

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	June 29, 2018
Time of Incident:	Approximately 11:05 a.m.
Location of Incident:	11114 South Edbrooke Avenue, Chicago, Illinois
Date of COPA Notification:	July 2, 2018
Time of COPA Notification:	1:54 p.m.

On June 29, 2018, officers attempted to stop [REDACTED] ([REDACTED]) for selling loose cigarettes. [REDACTED] ran and the officers followed. When officers caught up to [REDACTED] they used force in order to handcuff [REDACTED] and take him to the police station. After the Chicago Police Department’s Force Review Unit reviewed available documents and video, allegations were made that Officer Adam Altenbach used excessive force, and Sergeant Matt Lewis, Officer Miguel Anderson, Officer Edgar Del Olmo failed to report Officer Altenbach’s use of force.

The Civilian Office of Police Accountability (COPA) conducted a thorough investigation. During the course of the investigation COPA provided allegations to Officer Altenbach regarding his use of specific language and allegations to Officer Anderson regarding his use of force and use of specific language. A detailed analysis of COPA’s findings is discussed below.

**II. INVOLVED PARTIES**

Involved Officer #1:	Miguel Anderson, star #6547, employee ID#[REDACTED], Date of Appointment: February 19, 2013, PO, Unit 005, DOB: [REDACTED], 1979, Male, Black
Involved Officer #2:	Adam Altenbach, star #13832, employee ID#[REDACTED], Date of Appointment: November 27, 2006, PO, Unit 005, DOB: [REDACTED] 1983, Male, White
Involved Officer #3:	Edgar Del Olmo, star #9653, employee ID#[REDACTED], Date of Appointment: September 25, 2006, PO, Unit 005, DOB: [REDACTED], 1975, Male, Spanish
Involved Sergeant #1 <sup>1</sup> :	Matt Lewis, star #1767, employee ID#[REDACTED], Date of Appointment: April 30, 2001, Sergeant, Unit 005, DOB: [REDACTED], 1967, Male, Black
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1986, Male, Back

<sup>1</sup> Sgt. Lewis separated from the Department on September 27, 2019. Attachment 58.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Miguel Anderson	<p>It is alleged by COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Miguel Anderson, star #6547, committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. striking ██████████ on or about his head with a flashlight without justification; and</li> <li>2. stating words to the effect of "bitch" and "motherfucker."</li> </ol> <p>It is alleged by Captain Eve Gushes and COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Miguel Anderson, star #6547, committed misconduct through the following acts or omissions, by failing to report that Officer Adam Altenbach, star #13832, used excessive force.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
Officer Adam Altenbach	<p>It is alleged by Captain Eve Gushes and COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Adam Altenbach, star #13832, committed misconduct through the following acts or omissions, by striking ██████████ on or about the head or neck area with your knee without justification.</p> <p>It is alleged by COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Adam Altenbach, star #13832, committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. stating words to the effect of "motherfucker" and "piece of shit;" and</li> </ol>	<p>Sustained</p> <p>Sustained</p>

	2. failing to properly complete a Tactical Response Report after a use of force incident; and	Sustained
	3. failing to comply with S03-14 by failing to activate your body worn camera.	Sustained
Officer Edgar Del Olmo	It is alleged that on June 29, 2018 at approximately 11:30 am, on 1114 S. Edbrooke Ave Officer Edgar Del Olmo failed to Report the Use of Excessive Force.	Not Sustained
Sergeant Matt Lewis	It is alleged that on June 29, 2018 at approximately 11:30 am, on 1114 S. Edbrooke Ave Sergeant Matt Lewis failed to Report the Use of Excessive Force.	Sustained/Close Hold <sup>2</sup>

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

---

General Orders

1. G03-02 Use of Force
2. G03-02-01 Force Options
3. G02-02 The First Amendment and Police Actions

---

Special Orders

1. S04-13-09 Investigatory Stop System

---

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.<sup>3</sup>

---

<sup>2</sup> Sgt. Lewis left the Department and therefore COPA no longer can implement discipline. As such, COPA made a finding and will place the case in close/hold status.

<sup>3</sup> “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

## V. INVESTIGATION<sup>4</sup>

### a. Documentary Evidence

The **Initiation Report**, documented, **Captain Eve Gushes, #23 (Capt. Gushes)**, obtained this complaint log number alleging Officer Adam Altenbach used Excessive Force and Officer Miguel Anderson, Officer Edgar Del Olmo and Sergeant Matt Lewis failed to report the use of Excessive Force.<sup>5</sup>

According to **Department Reports**, on June 29, 2018, officers observed [REDACTED] ([REDACTED] wearing a black bookbag, offer an unknown male a cigarette from an open pack of cigarettes. Officers believed [REDACTED] was selling loose cigarettes and approached him to conduct a field interview. [REDACTED] admitted he was “selling loosies,”<sup>6</sup> and fled from officers when they asked for his identification. Officers Anderson and Del Olmo pursued. At some point, [REDACTED] threw his bookbag onto a roof, located at 115 E 11th Street, and fell to the ground. Officers Anderson and Del Olmo attempted to place [REDACTED] into custody before he got up. During this time, [REDACTED] ignored several verbal commands, pulled away from officers, and tucked his hands under his body. Officers Anderson and Del Olmo performed open hand strikes to [REDACTED] head and emergency handcuffing to gain control. [REDACTED] struggled to avoid being placed inside the transport vehicle, but eventually allowed officers to place him inside. [REDACTED] requested medical attention and was transported to Roseland Hospital. Officer Altenbach recovered [REDACTED] bookbag, which contained a firearm loaded with two live rounds and multiple ziplock baggies containing suspect cannabis.<sup>7</sup>

**Tactical Response Report (TRR)** completed by Officer Altenbach documented that [REDACTED] did not follow verbal direction, stiffened, pulled away, fled, and reached into his waistband. [REDACTED] was not armed with a weapon. [REDACTED] did not commit an assault or battery against Officer Altenbach. Officer Altenbach responded with emergency handcuffing and open hand strike because [REDACTED] fled, to overcome resistance or aggression, and in defense of himself and other Department Members. Officer Altenbach did not use any force mitigation. [REDACTED] alleged injury by Department Member and was taken to the hospital.<sup>8</sup>

**Tactical Response Report (TRR)** completed by Officer Anderson documented that [REDACTED] did not follow verbal direction, stiffened, pulled away, and fled. [REDACTED] had a semi-auto pistol. [REDACTED] did not commit an assault or battery against Officer Anderson. Officer Anderson responded with emergency handcuffing, open hand strike, and a take down because [REDACTED] fled, to overcome resistance or aggression, and in defense of himself and other Department Members. Officer Anderson did not use any force mitigation. [REDACTED] alleged injury by Department Member and was taken to the hospital.<sup>9</sup>

---

<sup>4</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>5</sup> Attachment 4.

<sup>6</sup> Attachment 6, page 4.

<sup>7</sup> Attachments 5-7.

<sup>8</sup> Attachment 13.

<sup>9</sup> Attachment 14.

**Tactical Response Report (TRR)** completed by Officer Del Olmo documented Officer Del Olmo used an open hand strike because [REDACTED] disregarded verbal commands and pulled his hands away, tucking them under his front waistband area. Officer Del Olmo performed emergency handcuffing.<sup>10</sup>

#### **b. Interviews**

In an **interview with COPA**, on January 9, 2019, **Officer Miguel Anderson, star #6547 (Officer Anderson)** stated, on June 29, 2019, he was working a violence reduction mission with Officers Del Olmo and Altenbach when one of the officers observed [REDACTED] with an open carton of cigarettes and believed he may be selling loose cigarettes. Officers approached [REDACTED] for a field interview. Officer Anderson did not conduct a protective pat down but believed another officer did. After handing his wallet to an officer, [REDACTED] fled from police.<sup>11</sup> Officer Anderson, with Officer Del Olmo behind, pursued [REDACTED] on foot. Officer Altenbach followed in the squad car.

Officer Anderson removed his firearm after he observed [REDACTED] attempt to remove his bookbag because the contents of [REDACTED] bookbag were unknown and possibly dangerous, it was a high crime area, [REDACTED] fled from a stop for selling loose cigarettes, and they were running around blind corners where someone could be waiting to shoot at officers. Officer Anderson lost sight of [REDACTED] as he turned a corner, and, when Officer Anderson regained visual, [REDACTED] no longer had his bookbag. Officer Anderson observed [REDACTED] slip and fall twice. As [REDACTED] attempted to get up the second time, Officer Anderson holstered his weapon, grabbed [REDACTED] arm and pulled him down to the ground to gain control. At this point, Officer Anderson believed [REDACTED] was an active resister because [REDACTED] attempted to pull away, turned to get up and moved his hands, possibly in an attempt to hurt Officer Anderson. Officer Anderson, with his left hand, pushed [REDACTED] down toward the ground. Although Officer Anderson did not realize he struck [REDACTED] with his flashlight until his interview, which he admitted was not allowed by the Department, he noticed [REDACTED] was injured while the officers were handcuffing [REDACTED].

Officer Del Olmo and Officer Altenbach arrived to assist. Officer Del Olmo, holding [REDACTED] left hand, and Officer Anderson, holding [REDACTED] right hand struggled to handcuff [REDACTED]. Officer Anderson did not know what Officer Altenbach was doing, at this time. At the station, when Officer Anderson reviewed his body worn camera he observed Officer Altenbach's knee on [REDACTED] neck/back of the head. Officer Anderson stated this action could have been excessive but did not believe Officer Altenbach intended to use excessive force. At the time, Officer Altenbach was attempting to hold [REDACTED] down, control him to effect an arrest, as [REDACTED] fought and struggled with officers.<sup>12</sup>

In an **interview with COPA**, on August 9, 2019, **Officer Miguel Anderson, star #6547**, admitted he used language to the effect of "bitch" and "motherfucker" when speaking to [REDACTED]. Officer Anderson admitted he should not have used such language, it was unprofessional, and he does not normally use such language. Officer Anderson explained this was a high stress situation,

---

<sup>10</sup> Attachment 16.

<sup>11</sup> Officer Anderson stated, in his experience, when an individual flees, especially in a high crim area, it is usually gun related.

<sup>12</sup> Attachments 29,43.

██████ may be armed and Officer Anderson did not know where the weapon was located, ██████ was not complying with verbal orders or respecting Officer Anderson's police presence, and Officer Anderson did not want his partners or ██████ to get hurt.<sup>13</sup>

In an **interview with COPA**, on January 10, 2018, **Officer Edgar Del Olmo, #9653 (Officer Del Olmo)**<sup>14</sup> provided a consistent statement with Officer Anderson with the following details. Officer Del Olmo stated no officer performed a protective pat down. During the pursuit, Officer Del Olmo lost sight of ██████ and slowed down in case ██████ double backed or someone was waiting around the corner with a weapon. Officer Del Olmo ran down the alley when he heard Officer Anderson giving verbal commands to stop resisting. Officer Del Olmo observed Officer Anderson on the ground, struggling to control ██████ kept his hands at his waistband and attempted to push off the ground.

Officer Del Olmo classified ██████ as an active resister, in that he was not obeying verbal commands, belligerent, aggressive, uncontrollable, pushing off and pulling away. He later described ██████ as kicking and trying to bite officers. Officer Del Olmo delivered an open palm strike to ██████ head to stun ██████ so he would release his left hand from under his stomach. Eventually, the officers were able to control and handcuff ██████

Officer Del Olmo was not sure where Officer Altenbach was at this time and did not see him use any force. After reviewing Officer Anderson's body worn camera during this interview, Officer Del Olmo stated it appeared Officer Altenbach was attempting to control ██████ head. Officer Del Olmo did not believe it was excessive or considered deadly force because Officer Altenbach was holding ██████ down, he was not delivering knee to head strikes, where the knee comes up and goes down hard. Additionally, Officer Del Olmo stated ██████ took his hand away from Officer Anderson in an attempt to get up, and Officer Altenbach put pressure on ██████ back/shoulder blade, which allowed Officer Del Olmo to get ██████ hand. Officer Del Olmo did not report Officer Altenbach's use of force because he believed it was reasonable.

Officer Del Olmo observed blood on ██████ face when attempting to turn him to sit up. ██████ verbally attacked<sup>15</sup> Officers Anderson and Del Olmo. Another officer arrived and assisted Officer Del Olmo to escort ██████ to a transport vehicle. A struggle ensued, but officers were able to place ██████ into a squadrol for transport.<sup>16</sup>

In an **interview with COPA**, January 18, 2019, **Sergeant Matt Lewis, star #1767 (Sgt. Lewis)** stated he heard Officer Anderson call out a foot chase. When he arrived on scene, ██████ was in custody and officers had difficulty getting ██████ into the squadrol for transport.<sup>17</sup> Sgt. Lewis did observe a large portion of ██████ face was covered in blood, but he did not know if it happened during the initial takedown or when officers were struggling to get ██████ into the squadrol. Sgt. Lewis stated ██████ hit his own head on a cinder block.

---

<sup>13</sup> Attachment 49.

<sup>14</sup> Officer Del Olmo stated he was not issued a body worn camera at the time of this incident.

<sup>15</sup> Officer Del Olmo did not describe what ██████ said.

<sup>16</sup> Attachment 34.

<sup>17</sup> Sgt. Lewis believed it took 20 to 30 minutes to get ██████ into the squadrol.

Sgt. Lewis did not believe he failed to report any excessive force because when he arrived [REDACTED] was cuffed behind his back, angry and insulting officers. However, Sgt. Lewis admitted he reviewed Officer Anderson's body worn camera prior to his interview. Sgt. Lewis focused on the force used by officers as [REDACTED] actively resisted being placed into the squadrol, which Sgt. Lewis described the officers using a lot of restraint.<sup>18</sup>

In an **interview with COPA**, on August 27, 2019, **Officer Adam Altenbach, star #13832, (Officer Altenbach)** provided a consistent statement with Officers Anderson and Del Olmo with the following details. When Officer Altenbach reached the alley, he observed Officers Del Olmo and Anderson struggling to handcuff [REDACTED] kept reaching for his waistband.<sup>19</sup> Officer Altenbach while kneeling on [REDACTED] upper body, used open hand strikes in an attempt to control [REDACTED] body. Officer Altenbach did not believe he complied. After reviewing BWC, Officer Altenbach stated he kneeled on [REDACTED] left back area. When asked if he kneeled on [REDACTED] neck or head area, Officer Altenbach stated it was hard to tell. [REDACTED] was moving around, and it was not intentional if he kneeled on [REDACTED] above his back area.

Officer Altenbach denied striking [REDACTED] with his knee, or using a knee strike, which he described as the use of blunt force to injure a person.<sup>20</sup> Officer Altenbach later stated a knee strike is similar to a punch, he would have to take his leg back and use his knee to strike [REDACTED] Here, he was trying to control [REDACTED] who is "moving around. He's flopping around violently. My leg does come off him, but I placed my leg back on him to try to gain control of him."<sup>21</sup> Officer Altenbach was trying to prevent [REDACTED] from getting off the ground or flailing his body, so Officers Anderson and Del Olmo could handcuff him. Officer Altenbach believed his use of force was proportional for the situation because "well, as long as I've been working out there, this guy is one of the most – one of the worst people we ever dealt with, most resistant people we ever dealt with."<sup>22</sup> This assessment was based on this incident, Officer Altenbach did not believe he had contact with [REDACTED] before or after this incident.

Officer Altenbach admitted he should not use profanity but stated that sometimes it happens during a hostile situation. After reviewing the relevant portion of the BWC, Officer Altenbach admitted the language was inappropriate. However, he added that he was caught up in the moment. Officer Altenbach believed he filled out his TRR properly and a knee strike was not included because he did not perform any knee strikes. Officer Altenbach did not realize he failed to record the incident on his BWC, and he was not sure whether he did not turn it on, or he attempted to turn it on and it failed to record.<sup>23</sup>

---

<sup>18</sup> Sgt. Lewis described [REDACTED] as bloody, spitting, and biting, and, at one point, hit Sgt. Lewis.

<sup>19</sup> Officer Altenbach stated when an individual has gun, they hold their pants area while running so the gun does not fall out. He observed [REDACTED] initially, running in this manner. Attachment 55, page 20 line 15 – page 21 line 8. Officer Altenbach, added the same explanation as Officer Anderson that it was unusual to flee over selling cigarettes.

<sup>20</sup> Attachment 55, page 24 lines 14-20. Officer Altenbach's attorney clarified the use of the word "injure" to be in terms of pain compliance. Attachment 55, page 25 lines 6-10.

<sup>21</sup> Attachment 55, page 30 lines 20-23.

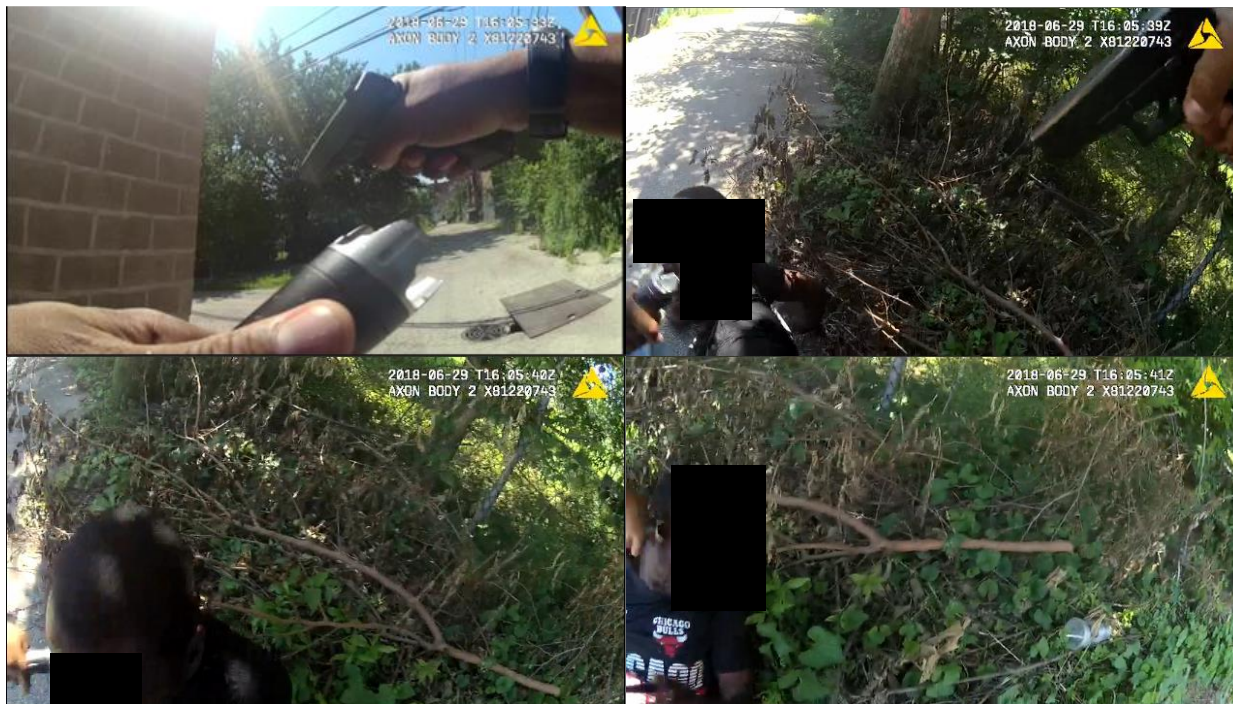
<sup>22</sup> Attachment 55, page 33 lines 18-21.

<sup>23</sup> Attachments 54,55.

### c. Digital Evidence

**Body Worn Camera (BWC)** did not capture the initial interaction between [REDACTED] and the officers. When the recording begins, Officer Anderson is running after [REDACTED] who is wearing a black book bag on his back. [REDACTED] turned left around a building and the camera loses sight of him. When Officer Anderson, who has his flashlight in his left hand and his firearm in his right hand, turns the same corner, [REDACTED] is on his hands and knees on the ground with no book bag.

[REDACTED] gets up and attempts to run, but soon falls forward to the ground. Officer Anderson catches up to [REDACTED] who is sitting on his bottom, turned toward Officer Anderson with his right hand on the ground and his left hand straight up in the air with an open hand. [REDACTED] right hand goes down towards the ground as Officer Anderson leans in and with his left hand, holding the flashlight, hits [REDACTED] on the side of the head. [REDACTED] falls back, while pushing Officer Anderson's hand away, and turns onto his stomach with Officer Anderson's guidance.



**Figure 1.** The photos (taken from Officer Anderson's BWC) depicts where Officer Anderson ran after [REDACTED] holding his flashlight in his left hand and his firearm in his right hand, and when Officer Anderson struck [REDACTED] in the head with his flashlight.

BWC audio begins at this point, Officer Anderson says cuff him up multiple times, and tells [REDACTED] to “stop resisting, stop resisting, bitch.”<sup>24</sup> Officer Del Olmo is on [REDACTED] left struggling to cuff [REDACTED] left hand. A car door slams, someone yells “what the fuck,” and, Officer Altenbach drops his right knee on top of [REDACTED] head and neck area, then lifts his knee, slightly moving backward, and drops his knee again. Officer Altenbach radios that they have [REDACTED] in custody. Officer Del Olmo places a handcuff on [REDACTED] left wrist as Officer Anderson has [REDACTED] right arm behind his back. When Officer Del Olmo attempts to place the handcuffs on [REDACTED] right

<sup>24</sup> Attachment 19 at 0:39.



wrist, ██████ moves his arm to the ground. Officer Anderson, while grabbing ██████ right arm and pulling it back behind his back, says, “Motherfucker put you hand –.” ██████ says he can’t breathe. Officer Altenbach lifts his right knee and strikes ██████ in the head/neck area.<sup>25</sup>



**Figure 2.** The photo (taken from Officer Anderson’s BWC) depicts Officer Altenbach used his knee on ██████

Officer Altenbach gets up, asks if they got the bookbag, and goes off camera. Officer Anderson says he dropped it. Officer Anderson is holding ██████ right arm while Officer Del Olmo cuffs him. ██████ yells help multiple times and turns to laying on his left side. Officer Anderson tells ██████ to “stop fucking moving, bitch.”<sup>26</sup> ██████ continues to groan while he attempts to sit up. Blood can be seen on the right side of his face. ██████ remains on the ground in a half-seated position, groaning in pain, when Officer Altenbach walks by saying, “stay the fuck down you piece of shit. Stay the fuck down,”<sup>27</sup> and Officer Anderson yells, “get the fuck down, bitch, get the fuck down.”<sup>28</sup> Officer Del Olmo says, “I got ‘im. I got ‘im. I got ‘im bro.”<sup>29</sup> Officer Anderson gets up and walks away.

Officer Anderson looks for his flashlight. Officer Altenbach tosses the flashlight to Officer Anderson as he says, “keep that motherfucker down, fuck that piece of shit.”<sup>30</sup> Multiple other officers arrive. Officer Anderson asks officers on scene the location of the pistol. Officer Anderson admitted he did not see a pistol, but said there has to be a pistol because ██████ was just selling cigarettes. The Fire Department arrives on scene and retrieves the book bag from the roof of a garage. Officer Altenbach looks inside the book bag and see there is a gun. Officer Anderson tells Fire Department ██████ needs medical attention. There is a struggle to get ██████ inside the squadrol.<sup>31</sup>

#### d. Physical Evidence

**Medical Records** documented, on June 29, 2018, Chicago Fire Department responded to the scene of arrest. ██████ was involved in an altercation with police. There was a cut over ██████

<sup>25</sup> *Id.* at 00:56-00:57.

<sup>26</sup> *Id.* at 1:33.

<sup>27</sup> *Id.* at 1:46-1:49.

<sup>28</sup> *Id.* at 1:50-1:52

<sup>29</sup> *Id.* at 1:51-1:54.

<sup>30</sup> *Id.* at 2:27-2:34.

<sup>31</sup> Attachment 19-23.

right ear that was bleeding. ██████ was transported to Roseland Community Hospital. ██████ complained of pain to his head and right ribs. ██████ stated the police “beat him up,” hitting him in the head and all over his body.<sup>32</sup> Hospital staff observed facial lacerations, contusion of head and chest wall and head, head injury, and right ear injury. Two lacerations to the right side of the head and a laceration to the right ear were cleansed and bandaged. No fractures or dislocations found of the right or left ribs. ██████ was released to police custody and advised to go to the Emergency Room if he experienced severe pain, headache, dizziness, vomiting, numbness or weakness.<sup>33</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 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.

---

<sup>32</sup> Attachment 9, page 35.

<sup>33</sup> Attachment 9.

## VII. ANALYSIS

### a. Officer Miguel Anderson

#### i. Struck ██████ on or about his head with a flashlight without justification.

COPA finds the allegation that Officer Anderson struck ██████ on or about his head with a flashlight without justification is **Sustained**. An officer will continually assess the situation and determine whether force is necessary and, based on the totality of the circumstances, choose to use the authorized force option that is objectively reasonable, necessary and proportional in order to ensure the safety of the officer or control the individual.<sup>34</sup> An officer may use impact weapons,<sup>35</sup> when an individual is classified as an assailant, someone using or threatening to use force against another person or himself/herself which is likely to cause physical injury.<sup>36</sup> However, an officer will avoid using flashlights, unless reasonably necessary and there are no other practical options available.<sup>37</sup> Here, it is undisputed that ██████ was no more than an active resister,<sup>38</sup> Officer Anderson struck ██████ in the head with his flashlight, and it was against Department policy.

Although after reviewing his BWC, Officer Anderson admitted to striking ██████ in the head with his flashlight, Officer Anderson, initially, stated he holstered his weapon, grabbed ██████ arm and pulled him down to the ground when ██████ attempted to get up, and pushed ██████ down toward the ground in anticipation of a possible hit by ██████. However, video shows ██████ sitting on the ground and looking up toward Officer Anderson when Officer Anderson has his firearm pointed in ██████ direction and strikes ██████ in the head with the spiked portion of his flashlight. While there is no audio to determine whether Officer Anderson is giving ██████ any commands at this point, the video is clear that Officer Anderson is positioned over ██████ who is seated on the ground, ██████ makes no attempt to stand up, ██████ uses no force and makes no indications of force toward Officer Anderson.

Based on the evidence and Officer Anderson's own admission, Officer Anderson struck ██████ on or about his head with a flashlight without justification. Therefore, this allegation is **Sustained**.

#### ii. Stated words to the effect of "bitch" and "motherfucker."

COPA finds the allegation that Officer Anderson stated words to the effect of "bitch" and "motherfucker" is **Sustained** because an officer is prohibited from all verbal maltreatment of any citizen,<sup>39</sup> and Officer Anderson admitted he used the language, it was unprofessional and it was not permitted by the Department.

---

<sup>34</sup> General Order G03-02-01II.C. and F.

<sup>35</sup> "Impact weapons are designed to establish control by means of applying mechanical impact to a subject in order to disable elements of his or her musculoskeletal structure." G03-02-01IV.C.1.a.(2.)

<sup>36</sup> An assailant is an individual who is. General Order G03-02-01IV.C.

<sup>37</sup> *Id.*

<sup>38</sup> An individual who's actions create or attempt to create distance with the intent to avoid physical control, G03-02-01 IV.B.2.

<sup>39</sup> Rules and Regulations of the Chicago Police Department, Rule 9.

**iii. Failed to report that Officer Adam Altenbach used excessive force.**

COPA finds the allegation that Officer Anderson failed to report that Officer Adam Altenbach used excessive force is **Sustained**. When an officer observes misconduct, they will immediately notify a supervisor and prepare a written report.<sup>40</sup> As discussed below, Officer Altenbach used excessive force against ██████. Officer Anderson stated he was not aware of Officer Altenbach's actions on scene, but admitted he reviewed his BWC and although he did not believe Officer Altenbach intended to use excessive force he conceded that it was possible Officer Altenbach's actions were excessive. Although Sgt. Lewis, Officer Anderson's direct supervisor, watched the video with Officer Anderson, Officer Anderson did not prepare a written report identifying Officer Altenbach's use of excessive force. Therefore, this allegation is **Sustained**.

**b. Officer Adam Altenbach**

**i. Struck ██████ on or about the head or neck area with your knee without justification.**

COPA finds the allegation that Officer Altenbach struck ██████ on or about the head or neck area with your knee without justification is **Sustained**. An officer will only use force that is objectively reasonable, necessary and proportional in order to ensure the safety of the officer or control the individual.<sup>41</sup> When an individual is classified as an assailant, an officer may use direct mechanical techniques, which are forceful, focused pressure strikes, including punching, kicking and knee strikes.<sup>42</sup> It is undisputed that ██████ was no more than an active resister. Officer Altenbach denied using a knee strike on ██████ instead he explained he lifted his knee because ██████ was moving around and then placed his knee on ██████ in an attempt to gain control.

It is clear, from Officer Anderson's BWC, that Officers Anderson and Del Olmo were attempting to place ██████ into handcuffs when Officer Altenbach entered and dropped his knee on ██████ with his entire body weight. While ██████ was not yet in handcuffs, he was laying on his stomach on the ground, Officers Anderson and Del Olmo had a hold of each of ██████ arms behind ██████ back. Officer Altenbach remained kneeling on ██████ head area and called over the radio that ██████ was in custody. ██████ moved his right hand to the ground as he said he could not breathe. Officer Altenbach raised up and again dropped his weight on ██████ striking ██████ on the head area with his knee.

Here, Officer Altenbach struck ██████ in the head area directly with his knee, using his weight to drop down on ██████. The strike was forceful and violent and caused ██████ to struggle further, evidenced by his complaint that he could not breathe. Officer Altenbach failed to provide a reasonable explanation as the necessity and purpose of the maneuver. Moreover, when considered in context with Officer Altenbach, referring to ██████ as a "mother fucker" and "piece of shit," COPA finds that Officer Altenbach intended to inflict pain and punishment on ██████ rather than assist in effectuating his arrest.

---

<sup>40</sup> General Order G08-01-02II.B.1.

<sup>41</sup> G03-02 III.B.

<sup>42</sup> G03-02-01IV.C.

Based on the evidence, Officer Altenbach struck ██████████ on or about the head or neck area with his knee without justification. Therefore, this allegation is **Sustained**.

**ii. Stated words to the effect of "motherfucker" and "piece of shit."**

COPA finds the allegation that Officer Altenbach stated words to the effect of "motherfucker" and "piece of shit" is **Sustained** because Officer Altenbach was captured on BWC using the language, he stated the language was inappropriate, and there is no situation where he should use such language but sometimes it happens in a hostile situation.

In this case, BWC video shows, Officer Altenbach on multiple occasions called ██████████ "a piece of shit," and told Officer Anderson to "keep that motherfucker down," There is no circumstance or reason for an officer to use such unnecessary and derogatory, overtly insulting or belittling, language. Specifically, in this case, ██████████ was already in police custody, surrounded by multiple officers, ██████████ did not pose an imminent threat, and Officer Altenbach was not attempting to gain control of or provide directions to ██████████. Additionally, Officer Del Olmo was able to handcuff ██████████ without using such language.

Based on the evidence, Officer Altenbach stated words to the effect of "motherfucker" and "piece of shit" against Department policy. Therefore, this allegation is **Sustained**.

**iii. Failed to properly complete a Tactical Response Report after a use of force incident.**

COPA finds the allegation that Officer Altenbach failed to properly complete a Tactical Response Report after a use of force incident is **Sustained**. An officer involved in a reportable Use of Force incident, will complete a Tactical Response Report documenting the information as requested on the report, complete a narrative describing with specificity the individual's actions and the officer's response and will review the report for completeness and accuracy.<sup>43</sup> Officer Altenbach stated his TRR was properly completed and it did not include knee strikes because he did not perform knee strikes. As discussed above, COPA finds Officer Altenbach did use knee strikes that should have been included both in the "Member's Response" and "Narrative" sections of the TRR. Additionally, even though Officer Altenbach did not believe he used knee strikes, he stated he knelt on ██████████ back area to gain control of ██████████ and Officers Altenbach and Del Olmo claim this action allowed the officers to handcuff ██████████. Therefore, Officer Altenbach should have documented this action in his TRR and this allegation is **Sustained**.

**iv. Failed to activate his body worn camera.**

An officer will start recording, on BWC, at the beginning of an incident and will record the entire incident for all law-enforcement-related activities, investigatory stops and foot and vehicle pursuits. If circumstances prevent activating the BWC at the beginning of the incident, the member will activate the BWC as soon as practical.<sup>44</sup> According to the officers and video, Officer Altenbach was involved in an investigatory stop with ██████████ that resulted in a foot pursuit. While Officer Altenbach did not know why he failed to record the incident, it is clear he should have

---

<sup>43</sup> G03-02-02IV.B.1&2.

<sup>44</sup> Special Order S03-14III.A.2.

recorded the incident. Officer Altenbach should have ensured his BWC was recording prior to the officers exiting their vehicle and initiating contact with [REDACTED]. Furthermore, though the situation escalated quickly into a foot pursuit that may have delayed Officer Altenbach activating his BWC, he had ample opportunity to ensure his BWC was recording as he drove the police vehicle in pursuit of [REDACTED]. Therefore, this allegation is **Sustained**.

**c. Officer Edgar Del Olmo**

COPA finds the allegation that Officer Del Olmo failed to report that Officer Adam Altenbach used excessive force is **Not Sustained**. As discussed above, Officer Altenbach used excessive force, which should have been reported by any officer that witnessed it. Officer Del Olmo stated he did not observe Officer Altenbach use force during this incident, and he did not review Officer Anderson's BWC until his interview at COPA. While it is clear Officer Del Olmo was in a position to observe Officer Altenbach's excessive force, there is insufficient evidence to prove by a preponderance of the evidence that Officer Del Olmo did in fact observe Officer Altenbach's use of excessive force at a time where Officer Del Olmo would be required to report it.<sup>45</sup> Additionally, there is not clear and convincing evidence to prove Officer Del Olmo did not observe Officer Altenbach's use of excessive force. Therefore, this allegation is **Not Sustained**.

**d. Sergeant Matt Lewis**

COPA finds the allegation that Sgt. Lewis failed to report that Officer Adam Altenbach used excessive force is **Sustained**. As discussed above, Officer Altenbach used excessive force. While Sgt. Lewis arrived on scene after Officer Altenbach's excessive use of force, Sgt. Lewis reviewed Officer Anderson's BWC video the day of the incident, spoke with the officers, and reviewed related documents, including Officer Altenbach's TRR. Sgt. Lewis did not notify a supervisor of Officer Altenbach's excessive force nor did he prepare a written report. Therefore, this allegation is **Sustained**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Adam Altenbach**

**i. Complimentary and Disciplinary History**

Officer Altenbach received four attendance recognition awards, one presidential election deployment award 2008, one special commendation, two hundred thirty-two honorable mentions, nine department commendations, one complimentary letter, three honorable mention ribbon awards, one life saving award, one NATO summit service award, one 2009 crime reduction award, one joint operations award, one Arnold Mireles special partner, one top gun arrest award, and one unit meritorious performance award. Officer Altenbach has no publishable disciplinary history.

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 1: Excessive Force**

---

<sup>45</sup> While this allegation is not sustained, COPA recommends that Officer Del Olmo receive use of force training because, even after reviewing the video, Officer Del Olmo denied Officer Altenbach used excessive force.

Officer Altenbach kned [REDACTED] on the upper back, neck or head area with the intent to punish and inflict pain on [REDACTED]. Officer Altenbach was the third officer to arrive and when he kned [REDACTED] two officers had gained sufficient control of [REDACTED] who was lying face down and in a compromising position. [REDACTED] continued to struggle throughout the encounter, however Officer Altenbach's actions did nothing to assist in [REDACTED] apprehension or cuffing. In fact, when he dropped his weight on [REDACTED] it caused [REDACTED] to struggle further pulling his arm away from one of the officers. He complained he was unable to breathe and pushed up off the ground. Officer Altenbach's strike was unnecessary, dangerous and with malintent. COPA notes that Officer Altenbach referred to [REDACTED] as a "piece of shit" and told his partner to "hold that motherfucker down." In context, his statements reflect the same sentiments he applied when dropping his weight on [REDACTED] with his knee. His actions are in direct violation with the departments mission and goals. As such, COPA recommends a punishment of 60 days.

## **2. Allegation No. 2: Verbal Abuse**

Officer Altenbach was completely disrespectful, demeaning and unprofessional toward [REDACTED]. His statements provide evidence for his subjective intent in what COPA finds to be a clear case of a punitive use of force. Officer Altenbach's actions undermine the departments objectives and bring disgrace. As such, COPA recommends a punishment of 10 days suspension.

## **3. Allegation No. 3: Failure to Complete Tactical Response Report**

PO Altenbach's actions clearly constituted a use of force, which required the completion of a TRR. Accordingly, COPA recommends a 5 day suspension.

## **4. Allegation No. 4: Failure to Properly Activate Body Worn Camera**

PO Altenbach had ample opportunity to activate his Body Worn Camera and failed to offer any explanation as to why he did not do so. Accordingly, COPA recommends a violation noted.

### **b. Officer Miguel Anderson**

#### **i. Complimentary and Disciplinary History**

Officer Anderson received one attendance recognition award, two department commendations, and forty-eight honorable mentions. Officer Anderson has no publishable disciplinary history.

#### **ii. Recommended Penalty, by Allegation**

##### **1. Allegation No. 1: Excessive Force**

Officer Anderson's force was not a proportional response to [REDACTED] actions. [REDACTED] was in full headlong flight with the clear interest of escaping the police. At the time Officer Anderson caught [REDACTED] had stumbled and fallen to the ground. Officer Anderson, armed with both his pistol and flashlight, had no ability to control [REDACTED] without using one of these two items. Thankfully, Officer Anderson chose the flashlight as opposed to the pistol. COPA has found that when officers have weapons in their hands, they are more likely to use them even when not

appropriate. This case is no exception. Officer Anderson gave himself no choice but to use one of the two weapons in his hands. In this case, the flashlight was also equipped with a focusing device that contained pointed metal spikes which made it more dangerous. Had Officer Anderson not had the flashlight he may have justifiably used an open hand stun technique to subdue and control [REDACTED]. Instead, he used an impact weapon to the head of [REDACTED]. General Order 03-02 Section III.C(1)c specifically states, “1. Deadly Force is force by any means that is likely to cause death or great bodily har. It includes but not limited to...c. intentionally striking of a subjects head with an impact weapon.” COPA finds that Officer Anderson’s strike was intentional, however we also believe Officer Anderson when he stated he didn’t realize he had the flashlight in his hand. In sum, he intended to strike [REDACTED] but not specifically with the impact weapon. None the less, he did strike [REDACTED] with an impact weapon and did cause injury to [REDACTED] head. Officer Anderson concedes that the strike with the flashlight was not within policy and COPA considers that acknowledgement as mitigating. Considering the nature of the crime, at that point the officers only had reason to suspect [REDACTED] was selling loose cigarettes, and the seriousness of the force exerted, use of an impact weapon to the head of an active resistor whose only actions were to flee, COPA recommends a punishment of 45 days.

**2. Allegation No. 2: Verbal Abuse**

The language Officer Anderson used toward [REDACTED] was totally unnecessary and out of policy. Officer Anderson acknowledged the inappropriateness of the language, which was mitigating. As such, COPA recommends a punishment of 5 days suspension.

**3. Allegation No. 3: Failure to Report Misconduct**

CPD orders require police officers to report misconduct by fellow officers to their supervisor. PO Anderson admitted to viewing his BWC with Sgt. Lewis and observing PO Altenbach use force that was at least questionable, which he failed to report. While Sgt. Lewis, a supervisor, undeniably bears more responsibility for the failure to report, this does not absolve PO Anderson. COPA recommends a 5 day suspension.

**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Miguel Anderson	It is alleged by COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Miguel Anderson, star #6547, committed misconduct through the following acts or omissions, by: 1. striking [REDACTED] on or about his head with a flashlight without justification; and	Sustained/45 day Suspension

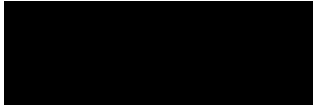


	<p>2. stating words to the effect of "bitch" and "motherfucker."</p> <p>It is alleged by Captain Eve Gushes and COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Miguel Anderson, star #6547, committed misconduct through the following acts or omissions, by failing to report that Officer Adam Altenbach, star #13832, used excessive force.</p>	<p>Sustained/5 day Suspension</p> <p>Sustained/5 day Suspension</p>
<p>Officer Adam Altenbach</p>	<p>It is alleged by Captain Eve Gushes and COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Adam Altenbach, star #13832, committed misconduct through the following acts or omissions, by striking [REDACTED] on or about the head or neck area with your knee without justification.</p> <p>It is alleged by COPA by and through Deputy Chief Andrea Kersten that on or about June 29, 2018 at approximately 11:30 a.m. at or near 11114 South Edbrooke Avenue, Officer Adam Altenbach, star #13832, committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. stating words to the effect of "motherfucker" and "piece of shit;" and</li> <li>2. failing to properly complete a Tactical Response Report after a use of force incident; and</li> <li>3. failing to comply with S03-14 by failing to activate your body worn camera.</li> </ol>	<p>Sustained/60 day Suspension</p> <p>Sustained/10 day Suspension</p> <p>Sustained/5 day Suspension</p> <p>Sustained/Violation Noted</p>
<p>Officer Edgar Del Olmo</p>	<p>It is alleged that on June 29, 2018 at approximately 11:30 am, on 1114 S. Edbrooke Ave Officer Edgar Del Olmo failed to Report the Use of Excessive Force.</p>	<p>Not Sustained</p>

---

Sergeant Matt Lewis	It is alleged that on June 29, 2018 at approximately 11:30 am, on 1114 S. Edbrooke Ave Sergeant Matt Lewis failed to Report the Use of Excessive Force.	Sustained/Close Hold <sup>46</sup>
---------------------	---	------------------------------------

Approved:



March 30, 2020

---

Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

---

Date

---

<sup>46</sup> Sgt. Lewis left the Department and therefore COPA no longer can implement discipline. As such, COPA made a finding and will place the case in close/hold status.

Appendix A

Assigned Investigative Staff

---

<b>Squad#:</b>	Four
<b>Investigator:</b>	Elizabeth Brett
<b>Supervising Investigator:</b>	James Murphy-Aguilu
<b>Deputy Chief Administrator:</b>	Andrea Kersten