody. (Att. 57)

In an **interview with IPRA** on August 25, 2016, **Officer Patricia Fong** estimated that in 2016 she responded to roughly twenty to thirty domestic violence incidents in the Dearborn Homes complex and stated that she did not have an independent recollection of [REDACTED] or any details surrounding his arrest. (Att. 59)

In an **interview with IPRA** on October 5, 2016, **Officer Kevin Brown** stated that he and his partner, Officer Alex Conway, were on patrol and monitoring the radio when the dispatcher assigned a domestic battery call to Beat 133HR, Officers Wrencher and Fong. Officers Brown and Conway went to assist, as they were in the area. Officer Brown stated that when he and Officer Conway arrived on scene, they observed the victim, [REDACTED] standing outside the location with at least one CHA security guard. Officer Brown spoke with [REDACTED] outside the building, while Officer Conway went inside where the subject, [REDACTED] was being held. Officer Brown stated that once Officer Conway placed [REDACTED] in custody, he helped Officer Conway escort [REDACTED] to their vehicle for transport. Officer Brown stated that he ensured [REDACTED] was safe when he escorted him to the vehicle. Officer Brown stated that to his knowledge, [REDACTED] head did not make contact with the doorframe when they exited the building; and Officer Brown did not observe [REDACTED] strike his head on the door when he entered the police vehicle. Officer Brown did not observe any injuries to [REDACTED]. Officer Brown stated that upon his review of Department reports, he recalled that [REDACTED] was transported to the hospital; however, Officer Brown did not know how [REDACTED] sustained injury. (Att. 66-67)

In an **interview with IPRA** on October 6, 2016, **Officer Alex Conway** stated that he and Officer Brown arrived on scene and were met by a CHA security guard. The guard informed Officers Conway and Brown that a teenager told security staff that his mother was being physically assaulted by her boyfriend, and CHA security had detained the man. Officer Brown stayed near the front desk with one of the security guards while Officer Conway walked down the hallway to [REDACTED]. Officer Conway found [REDACTED] about 20 to 30 feet from the front entrance, on his knees in handcuffs. [REDACTED] was hitting his head against the wall. When asked what part of his head [REDACTED] was hitting against the wall, Officer Conway said it was “the top of his forehead.” Officer Conway told [REDACTED] that he was a Chicago Police Officer and to calm down. Officer Conway then switched the CHA handcuffs that were on [REDACTED] and placed Officer Conway’s handcuffs on [REDACTED]. Next, Officer Conway stood [REDACTED] up. Officer Conway did not notice any injuries to [REDACTED] when [REDACTED] stood up. [REDACTED] stated to Officer Conway, “I’m gonna fuck you up.” [REDACTED] further told Officer Conway he would spit on him, and then [REDACTED]⁴. In response, Officer Conway “kinda pushed [REDACTED] back”⁵ and told [REDACTED] not to spit on him. Officer Conway stated it “wasn’t even a hard push, it was just som--- just a, get him up off me so he wouldn’t spit on me.” When asked where Officer Conway’s hands were when he pushed [REDACTED] Officer Conway said “[p]robably around his chest.” He did not remember if he pushed [REDACTED] with one hand or two hands. Officer Conway denied that he pushed [REDACTED] against the wall. He then stated as follows: “If I could remember, I don’t think, no, because I, I remember, I’m thinking I was on the side of the walk, but I, I—no, I don’t know. Because, like I said, I don’t remember which side. But, I’m thinking I was on this side, because I picked him up. So, that is—trying to remember if that was the right side he was on, but I don’t remember pushing him into the wall.”

As Officer Conway and [REDACTED] were walking to the front doorway, Officer Brown walked up. Officer Conway stated that when Officer Brown opened the door for them to exit, [REDACTED] lunged at the door. Officers Conway and Brown grabbed [REDACTED] and told him to calm down. Specifically, Officer Conway said he grabbed [REDACTED] by either the cuffs or his shirt. When asked what part of [REDACTED] shirt he grabbed, Officer Conway said “the top of his shirt, at the back.” Officers Wrencher and Fong arrived as Officers Conway and Brown placed [REDACTED] in their vehicle. Officers Wrencher and Fong spoke with the security guards and then told Officers Brown and Conway to bring [REDACTED] to the station. Officer Conway stated that [REDACTED] actions fluctuated from cooperative to a passive resister. Officer Conway stated that he may have told [REDACTED] to “shut the fuck up,” in an effort to calm [REDACTED] down and deescalate the situation.

According to Officer Conway, he merely pushed [REDACTED] when [REDACTED] threatened to spit on him, and he grabbed [REDACTED] when [REDACTED] purportedly lunged at the door. Officer Conway denied making any other physical contact with [REDACTED] other than the push. Officer Conway denied that he grabbed [REDACTED] shirt and/or neck and pushed him against a wall; denied that he pushed [REDACTED] against a door frame; denied that he struck [REDACTED] about the body while he was handcuffed; denied that he pushed [REDACTED] against a doorway in the vestibule; and Officer Conway denied that he pushed [REDACTED] against a police van. Additionally, Officer Conway stated that he did not complete a Tactical Response Report (TRR) subsequent to his contact with [REDACTED] because he did not feel the physical contact he had with [REDACTED] warranted a TRR. Officer Conway stated

⁴ We interpret this to mean that [REDACTED] made a loud noise to clear his throat as if he was about to spit on Conway.

⁵ Officer Conway stated that he may have pushed Mr. [REDACTED] against the wall, but he did not specifically remember doing so.

that he was not aware of any injuries to [REDACTED]. Officer Conway added that [REDACTED] head may have made contact with the door frame when [REDACTED] lunged at the door as they exited the building.

Officer Conway was asked how many times he pushed [REDACTED] and he responded, “Uh, I could recall, just probably the one time, but then when he tried to go out the door, my, I grabbed him at least—I probably pushed him one time. That’s when I thought he was gonna spit on me.” He explained that when Officer Brown opened the door and [REDACTED] lunged at the door, Officer Conway “grabbed him.” Officer Conway described his action at that point as “just a hold,” not a push. Officer Conway denied using any other force with [REDACTED] other than the one push and the one hold he described. He was asked whether, at any time when he grabbed [REDACTED] he placed [REDACTED] against the wall, to which he responded, “That, I don’t remember, because the, it’s a door, it’s a front door and there’s a second door.” (Att. 68)

In an **interview with IPRA** on April 11, 2017, **Officer Alex Conway** was served with additional allegations that he provided a false statement to IPRA when he said he did not grab [REDACTED] shirt and/or neck and push him against a wall; he did not push [REDACTED] against a doorframe; he did not strike [REDACTED] about the upper body while he was in handcuffs; and he did not push [REDACTED] against a police van. Officer Conway prefaced his statement by saying that he answered all of the questions to the best of his recollection during his initial statement and he never intentionally falsified any part of his statement on October 6, 2016.

After being shown the video in full speed, slow motion, and frame by frame, Officer Conway stated that initially he did not remember pushing [REDACTED] against the wall; however, he later realized that he pushed [REDACTED] when [REDACTED] threatened to spit on him. According to Officer Conway, he did not grab [REDACTED] by the neck; however, he grabbed [REDACTED] shirt and shoulder and pushed him against the wall.

Upon viewing the video, Officer Conway stated that he pushed [REDACTED] into the plexiglass connected to the doorframe, and he did not intentionally push [REDACTED] into the doorframe. Additionally, Officer Conway amended his previous statement that he did not strike [REDACTED] about the upper body while he was in handcuffs. Officer Conway stated that when he gave his previous statement, he did not recall hitting [REDACTED] however, upon seeing the video, Officer Conway stated that he struck [REDACTED] on the “shoulder part” or “forearm part.” Officer Conway stood by his previous statement that he did not push [REDACTED] against the police van. Officer Conway stated that [REDACTED] jerked away from him, and Officer Conway “slid” or placed [REDACTED] on the side of the van to keep him contained until Officer Brown opened the door to the transport vehicle. Officer Conway stated that he did not complete a TRR because [REDACTED] was not combative and Officer Conway did not feel that a TRR was warranted; however, Officer Conway stated that upon seeing the video, he should have completed a TRR. (Att. 86)

b. Digital Evidence

A search for **in-car video** met with negative results. (Att. 21)

A **Police Observation Device (POD)** search met with negative results. (Att. 24)

Video Footage from the Chicago Housing Authority depicts two police officers, now identified as Officers Brown and Conway, entering the residential building located at [REDACTED] Street. After a brief stay, Officer Brown exits the building. A short time later Officer Conway, accompanied by four security officers, escorts [REDACTED] who is handcuffed, up the hallway. As they walk up the hall, [REDACTED] abruptly turns toward Officer Conway, who is walking behind him. In response, Officer Conway grabs the front of [REDACTED] shirt and/or neck and pushes him against a wall. As Officer Conway and [REDACTED] move toward the entryway of the building, Officer Conway pushes [REDACTED] against a doorframe. Next, Officer Conway places [REDACTED] against a wall, whereby he and [REDACTED] stand face to face. Officer Conway then draws back his right hand and his right arm then lunges forward. Based on the angle of the camera, the video does not show if Officer Conway strikes [REDACTED]. Officer Brown reenters the building and it appears that he performs a protective pat down of [REDACTED]. Officers Conway and Brown then escort [REDACTED] out of the building, during which time [REDACTED] head strikes the doorway in the vestibule. As Officer Conway escorts [REDACTED] outside toward the transport vehicle, [REDACTED] jerks away and turns toward Officer Conway. In response, Officer Conway puts [REDACTED] against the passenger's side of the police van and leads him into the vehicle. (Att. 28-29)

The following screen shots show Officer Conway grab [REDACTED] by the neck and push him against the wall:



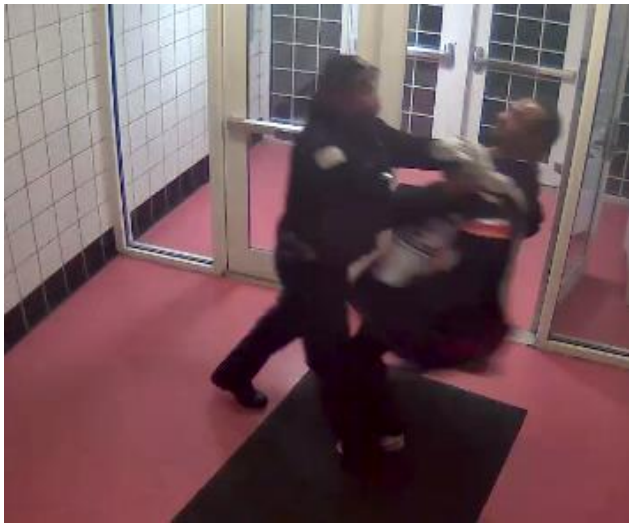


The next set of screen shots show Officer Conway grab [REDACTED] by the neck, walk [REDACTED] to the reception area and push him against the door frame:





The following screen shots show Officer Conway push [REDACTED] by the neck and upper body off camera:



Here, Officer Conway can be seen moving his right arm down and then raising an open hand toward the upper half or head area of [REDACTED]





Here, the screen shots show Officer Brown entering the building through the interior door and taking the lead on escorting [REDACTED] out. Officer Conway keeps his left hand on [REDACTED] neck collar. The last screen shot depicts Conway's left hand pushing [REDACTED] head into the exterior door frame:



The screen shot below depicts [REDACTED] pull away. He is then pulled toward the van before being put into the wagon:



c. Physical Evidence

Mugshot photographs of ██████████ depict what appears to be a laceration above his right eyebrow. (Att. 6)

The **Evidence Technician photographs** depict what appears to be redness to ██████████ right wrist and a laceration above his right eyebrow. (Att. 13)

Medical records document that ██████████ arrived at the hospital in police custody on February 27, 2016 at 3:11 a.m. ██████████ told hospital personnel that he was hit on the left knee and forehead during an altercation between him and the police. ██████████ was diagnosed with a facial laceration. The wound was superficial, 1 centimeter in length, and did not require laceration repair. ██████████ also had a bruise on his left knee and right wrist. (Att. 18, 20)

d. Documentary Evidence

In an **Initiation Report** dated February 27, 2016, Sergeant Carris Crawford, star 2518, reported that ██████ alleged that during his arrest, his wrist was injured and his head was hit on a wall and the police wagon. ██████ also alleged that one of the arresting officers told him to “shut the fuck up.” According to Sgt. Crawford, ██████ related that he had been drinking and kept being loud with the officers. ██████ sustained a laceration to his head and received medical attention at Mercy Hospital. (Att. 4)

The **Arrest and Case Reports** document that ██████ was arrested on February 26, 2016, at 11:45 p.m., at ██████ and charged with Domestic Battery against ██████. It was reported that Officers Germaine Wrencher, star 12375, Patricia Fong, star 15239, Kevin Brown, star 14840, and Alex Conway, star 6163, responded to a battery in progress. Officers arrived on scene and viewed obvious signs of a struggle between ██████ and ██████ who was reportedly extremely high/intoxicated, punched ██████ causing slight injury. The report further documents that ██████ displayed aggressive behavior, despite officers’ requests for him to stop. ██████ refused to press charges; however, ██████ was arrested in accordance with the domestic violence policy. Officers Germaine Wrencher and Patricia Fong were listed as the arresting officers. Officers Kevin Brown and Alex Conway were listed as the assisting and transporting officers. The lockup keeper processing section of the Arrest Report notes that ██████ had a cut over his right eye, and a bruised right wrist and knee. (Att. 5, 7)

The **Chicago Police Department Event Query** along with the **Office of Emergency Management and Communications (OEMC) transmissions** document that on February 26, 2016 at approximately 11:30 p.m., Security Officers dialed 911 and reported that they were holding a male subject for battering a female tenant. The dispatcher assigned Beat 133HR, now identified as Officers Wrencher and Fong, to respond to the Battery-in-Progress job. A short time later, the dispatcher informed Officers Wrencher and Fong that security had called again. Officer Fong announced that they were on the way. The dispatcher asked Beat 172R, now identified as Officers Brown and Conway, if they were going to the job. The officers stated they were already on scene. (Att. 14, 52-55)

e. Additional Evidence

Court records document that the complaining witness did not show up to court and the criminal case was dismissed with the right to reinstate (Att. 51)

According to **General Order G03-02-05**, the Tactical Response Report (TRR) will be used to document all incidents which involve a subject fitting the definition of an active resister, except for incidents in which the member’s 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. Additionally, the TRR will be used to document incidents involving a subject fitting the definition of a passive resister or a cooperative subject when the subject is injured or alleges injury resulting from the member’s use of a force option. Each sworn member who is involved in a reportable use of force incident will complete a TRR. (Att. 80)

VI. LEGAL STANDARDS

a. Potential findings and standards of review

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;
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.⁶ 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.⁷ 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."⁸

VII. ANALYSIS

The Civilian Office of Police Accountability (COPA) concludes **Allegation 1 is Not Sustained** against **Officer Kevin Brown**, that he failed to ensure [REDACTED] safety while he (Officer Brown) and Officer Conway escorted [REDACTED] from [REDACTED] to a transport vehicle. According to Sgt. Crawford's Initiation Report, [REDACTED] reported that his head was hit on a wall during his arrest. [REDACTED] sustained a laceration above his right eye and told hospital personnel that his forehead was injured during an altercation between him and the police. [REDACTED] failed to cooperate with the investigation. Officer Brown stated that he had no knowledge of [REDACTED] striking his head on the door.

However, video evidence recovered from the CHA facility shows that [REDACTED] head struck the front door as Officers Brown and Conway escorted him out of the building. It appears that as Officer Brown was attempting to open the front door, Officer Conway pushed [REDACTED] head forward. While COPA is skeptical that Officer Brown had no knowledge of what occurred immediately next to him, it is clear Officer Brown did not cause the injury. Additionally, the video shows that Officer Brown entered the building just prior to assisting Officer Conway escort [REDACTED] from the building. He was not present when Officer Conway pushed [REDACTED] against the wall or the vestibule, and therefore was likely unaware of the force used by Officer Conway. In sum, the

⁶ 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).

⁷ See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁸ *Id.* at ¶ 28.

allegation that Officer Brown failed to secure ██████ safety cannot be sustained based on the lack of evidence that Officer Brown was aware of the force used at any point by Officer Conway.

COPA finds **Allegation 1** against **Officer Alex Conway**, that he grabbed ██████ shirt and/or neck and pushed him against a wall is **Exonerated**. The video depicts that, while handcuffed, ██████ turned around toward Officer Conway and Officer Conway grabbed the front of ██████ shirt and/or neck and pushed him against the wall. Officer Conway initially failed to acknowledge committing the alleged act and never completed any reports documenting either ██████ nor his actions. Upon seeing the video, Officer Conway stated that he grabbed ██████ shirt near the shoulder area and pushed him against the wall after ██████ threatened to spit on him.

When assessing the appropriateness of an officer's use of force, the officer's level of force used will be compared to the subject's level of aggression as defined by the use of force paradigm. The directives of the Chicago Police Department divide a subject's level of aggression into several categories ranging from cooperative subject, to a passive and active resister, and finally to an assailant. The first step in the analysis as to whether an officer used excessive force is to determine the subject's level of aggression based on his or her actions and the totality of the circumstances.

In the instant case, the video depicts ██████ being escorted toward the entrance area by Officer Conway with ██████ in front of Officer Conway. While we cannot hear if ██████ is failing to follow verbal direction, he appears to be walking on his own. ██████ handcuffed behind his back, turns towards Officer Conway and Officer Conway then immediately reacts. After viewing the video, Officer Conway stated that he pushed ██████ against the wall after ██████ threatened to spit on him. ██████ failed to cooperate with the investigation and therefore we do not have another version of the events. According to Section IV(C)(1) of General Order O3-02-02, an assailant without weapons is a subject who places a member in fear of receiving a battery. While the spit or threat of a spit is not apparent on the video, Officer Conway reports that ██████ threatened to spit on him and if true, ██████ could reasonably be considered an assailant.

Officer Conway's account of the incident is problematic for several reasons. Officer Conway first expressed this version of events during his IPRA interviews. Officer Conway never memorialized the assault in his arrest report, never completed a TRR, OBR or other department reports indicating the attempted spit or explaining the use of force. Only after he was confronted with the allegation did Officer Conway offer any acknowledgement of the force and his justification. Moreover, when asked why reports were not completed, he stated that he did not feel the contact he had with ██████ warranted a TRR. As discussed more thoroughly below, Officer Conway's lack of documentation and evasive answers call into question his version of the events.

However, whether ██████ threatened to spit, as described by Officer Conway, is irrelevant to this allegation. Importantly, it is unquestioned that ██████ turned toward Officer Conway in an aggressive manner. Even without the threat to spit, ██████ movement toward Officer Conway would make ██████ an active resister and possibly an assailant. Based on the General Order and supporting federal law, Officer Conway was justified in using stunning techniques which are defined as defused pressure striking or slapping intended to increase control of the subject by disorienting the subject and interfering with the subject's ability to resist. When Officer Conway pushed ██████ against the wall with force he did so to control the subject and impact ██████ ability to resist. Therefore, based on ██████ actions as observed on video, COPA finds allegation 1 is Exonerated.

COPA finds **Allegation 2** against **Officer Conway**, that he told ██████ to “shut the fuck up” is **Sustained**. Security Guard ██████ stated that when the police arrived, ██████ dropped to his knees, screamed and pulled away from an officer. Security Guard ██████ stated that in response, the officer grabbed ██████ arm and told him to calm down and “shut the fuck up.” Officer Conway acknowledged that he may have told ██████ to “shut the fuck up” in order to calm him down and deescalate the situation.

Rule 8 prohibits “[d]isrespect to or maltreatment of any person, while on or off duty.” COPA finds that Officer Conway’s instruction to ██████ to “shut the fuck up” constituted a Rule 8 violation.

COPA finds **Allegation 3** against **Officer Conway**, that he pushed ██████ against a doorframe is **Sustained**. The video shows Officer Conway push ██████ against the wall then drive him down a hall, toward the entryway of the building, pushing ██████ against the interior doorframe. Officer Conway initially failed to recall the act; however, upon seeing the video, Officer Conway stated that he pushed ██████ into the plexiglass connected to the doorframe.

As outlined above, a use of force analysis has two parts. First, we must determine the level or category of aggression by the subject at the time the force was used; and second, we must assess whether the amount of force used by the officer in response to the subject’s actions was appropriate based on the level of the subject’s aggression. Each allegation of use of force must be analyzed separately and therefore we must analyze Allegation 3 separately from Allegation 1.

█████ turned aggressively toward Officer Conway while in the hallway of the CHA facility. Officer Conway first grabbed ██████ by the neck and collar of his shirt and pushed him against the wall. At that time ██████ appeared to be under Officer Conway’s control. Officer Conway then, while still controlling ██████ by the neck area of his shirt walked ██████ backwards toward the front reception area, where Officer Conway then pushed ██████ against the interior glass or door frame.

Under the use of force policy in place at the time, an Officer is required to modify the level of force by deescalating their force level immediately as resistance decreases. ██████ had, just prior, turned aggressively toward Officer Conway. When watched in full speed, Officer Conway gained control of ██████ in the hall way and immediately moved him toward the front door. ██████ was walking backwards, handcuffed, and controlled by the collar of his shirt. ██████ did not appear to have control of his movement as Officer Conway drove him toward the front reception area and into the front glass and door. In his interview to IPRA, Officer Conway stated that he did not intentionally push ██████ into the doorframe. However, as detailed in allegation 4, Officer Conway next pulled ██████ spun him around and threw him against another wall before striking ██████ to the head area with his hand. This further illustrates that Officer Conway’s actions were not inadvertent and instead intentional and punitive.

When Officer Conway drove ██████ down the hallway he had already neutralized ██████ as a threat. Therefore, Officer Conway was not justified in the use of stunning techniques to control ██████. Accordingly, he violated Department policy. For these reasons, COPA finds by clear and convincing evidence that Allegation 3 is sustained.

COPA finds **Allegation 4** against **Officer Conway**, that he struck ██████ about the upper body while he was in handcuffs is **Sustained**. It is clear from the video that Officer Conway's right arm lunged forward in the direction of ██████ upper body, while ██████ was in handcuffs. Based on the angle of the camera, it appears that Officer Conway may have swung at ██████ head; however, ██████ upper body is out of the camera's frame. Upon viewing the video, Officer Conway acknowledged that he struck ██████ on the upper body but claims to have struck ██████ on the arm. Whether Officer Conway struck ██████ on the head or arm, there is no question that Officer Conway did in fact strike ██████ about the upper body while ██████ was in handcuffs.

As articulated above, the use of force policy requires an Officer to de-escalate their force level immediately as resistance decreases. COPA finds that when Officer Conway struck ██████ ██████ was clearly in the officer's control and the officer's actions were deliberate.

At the time Officer Conway struck ██████ his hands were handcuffed behind his back and he was being physically pushed by Officer Conway. Officer Conway was not entitled to use a direct mechanical strike on ██████ as he was not an active resister at the time of the strike. Therefore, by clear and convincing evidence COPA finds this allegation must be sustained.

COPA finds **Allegation 5** against **Officer Conway**, that he pushed ██████ against a doorway in the vestibule causing him to strike his head is **Not Sustained**. ██████ told Sgt. Crawford that his head was hit on a wall during his arrest. In the Arrest Report, the Lockup Keeper noted that ██████ had a cut over his right eye. The Evidence Technician photographs document that ██████ had a laceration on his head, above his right eye. ██████ was transported for medical treatment and told hospital personnel that he was hit on the forehead during an altercation between him and the police. ██████ was diagnosed with a facial laceration.

Security Officers ██████ and ██████ stated that they did not observe ██████ strike his head against the doorway and did not observe any injury to him. Officer Conway denied pushing ██████ against a doorway in the vestibule and stated that ██████ lunged at the door. Based on the video, it appears that ██████ head struck the exterior doorway as Officers Conway and Brown escorted ██████ out of the building. Just prior to striking the door, ██████ appears to pull away from Officer Brown. As he pulls away, ██████ appears to turn away from the door before his head is next thrust forward, at which point his head appears to strike the doorframe. Based on the available evidence, it is inconclusive what caused ██████ head to hit the frame. While it is possible Officer Conway pushed ██████ head forward into the doorframe, the video appears to show ██████ thrashing just prior to his head hitting the doorframe. Thus, we lack clear evidence to support the allegation that Officer Conway was the driving force behind the injury. Attempts to obtain additional information from ██████ regarding the incident were unsuccessful as ██████ failed to cooperate with the investigation. Based on the above, there is insufficient evidence to meet the clear and convincing standard required in this administrative investigation. Accordingly, COPA recommends a finding of not sustained for Allegation 5.

COPA finds **Allegation 6** against **Officer Conway**, that he pushed ██████ against a police van is **Not Sustained**. According to Sgt. Crawford's Initiation Report, ██████ reported that he hit his head on the police wagon during his arrest. Officer Conway denied pushing ██████ against the police van. Officer Conway explained that ██████ jerked away from him, and Officer Conway slid ██████ against the side of the van to contain him there until Officer Brown opened the door to the transport vehicle. ██████ failed to cooperate with the investigation, and the security officers

denied observing Officer Conway push ██████ against the police van. Based on the video, there is some sort of physical interaction between ██████ and Officer Conway at the transport vehicle. The video depicts that as Officer Conway escorted ██████ toward the police van, ██████ pulled away and turned toward Officer Conway. It appears that Officer Conway then put ██████ against the passenger's side of the police van and directed him into the vehicle. Due to the distance between the camera and the van, it is difficult to gauge the level of force Officer Conway exerted on ██████ and whether that force rose to the level of a push in a manner that would be considered excessive. At this time, there is insufficient evidence to meet the preponderance standard required for this administrative investigation. Accordingly, COPA recommends a finding of not sustained for Allegation 6.

COPA finds **Allegation 7** against **Officer Conway**, that he failed to complete a Tactical Response Report regarding the force he used against ██████ is **Sustained**. Department policy dictates that a TRR will be used to document all incidents which involve a subject fitting the definition of an active resister.⁹ Additionally, a TRR is required to document incidents involving even subjects that are defined as cooperative subjects or passive resisters where the person is injured or alleges injury resulting from the member's use of a force option. Looking at the video, it is clear that a TRR should have been produced based on the use of force by Officer Conway. This investigation revealed that Officer Conway grabbed ██████ shirt/neck and pushed him against a wall; pushed him against a door frame; and struck ██████ on the upper body. Therefore, Officer Conway should have completed a TRR to document ██████ actions, ██████ injury, and the physical contact he had with ██████. Accordingly, by clear and convincing evidence, COPA finds Allegation 7 sustained.

COPA finds **Allegation 8** against **Officer Conway**, that he provided a false statement to IPRA in that he said he did not grab ██████ shirt and/or neck and push him against a wall is **Not Sustained**. In his initial statement to IPRA on October 6, 2016, Officer Conway denied that he grabbed ██████ shirt and/or neck and pushed him against a wall. When asked for his narrative of what happened Officer Conway stated, "At that time I think he tried to spit on me. He was like, 'I spit on you.' So, he hauled (sic), and that's when I, like, kinda pushed him back, and I said, 'Stop.'"¹⁰

The video clearly shows force that exceeds Officer Conway's first description of the incident. After being shown the video, Officer Conway admitted that he grabbed ██████ shirt near the shoulder area and pushed him against the wall. However, during his statement Officer Conway expressed some uncertainty about a push. In this regard, he stated as follows:

"Q. Okay. Did you push him against the wall?

A. No.

Q. Okay.

A. If I could remember, I don't think, no, because I, I remember, I'm thinking I was on the side of the wall, but I, I—no, I don't know. Because, like I said, I don't remember which

⁹Department directives define an Active Resister as one who engages in movement to avoid physical control.

¹⁰ Attachment 68 pg. 7: 19-22

side. But I'm thinking I was on this side, because I picked him up. So, that is—trying to remember if that was the right side he was on, but I don't remember pushing him into the wall.”¹¹

While Officer Conway's answers were evasive and minimized the level of force used, there is simply not enough evidence that Officer Conway willfully denied pushing ██████ against the wall. COPA finds that Officer Conway's answers in his first statement were not accurate however, COPA lacks sufficient evidence to prove Officer Conway provided those answers intentionally and willfully, therefore Allegation 8 is Not Sustained.

COPA recommends a finding of **Not Sustained** for **Allegation 9** against **Officer Conway**, that he provided a false statement to IPRA in that he said he did not push ██████ against a doorframe. Officer Conway was asked whether he pushed ██████ against a doorframe; he simply denied doing so.¹² In contrast, the video shows that Officer Conway pushed ██████ against a doorframe.

Upon seeing the video, Officer Conway stated he did not recall pushing ██████ against the doorframe.¹³ He said, “I thought that was just that Plexiglas right there.”¹⁴ He then acknowledged that the video showed he pushed ██████ into the doorframe and stated that he was not trying to push ██████ into the doorframe and that he and ██████ were “at the” plexiglass connected to the doorframe.¹⁵

Again, Officer Conway's evasive and minimizing responses call into question his truthfulness. However, again COPA finds that Officer Conway's answers in his first statement were not true, yet COPA lacks sufficient evidence to prove by a preponderance of the evidence that Officer Conway provided those answers willfully or with the intent to provide a false statement, therefore Allegation 9 is Not Sustained.

COPA finds **Allegation 10** against **Officer Conway**, that he provided a false statement to IPRA in that he said he did not strike ██████ about the upper body while he was in handcuffs is **Sustained**. In his first statement, Officer Conway unequivocally denied striking ██████ while he was in handcuffs.¹⁶ He also denied ever striking ██████¹⁷ Upon seeing the video footage, Officer Conway stated that he wanted to amend his statement and stated he struck ██████ in the shoulder or forearm.¹⁸ Accordingly, we find Officer Conway made a false statement when he initially denied striking ██████ about the upper body while ██████ was in handcuffs. This statement was also about a material fact, as it pertained to the allegations against ██████

Further, despite Officer Conway's claim that he did not recall hitting ██████ on the arm, COPA finds that Officer Conway lacks credibility. Given the level of detail Officer Conway could remember about the events that transpired on the night of the incident, it is implausible that Officer Conway would have completely forgotten that he struck ██████ Further, Officer Conway did not

¹¹ Attachment 68, page 19-20.

¹² Attachment 68, pg. 40.

¹³ Attachment 87, pg. 19.

¹⁴ Attachment 87, pg. 19.

¹⁵ Attachment 87, pg. 20.

¹⁶ Attachment 68, pg. 40.

¹⁷ Attachment 68, pg. 40.

¹⁸ Attachment 87, pg. 22.

make any statements in his first statement suggesting he could not remember whether he struck [REDACTED] instead, he affirmatively and wholly denied doing so. Based on the foregoing, we find Officer Conway willfully gave a false statement about a material fact and thus violated Rule 14.

COPA finds **Allegation 11** against **Officer Conway**, that he provided a false statement to IPRA in that he said he did not push [REDACTED] against a police van is **Not Sustained**. There is insufficient evidence to meet the standard required for this administrative investigation to prove that Officer Conway pushed [REDACTED] against a police van; therefore, the allegation that Officer Conway provided a false statement when he said he did not push [REDACTED] against a police van must also be classified as not sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Conway

i. Complimentary and Disciplinary History

Officer Conway has received one (1) life-saving award, twenty-eight (28) honorable mentions, one (1) 2009 crime reduction award. Officer Conway has no publishable history.

ii. Recommended Penalty, by Allegation

1. Allegation No. 2,

Officer Conway used language that is not reflective of department goals. He did so in a demeaning manner just prior to using unjustified and unnecessary force on [REDACTED]. Therefore, COPA recommends a suspension of 3 days.

2. Allegation No. 3,4.

Officer Conway clearly used force for punitive reasons. He had [REDACTED] under control and chose to drive him into a window and frame, then strike him in the upper body all while [REDACTED] was in hand cuffs. His actions are not reflective of department goals and exhibit a lack of professionalism. Based on the number of strikes, the fact the victim of the attack was cuffed, COPA recommends a suspension of no less than one hundred and -eighty days 180.

3. Allegation No. 7

Officer Conway failed to complete a TRR claiming in his interview, he did not think any of his contact with [REDACTED] warranted a TRR. Officer Conway deliberately failed to document the contact that clearly needed to be documented, specifically because [REDACTED] suffered an injury. Officer Conway faced allegations he deliberately provided false statements related to his contact. The lack documentation gives credence to those allegations. COPA recommends a suspension of 5 days.

4. Allegation No. 10 Provided a false statement to IPRA

In sum, Officer Conway drove a handcuffed person into a wall, struck him in the upper body, and likely in the head, never documented any of his physical contact despite [REDACTED] injury

and finally denied that he struck [REDACTED] at all. Each violation Officer Conway committed was egregious, offensive, in contrast to department directives, goals, and brought disgrace to the department. However, the most intolerable was Officer Conway’s decision to lie about what happened. Officer Conway’s actions undermine the departments mission and values; therefore, COPA does not believe Officer Conway should represent the department or further serve Chicago’s citizens. COPA recommends separation.

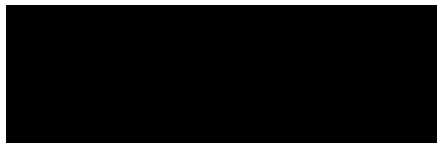
IX. CONCLUSION

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

Officer	Allegation	Finding
Officer Kevin Brown	1) failed to ensure [REDACTED] safety while he (Officer Brown) and Officer Conway escorted [REDACTED] from [REDACTED] to a transport vehicle.	Not Sustained
Officer Alex Conway	1) grabbed [REDACTED] shirt and/or neck and pushed him against a wall, 2) told him to “shut the fuck up,” 3) pushed him against a door frame, 4) struck him about the upper body while he was in handcuffs, 5) pushed him against a doorway in the vestibule causing him to strike his head, 6) pushed him against a police van, and 7) failed to complete a Tactical Response Report regarding the force he used against [REDACTED] during his arrest. It is further alleged that on October 6, 2016, Officer Alex Conway: 8) provided a false statement to IPRA in that he said he did not grab [REDACTED]	Exonerated Sustained Sustained Sustained Not Sustained Not Sustained Sustained Not Sustained

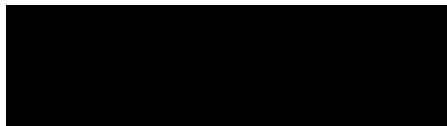
	shirt and/or neck and push him against a wall, 9) provided a false statement to IPRA in that he said he did not push [REDACTED] against a doorframe, 10) provided a false statement to IPRA in that he said he did not strike [REDACTED] about the upper body while he was in handcuffs, and 11) provided a false statement to IPRA in that he said he did not push [REDACTED] against a police van, (allegations 8-11) in violation of Rules 2 and 14.	Not Sustained Sustained Not Sustained
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Approved:



Andrea Kersten
Deputy Chief Administrator

Date: October 22, 2019



Sydney Roberts
Chief Administrator

Date: October 22, 2019

Appendix A

Assigned Investigative Staff

Squad# 4	
Investigator:	Theresa Davis
Supervising Investigator:	James Murphy-Aguilu
Deputy Chief Administrator:	Andrea Kersten