

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	September 15, 2021 / 2:57 p.m. / 520 W. 124 <sup>th</sup> Street
Date/Time of COPA Notification:	September 17, 2021 / 7:05 a.m.
Involved Officer #1:	HERMAN, Vincent; star #15923; employee ID# [REDACTED]; Date of Appointment: March 25, 2002; Police Officer; Unit of Assignment: 005; DOB: [REDACTED], 1970; Male; White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 2007; Male; Black.
Case Type:	Excessive Force

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer Vincent Herman #15923	1.It is alleged that on September 15, 2021, at approximately 2:57 p.m., in the vicinity of 520 W. 124 <sup>th</sup> Street, Officer Herman #15923 pushed [REDACTED] multiple times into the side of a parked truck, while [REDACTED] was handcuffed.	Not Sustained

**II. SUMMARY OF EVIDENCE<sup>1</sup>**

In his **Initiation Report<sup>2</sup>**, Lieutenant Charles Artz #224 related that he reviewed the body-worn camera (BWC) of Officer Vincent Herman #15923 regarding the officer's Tactical Response Report (TRR) for RD# JE374709. During the review, the lieutenant observed Officer Herman push [REDACTED] multiple times into the side of a parked truck, while [REDACTED] was handcuffed. Consequently, Lt. Artz contacted CPIC and obtained this Log Number.<sup>3</sup>

[REDACTED] **Arrest Report<sup>4</sup>** indicated that on September 15, 2021, at approximately 2:57 p.m., in the vicinity of 520 W. 124<sup>th</sup> Street, Arresting Officers Santino Ghiotto #16688 and Vincent Herman #15923 responded to a call of a person with a gun at Metcalfe Elementary School at 12339 S. Normal Avenue. The caller advised that two males on Divvy bicycles were flashing

<sup>1</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>2</sup> Att. 6.

<sup>3</sup> COPA contacted [REDACTED] grandmother, who stated that [REDACTED] was released into her custody; however, [REDACTED] was not made available for a statement to COPA.

<sup>4</sup> Att. 1.

gang signs and one was in possession of a gun. The caller described one male with a San Francisco jacket and the second male with a Nike jacket. The officers responded to the scene and observed a male, now known to be [REDACTED] exiting the alley on a Divvy bicycle. [REDACTED] was wearing an orange and white Nike jacket. The officers detained the subject and conducted a protective pat down. The officers noticed that the bicycle was stripped of its device and wires were sticking out. [REDACTED] was placed in custody for theft of lost or mislaid property and transported to the 005th District Station for further processing.<sup>5</sup>

[REDACTED] **Arrest Report**<sup>6</sup> indicated that on September 15, 2021, at approximately 2:57 p.m., in the vicinity of 520 W. 124th Street, Arresting Officers Jorie Helstern-Wood #9770 and Carlos Ramos, Jr., # 12046 responded to a call of a person with a gun at Metcalfe Elementary School at 12339 S. Normal Avenue. The caller advised that two males on Divvy bicycles were flashing gang signs and one was in possession of a gun.<sup>7</sup> The caller described one male with a San Francisco jacket and the second male with a Nike jacket. The officers responded to the scene and observed a male, now known to be [REDACTED] exiting the alley on a Divvy bicycle. The officers stopped and detained [REDACTED] with the help of Officer Santino Ghiotto #16688. [REDACTED] told PO Ramos "Get out of my pockets. I'll knock you on your knees" placing PO Ramos in fear of receiving a battery. [REDACTED] then stated, "I'll smack you on your ass." PO Ghiotto took hold of [REDACTED] as PO Ramos went to search for the weapon. [REDACTED] then attempted to walk away from PO Ghiotto while being detained in handcuffs. PO Ghiotto placed [REDACTED] on the ground to avoid [REDACTED] fleeing. While on the ground, [REDACTED] began to knee PO Ghiotto in the groin. PO Ghiotto gave verbal commands to stop and pushed [REDACTED] away to regain control of [REDACTED] again stated, "I'll smack your ass." PO Ghiotto picked [REDACTED] off the ground and began to walk [REDACTED] to a marked squad car. With assistance, [REDACTED] was placed into the squad car and transported to the 005<sup>th</sup> District Station. Officer Ramos was told by associated offender ([REDACTED]) that the second house was where he lived. PO Ramos relocated to the garage where it was open. PO Ramos observed a weapon now known to be a replica on the rear driver side tire. [REDACTED] [REDACTED] subsequently related that a student said the older taller one with the gold jacket pointed the gun at the window. The gold (San Francisco) jacket worn by [REDACTED] was inventoried.<sup>8</sup>

Officer Herman's **Tactical Response Report**<sup>9</sup> documented that as Officer Herman and his partner were touring the area following the call of a person with a gun, Beat 563E communicated over the radio that they had located two individuals matching the given description in the vicinity of 124th Street and Norman. The officers proceeded to the above location. Beat 563E had detained [REDACTED] who was moving around and refusing to stand still. These actions caused Officer Herman to fear that [REDACTED] may attempt to flee. Officer Herman turned [REDACTED] around to face a parked truck to minimize the chance for escape. While on the scene, [REDACTED] alleged that he had a cut lip.<sup>10</sup> Sergeant Thomas Davey #1400 spoke with [REDACTED] and asked him if he was injured and needed medical attention. [REDACTED] responded, "No. Why?" and Sgt. Davey informed him of [REDACTED] allegation that he cut his lip. [REDACTED] laughed and stated, "That never happened."<sup>11</sup> Lt. Artz

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<sup>5</sup> Att. 1, Page 3.

<sup>6</sup> Att. 2, Page 4.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Att. 13.

<sup>10</sup> Att. 13, Page 2.

<sup>11</sup> Ibid.

documented his observations from the BWC recordings and related that [REDACTED] was handcuffed with his hands behind his back when Officer Herman took physical control of [REDACTED] by grabbing his left arm and ordering him to turn around. [REDACTED] said something inaudible to the officer and Officer Herman turned him around to face the parked truck. According to the lieutenant, Officer Herman pushed [REDACTED] against the parked truck three or four times with enough force that the window of the truck visibly vibrated.<sup>12</sup>

Officers Ghiotto's Body Worn Camera (BWC)<sup>13</sup>; Herman's BWC<sup>14</sup>; Helstern-Wood's BWC<sup>15</sup> and Ramos' BWC<sup>16</sup> were each activated as each officer arrived on scene.

COPA personnel reviewed the individual BWC of each of the above referenced officers. Additionally, COPA personnel conducted a multi-cam review of each officer's BWC. Such a multi-cam view allows the simultaneous contemporaneous viewing of individual BWC in a single examination.<sup>17</sup>

In individual and multicam view, BWC shows initial responding officers Ramos and Helstern-Wood encountering [REDACTED] and [REDACTED] approaching on Divvy Bikes. From there, BWC supports and affirms the officers' narratives contained in the respective arrest reports for [REDACTED] and [REDACTED]. With respect to the arrest reports, it is noted that both [REDACTED] and [REDACTED] are juveniles. [REDACTED] is 14 years of age. [REDACTED] is 16 years of age. BWC affirms that both [REDACTED] and [REDACTED] are subsequently handcuffed. Despite being juveniles and handcuffed, BWC shows [REDACTED] is moving upward on the CPD Force Options Model<sup>181920</sup> in that [REDACTED] is moving towards a potential "active resister" classification. [REDACTED] continually refuses to follow verbal commands, often pulling/turning away from the officers while using highly insulting profane language and demonstrating body language that could reasonably be perceived as active resistance. [REDACTED] is moving upwards on the Force Options Model towards a potential "assailant" classification in that [REDACTED] even while handcuffed, reportedly is attempting to strike Officer Ghiotto while consistently using insulting profanity and repeating verbalized threats to commit bodily harm to the officers. Despite these possible upward movements on the Force Options Model chart, the involved officers each appear to use that amount of force necessary.

With the Initiation Report of excessive use of force against [REDACTED] COPA personnel noted a specific occurrence which may have given rise to excessive force concerns. Per BWC, as [REDACTED] moved his back off the truck and yelled, "Hey!" at Officer Ghiotto, Officer Herman grabbed [REDACTED] right arm and ordered him to turn around; [REDACTED] asked why he had to turn around and Officer Herman replied, "Because I said you're turning around," turned [REDACTED] around and held him against the truck.<sup>21</sup> The left face of [REDACTED] face was against the body of the truck cab. Officer

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<sup>12</sup> Att. 13, Page 5.

<sup>13</sup> Att. 8

<sup>14</sup> Att. 9, 2:56:08 - 3:08:30 p.m.

<sup>15</sup> Att. 15

<sup>16</sup> Att. 7

<sup>17</sup> Att. 18

<sup>18</sup> G03-02-01 I (A), Force Options (effective October 16, 2017)

<sup>19</sup> G03-02-01 IV (B)(2), Force Options (effective October 16, 2017)

<sup>20</sup> G03-02-01 IV (B)(2)(c)(1-5), Force Options (effective October 16, 2017)

<sup>21</sup> Att. 9, 2:59:28 - 2:59:39 p.m.

Herman ordered ██████ to spread his feet out as he held ██████ upper body and head against the truck and ██████ said, "You just bust my fucking lip."<sup>22</sup> After the officer denied the allegation, ██████ turned his head and upper body toward Officer Herman and curled his lower lip, and Officer Herman, "You just bit it yourself."<sup>23</sup> Officer Herman appeared to hold ██████ neck with his left hand and ██████ right arm with his right hand and turned him to face the truck again. ██████ turned to his left to tell ██████ to stop talking to the officers and Officer Herman pushed him against the truck and told him to stop moving around.<sup>24</sup> Eventually, ██████ was handed to another officer and placed inside a marked vehicle.<sup>25</sup>

### III. 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.

### IV. ANALYSIS AND CONCLUSION

General Order G03-02-01 mandates that "Department members will refrain from using force against a person who is secured and restrained with handcuffs... unless the member: 1. must act to prevent injury to the Department member, the restrained person, or another person, 2. must act to prevent escape, or 3. is compelled by other law enforcement objectives."<sup>26</sup> The officers were responding to a call regarding a person with a gun and the two juveniles matched the description of the offenders. The officers detained the two subjects and searched them for weapons; however, the search was negative, and the two subjects were not following the officers' commands to stop

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<sup>22</sup> Att. 9, 3:00:12 - 3:00:19 p.m.

<sup>23</sup> Att. 9, 3:00:20 - 3:00:24 p.m.

<sup>24</sup> Att. 9, 3:00:37 - 3:00:47 p.m.

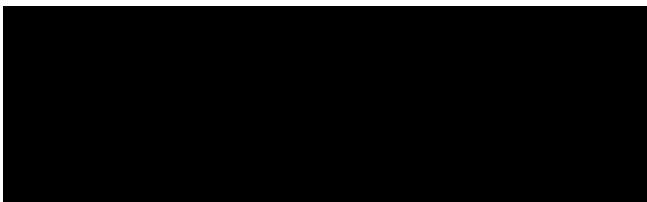
<sup>25</sup> Officer Helstern-Wood's BWC captured Officer Ghiotto telling her to "get this bitch off my back, please," in reference to an unknown female civilian who walked up to the officers (Att. 15, 3:01:23 – 3:01:58 p.m.). The unknown female civilian then told Officer Helstern-Wood, "You're lucky you have that badge on," and the officer responded, "What are you going to do? I'll take it off right now... you got fucking kids out here ... with people with guns." (Att. 15, 3:02:02 – 3:02:32 p.m.) Officer Ghiotto's language was not directed at the unknown civilian and Officer Helstern-Wood's language followed an implied threat by the civilian; consequently, COPA finds that the two officers should not address these allegations.

<sup>26</sup> Att. 17, II, G (page 2)

moving. Although Lt. Artz alleged that the BWC video recording captured Officer Herman pushing ██████ multiple times against the truck while ██████ was handcuffed, the video recording also documented that ██████ was not heeding the officer's verbal commands to stand still. As Officer Ghiotto was attempting to restrain ██████, ██████ disobeyed Officer Herman's commands and moved his body away from the truck and toward Officer Ghiotto. Consequently, Officer Herman used appropriate force to push ██████ against the truck to maintain better control of him and prevent the capacity to escape arrest. Moreover, As the officers detained the subjects, Officer Herman documented his use of force on his TRR, and his narrative was consistent with the BWC video recording. Although ██████ initially alleged that the officer's actions had cut his lip, the video recording did not capture any evidence of bleeding and ██████ later told Sgt. Davey that the incident had not occurred. In addition, ██████ lips did not appear to contact the truck, which would have increased the likelihood of injury to his lip. Based on the above information, COPA finds that Officer Herman need not address this allegation and that the allegation be Not Sustained.

As noted in Footnote 26, BWC captured involved officers, using profane language. Addressing the officers' language, COPA investigators reviewed Municipal Code of Chicago (MCC) 2-78-100 which describes verbal abuse as "the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, national origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person."<sup>27</sup> While it may be debated that the officers' language use was necessary to help gain control of the situation and help avoid escalating other force options, COPA personnel find their choice of words is unfortunate and can be deemed unprofessional. However, it does not rise to the level of verbal abuse as defined and is therefore not misconduct.

Approved:



Angela Hearts-Glass  
*Deputy Chief Investigator*

10-11-2023

Date

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<sup>27</sup> MVV Chapter 2-78-100