

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	August 29, 2017
Time of Incident:	12:15 p.m.
Location of Incident:	1900 W. Monterey Avenue
Date of COPA Notification:	October 26, 2017
Time of COPA Notification:	2:37 p.m.

██████████ was arrested following a domestic altercation with his wife, ██████████ ██████████ was transported to the 22<sup>nd</sup> district police station, where he alleged that the arresting officer used excessive force against him. COPA concludes that the allegation against Officer Edward Shaffer is Unfounded.

**II. INVOLVED PARTIES**

Involved Officer #1:	SHAFFER, Edward; star# 18714; employee ID# ██████████ Date of Appointment: December 5, 1994; Police Officer; Unit of Assignment: 022; DOB: ██████████, 1963; Male; Black.
Involved Individual #1:	██████████ ██████████ ██████████, 1991; Male; <sup>1</sup> Black.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Edward Shaffer	1. It is alleged that Officer Edward Shaffer used excessive force against ██████████ ██████████ in that he struck ██████████ in the face with a closed fist causing injury to ██████████ at the 22 <sup>nd</sup> District lock-up inside the female restroom, in violation of Rule 8.	Not Sustained

**IV. APPLICABLE RULES AND LAWS**

<sup>1</sup> ██████████ is transgender and uses male pronouns. After investigating whether the officers who processed him did so in accordance with CPD’s directives on transgender people, COPA found that there was no misconduct in that regard and did not serve any allegations relative to ██████████ processing.

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## Rules

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

### V. INVESTIGATION<sup>2</sup>

#### a. Interviews

In an interview with COPA on October 26, 2017, ██████████ stated that his wife, ██████████ called the police following a verbal altercation.<sup>3, 4</sup> The responding officers arrested ██████████ and transported him to the 22<sup>nd</sup> district station. ██████████ asked to use the washroom and Officer Margaret Susnis, #10384, accompanied ██████████ to the women's washroom. According to ██████████ Officer Edward Shaffer followed him and Officer Susnis into the washroom. ██████████ asked Officer Shaffer for privacy. Officer Shaffer replied, "You want to be a man? I see men pee all the time. Go ahead and use the bathroom."<sup>5</sup> ██████████ replied, "Oh, you're a funny guy. Come on, get the hell out of here."<sup>6</sup> Officer Shaffer then punched ██████████ on the upper part of his nose. ██████████ passed out and woke up at Little Company of Mary Hospital. When ██████████ returned from the hospital, ██████████ told Officer Shaffer he did not have to punch him. Officer Shaffer threatened to "knock" ██████████ out again. ██████████ stated that he told a white officer named "Joe"<sup>7</sup> who worked in the fingerprint area about the incident. ██████████ added that he later tried to run when two different officers attempted to place him in the police wagon to transport him to 18<sup>th</sup> and State;<sup>8</sup> however, the officers caught ██████████ and placed him in the wagon. ██████████ had a seizure at Central Detention and was transported to Northwestern Hospital, where hospital staff diagnosed ██████████ with a fractured nose and rib.

In an interview with COPA on February 28, 2018, **Officer Edward Shaffer** stated that he responded to a domestic disturbance involving an individual on "PCP."<sup>9, 10</sup> Officer Shaffer arrived on scene and saw the alleged offender, ██████████ on the porch. According to Officer Shaffer, he initially thought ██████████ was a male but later learned ██████████ was a female.<sup>11</sup> The purported victim, ██████████ told officers that ██████████ was "getting high" all night on alcohol and drugs. ██████████ related that during an altercation, ██████████ grabbed ██████████ around the neck. According to Officer Shaffer, ██████████ charged at ██████████ in the officers' presence and resisted arrest. It took two officers to handcuff ██████████. Officer Shaffer transported ██████████ to the

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

<sup>3</sup> Attachments 4, 62

<sup>4</sup> ██████████ related that he had consumed alcohol earlier in the day but was not under the influence.

<sup>5</sup> Transcribed statement of ██████████ Attachment 62, page 17, lines 1-2.

<sup>6</sup> *Id.*, lines 5-7.

<sup>7</sup> Attempts to identify "Joe" via Department records were unsuccessful.

<sup>8</sup> Central Detention, where transgender arrestees are housed after processing. Central Detention is located at the 1<sup>st</sup> district police station.

<sup>9</sup> Attachments 33, 59

<sup>10</sup> PCP is short for Phencyclidine, also known as Angel Dust.

<sup>11</sup> Officer Shaffner referred to ██████████ with female pronouns throughout his statement; those pronouns have been changed for this report to reflect ██████████ gender identity.

police station. Once at the station, ██████ asked to go to the washroom.<sup>12</sup> Officer Susnis accompanied ██████ to the washroom, where ██████ would also remove his penile prosthesis. Officer Shaffer described ██████ as erratic and volatile. Officer Shaffer explained that ██████ was calm one minute and would “explode”<sup>13</sup> the next minute. Therefore, Officer Shaffer stood outside the washroom in case anything happened. Moments later, Officer Susnis yelled for Officer Shaffer. Officer Shaffer opened the washroom door and observed ██████ and Officer Susnis in a “tug of war.”<sup>14</sup> Officer Shaffer explained that as Officer Susnis tried to grab ██████ arm, ██████ pulled away and held his arms close to his chest while yelling, “I can’t go to jail. I gotta get out of here.”<sup>15</sup> Officer Shaffer stood between ██████ and Officer Susnis and tried to grab ██████ arms. ██████ repeatedly pulled away. Officer Shaffer grabbed ██████ shoulders and took him to the ground. ██████ fought and kicked; Officer Shaffer told ██████ to stop resisting. Officer Susnis pointed out that ██████ was bleeding. Officer Shaffer did not see ██████ hit his head on the floor but presumes that ██████ sustained a cut to the bridge of his nose on the floor when he resisted so violently. Officer Shaffer brought ██████ back to a holding cell and the officers notified a sergeant to request an ambulance. Officer Shaffer denied punching ██████

In an interview with COPA on February 5, 2018, **Officer Margaret Susnis** provided essentially the same account of ██████ arrest as Officer Shaffer did.<sup>16</sup> Officer Susnis stated that when she first encountered ██████ on the scene of his arrest, she thought ██████ was a man but realized ██████ was a woman.<sup>17</sup> Officer Susnis recalled that there was a struggle to place ██████ into Officer Shaffer’s squad car for transport. Upon arrival to the station, Officers Susnis and Shaffer brought ██████ to a cell and Officer Susnis searched him. According to Officer Susnis, she was unaware at the time that ██████ was transgender and was assured by officers on scene who previously responded to the residence that ██████ was female. During the search, Officer Susnis discovered that ██████ was wearing a prosthetic penis. Officer Susnis brought ██████ to the washroom for ██████ to remove the prosthesis so the officers could inventory it. Officer Susnis entered the washroom with ██████ and Officer Shaffer stood outside the door. According to Officer Susnis, ██████ became loud, argumentative and did not want to remove the prosthesis. ██████ pulled away from Officer Susnis, threw his head back and said, “I’m not going.”<sup>18</sup> Officer Shaffer opened the door and he and Officer Susnis tried to handcuff ██████ and return him to the cell. The officers gave ██████ repeated verbal commands to put his hands behind his back. According to Officer Susnis, ██████ was agitated, very strong, and refused to be handcuffed. Officer Shaffer stood between ██████ and Officer Susnis and pulled ██████ to the ground. Officer Susnis noticed blood on the floor and a cut on the bridge of ██████ nose. Officer Susnis did not know how ██████ injured his nose, other than going to the ground. ██████ stopped struggling and the officers returned ██████ to the

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<sup>12</sup> Officer Shaffer said the washroom is not designated male or female. Officer Shaffer described the washroom as a secure area with a door and four walls

<sup>13</sup> Transcribed statement of Officer Shaffer, Attachment 59, page 17, line 14.

<sup>14</sup> *Id.*, page 23, line 18.

<sup>15</sup> *Id.*, lines 6-8.

<sup>16</sup> Hereinafter, ██████ will be referenced with male pronouns to reflect his gender identity.

<sup>17</sup>

Attachments 20, 71

<sup>18</sup> Transcribed statement of Officer Susnis, Attachment 71, page 19, line 7.

cell. Officer Susnis told the desk sergeant to call an ambulance. [REDACTED] then willingly removed the prosthesis and gave it to the officers. Officer Susnis stated that she did not hear Officer Shaffer make any derogatory, gender-related comments to [REDACTED]

In an interview with COPA on March 2, 2018, **Officer Matthew Ward** stated that he and his partner, Officer William Wieczorek, were on patrol when they were assigned to transport [REDACTED] from the 22<sup>nd</sup> district station to Central Detention.<sup>19</sup> Officer Ward and Officer John Siedlecki, #7758, brought [REDACTED] to the transport vehicle while Officer Wieczorek gathered the paperwork.<sup>20</sup> Officer Ward stated that as he opened the squadrol door, [REDACTED] attempted to flee and ran approximately 50 feet. The officers caught [REDACTED] and placed him in the vehicle. When they arrived at Central Detention, Officer Ward opened the squadrol door and noticed that [REDACTED] seatbelt was unfastened. [REDACTED] exited the squadrol with his arms behind his back. As Officer Ward escorted [REDACTED] to the station, [REDACTED] pushed away, swung at Officer Ward and ran.<sup>21</sup> Officer Ward caught [REDACTED] and pulled him to the ground. Officer Ward also fell to the ground and believes [REDACTED] fell on top of him. Officer Ward delivered a closed hand strike to [REDACTED] body. The officers handcuffed [REDACTED] and brought him in the station.

In an interview with COPA on March 14, 2018, **Officer William Wieczorek** provided an account consistent with Officer Ward's account.<sup>22</sup> Officer Wieczorek related that [REDACTED] tried to escape once they arrived at Central Detention. When Officers Wieczorek and Ward tried to grab [REDACTED] pushed the officers and they all fell. Sgt. Robert Bartik, #907, must have seen him and Officer Ward struggling with [REDACTED] because Sgt. Bartik and two other Department members, possibly Detention Aides, came out to assist the officers. Officer Wieczorek stated that he did not see Officer Ward perform an open hand strike on [REDACTED]

In an interview with COPA on February 27, 2018, **Dr. [REDACTED]** the doctor who examined [REDACTED] at Little Company of Mary's Emergency Department, stated that he had no independent recollection of [REDACTED].<sup>23</sup> Upon reviewing [REDACTED] chart/medical records, Dr. [REDACTED] related that [REDACTED] reported he was struck multiple times in the face and hit the ground. [REDACTED] sustained a laceration and fracture to his nose. According to Dr. [REDACTED] it is possible [REDACTED] injuries were sustained from being struck in the face; however, [REDACTED] could have also sustained those injuries from a fall, or in other ways. During the interview, Dr. [REDACTED] viewed a photograph<sup>24</sup> of [REDACTED] taken the following morning at Cook County Jail. Dr. [REDACTED] stated the injury in the photograph could come from a fall, fist, kick, or could be self-inflicted. Dr. [REDACTED] couldn't say if one scenario was more likely than the other. Dr. [REDACTED] further stated it is possible [REDACTED] nose fracture caused his black eye, as the blood that caused the swelling on the right side of [REDACTED] nose could migrate underneath [REDACTED] right eye and cause the blue/black discoloration. Dr. [REDACTED] stated that while it is possible to sustain a black eye from a punch, it was less likely in [REDACTED] case because [REDACTED] eye was not swollen, red, or discolored when

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<sup>19</sup> Attachments 35, 58

<sup>20</sup> Officer Ward stated that he noticed a mark on [REDACTED] nose upon his initial encounter but was unaware how [REDACTED] sustained the injury.

<sup>21</sup> Officer Ward realized that one of [REDACTED] wrists was uncuffed.

<sup>22</sup> Attachments 34, 60

<sup>23</sup> Attachments 27, 61

<sup>24</sup> Attachment 6

Dr. ██████ saw him. If ██████ had been punched or had injured himself under the eye, there would have likely been swelling in that location when Dr. ██████ saw ██████. Dr. ██████ viewed a photograph<sup>25</sup> of the washroom where ██████ purportedly sustained the injury. Dr. ██████ related that ██████ injuries could have resulted from ██████ face contacting the stainless-steel toilet/sink.

### b. Digital Evidence<sup>26</sup>

**Photographs from Cook County's Department of Corrections** depict what appears to be swelling and discoloration under ██████ right eye, and a red mark near the bridge of ██████ nose.<sup>27</sup>

### c. Physical Evidence

An **Ambulance Report** documents that on August 29, 2017 at 12:38 p.m., Chicago Fire Department (CFD) personnel were dispatched to the 22<sup>nd</sup> district police station for a person injured from a fall.<sup>28</sup> ██████ reportedly fell and landed on his face, causing bleeding and pain to his nose. ██████ was uncooperative with police and CFD members and initially refused to be searched prior to transport. ██████ was transported to Little Company of Mary Hospital.

Medical records from **Little Company of Mary Hospital** document that ██████ was seen on August 29, 2017 at 1:56 p.m. for a fall, bloody nose and facial pain.<sup>29</sup> ██████ told hospital personnel that he was struck multiple times about the face and hit the ground. ██████ was diagnosed with a head injury, facial laceration and a nasal fracture.

An **Ambulance Report** documents that on August 29, 2017 at 8:55 p.m., CFD personnel were dispatched to Central Detention for an unconscious person.<sup>30</sup> CFD personnel found ██████ unconscious and apparently having a seizure. ██████ had a hematoma on his forehead and ecchymosis<sup>31</sup> around his right eye with some swelling. CPD reportedly told CFD that ██████ sustained those injuries when he hit his head during an escape attempt. ██████ received medical attention and had a seizure after he returned to the lockup. ██████ was transported to Northwestern Hospital.

Medical records from **Northwestern Hospital** document that ██████ was seen on August 29, 2017 at 9:35 p.m.<sup>32</sup> ██████ was reportedly found down and punched in the face.<sup>33</sup> Medical

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<sup>25</sup> Attachment 26

<sup>26</sup> The 22<sup>nd</sup> district did not have body-worn cameras at the time of this incident. The incident occurred in August 2017, but ██████ did not file a complaint until October 2017. Because of the delay, no CPD Evidence Technician photographs were taken.

<sup>27</sup> Attachments 5-9

<sup>28</sup> Attachment 15

<sup>29</sup> Attachment 23

<sup>30</sup> Attachment 18

<sup>31</sup> A discoloration of the skin resulting from bleeding underneath.

<sup>32</sup> Attachment 24

<sup>33</sup> ██████ never alleged that anyone at Central Detention punched him.

personnel noted bruising around ██████ right eye, ecchymosis to his forehead, and cervical and thoracic tenderness. ██████ was diagnosed with a mechanical fall, which means he slipped, tripped or lost balance; mildly displaced fractures of the right nasal bone and frontal process of the right maxilla; and a comminuted left posterior 12<sup>th</sup> rib fracture.<sup>34</sup> ██████ tested positive for PCP and THC.<sup>35</sup>

#### d. Documentary Evidence

An **Event Query** documents that ██████ dialed 911 and reported that ██████ was “high” on PCP and fighting ██████ and her son.<sup>36</sup>

The **Arrest Report and Case Report JA410498** document that ██████ was charged with Domestic Battery, Resisting/Obstructing a Peace Officer, and Battery.<sup>37</sup> Officers responded to a Domestic Battery call involving a person under the influence of PCP. ██████ reported that ██████ grabbed her neck during a verbal altercation. Officers placed ██████ into custody and Officer Edward Shaffer transported ██████ to the 22<sup>nd</sup> district for processing. At the station, ██████ refused to exit the washroom and held his<sup>38</sup> arms close to his body, refusing to be handcuffed. Officer Shaffer performed a take down on ██████ struck his nose on the floor, sustaining a cut to the bridge of his nose. A CFD Ambulance arrived and transported ██████ to Little Company of Mary Hospital.

**Officer Edward Shaffer’s Tactical Response Report** documents that ██████ failed to follow verbal direction, stiffened and pulled away.<sup>39</sup> Officer Shaffer responded with verbal commands, escort holds, a takedown/emergency handcuffing, and held ██████ down on the floor.

**Case Report JA411167** documents that Officers Ward and Wieczorek transported ██████ from the 22<sup>nd</sup> district station to Central Detention due to ██████ transgender status.<sup>40, 41</sup> As the officers escorted ██████ from the transport vehicle to the lockup facility, ██████ pulled away from the officers and struck Officer Ward in the face, as ██████ had removed one of his hands from the handcuffs. Officers Ward and Wieczorek placed ██████ into custody following a brief

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<sup>34</sup> A comminuted fracture is when the bone breaks into pieces.

<sup>35</sup> PCP is the street name for the drug Phencyclidine, a hallucinogenic. THC is Tetrahydrocannabinol, the chemical found in Cannabis.

<sup>36</sup> Attachment 45

<sup>37</sup> Attachments 10-11

<sup>38</sup> ██████ is classified as female on the Arrest Report. Per General Order G02-01-03, an arrestee’s gender will be classified as it appears on the individual’s government-issued identification card. If a government-issued identification card is unavailable, gender will be determined based on the arrestee’s stated genitalia. An arrestee who states they have male genitalia will be classified as a male; an arrestee who states they do not have male genitalia will be classified as a female. See Attachment 69.

<sup>39</sup> Attachment 12

<sup>40</sup> Attachments 66, 68

<sup>41</sup> According to General Order G02-01-03, upon completion of the preliminary investigation, Transgender, Intersex, and Gender Nonconforming Individuals (TIGN) arrestees will be fingerprinted and photographed in the district of arrest’s designated holding facility before being transported to Central Detention, the designated holding facility of TIGN arrestees. See Attachment 69.

struggle. The officers sustained minor injury. Sgt. Robert Bartik, #907 and Detention Aides Ian Coleman, #110636, and Carmen Guzman, #117728 came to the officers' aid.

**Officer Matthew Ward's Tactical Response Report** documents that [REDACTED] failed to follow verbal direction, fled, pulled away, posed an imminent threat of battery, and attacked without a weapon. Officer Ward responded with verbal commands, a takedown/emergency handcuffing, and a closed hand strike/punch.<sup>42</sup>

An **Officer's Battery Report** documents that [REDACTED] struck Officer Ward with his hands/fists, causing minor injury to Officer Ward.<sup>43</sup>

**Court records** document that the criminal charges against [REDACTED] were dismissed.<sup>44</sup>

## 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;
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 reviewed complied with 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 conduct complied with Department policy than that it did not, 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

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<sup>42</sup> Attachment 13

<sup>43</sup> Attachment 14

<sup>44</sup> Attachment 56

COPA recommends a finding of Not Sustained for **Allegation #1**, that Officer Edward Shaffer used excessive force against ██████ in that he struck ██████ in the face with a closed fist causing injury to ██████ at the 22<sup>nd</sup> District lock-up inside the female restroom. Department records document that ██████ failed to follow verbal direction, stiffened and pulled away. Officer Shaffer admitted using force against ██████ to gain control and documented his actions in Department reports. Officer Shaffer denied punching ██████ however, it is undisputed that ██████ suffered facial injuries during this incident.

Officer Susnis described ██████ as loud and argumentative, and stated that ██████ pulled away when she and Officer Shaffer attempted to return ██████ to the cell. Officer Susnis attributed ██████ injury to Officer Shaffer pulling ██████ to the ground. ██████ was also uncooperative with CFD personnel and other police officers. ██████ attempted to flee from other officers, and ██████ pushed and punched Officer Ward.

According to Dr. ██████ it is possible ██████ sustained the injuries from being struck in the face; however, ██████ could have also sustained those injuries from a fall. Dr. ██████ added that it was less likely that ██████ was punched in the eye, because ██████ eye was not swollen, red, or discolored when Dr. ██████ saw him, and there would have likely been swelling in that location when Dr. ██████ saw ██████

██████ admittedly consumed alcohol earlier in the day and was under the influence at the time of the incident, which may impact his ability to recall specific details of this incident. Additionally, in ██████ 911 call she reported that ██████ was “high” on PCP. Toxicology tests conducted hours after this incident revealed that ██████ had PCP and THC in his system. While it is evident that Officer Shaffer used force against ██████ there is insufficient evidence to prove or disprove whether that force was excessive, COPA finds the allegation against Officer Shaffer is Not Sustained.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
Officer Edward Shaffer	1. It is alleged that Officer Edward Shaffer used excessive force against ██████ in that he struck ██████ in the face with a closed fist causing injury to ██████ at the 22 <sup>nd</sup> District lock-up inside the female restroom.	Not Sustained

Approved:

████████████████████

June 28, 2020

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 Andrea Kersten  
 Deputy Chief Administrator

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 Date



**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	1
<b>Major Case Specialist:</b>	Theresa Merritt, #34
<b>Supervising Investigator:</b>	Shannon Hayes, #15
<b>Deputy Chief Administrator:</b>	Andrea Kersten, #7