



Log # 2019-3004

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On August 3rd, 2019, COPA received a walk-in complaint from ██████████ regarding a stop by police of her children ██████████ and ██████████² earlier that day. All three were arrested. ██████████ alleged the officers wrongfully arrested her children and used excessive force. Subsequently, a lawsuit was filed by the family against the City of Chicago and the involved officers which settled before trial.³ Following its investigation, COPA reached sustained findings regarding allegations of failing to call for medical aid and bias-based verbal abuse.

II. SUMMARY OF EVIDENCE⁴

On August 3rd, 2019, Officers Matthew Heinen and Timothy Moran, members of a tactical team, were en route to execute a search warrant when they observed ██████████ vehicle proceed through a red light at the intersection of South Wentworth Avenue and West Marquette Road.⁵ They curbed the vehicle for the traffic violation and a confrontation ensued. As the officers approached the vehicle, the three occupants, ██████████ and ██████████ were all screaming and yelling that their mother needed help.⁶ Because of the commotion, the officers could not readily ascertain the reason for their distress and asked the occupants to step out of the vehicle.⁷ ██████████ complied.⁸ ██████████ the front seat passenger, refused. Instead, he told Officer Heinen that he did not have to exit, and threatened to batter the officer with a balled fist if the officer touched him.⁹ As a result of the assault, Officer Heinen attempted to place ██████████ under arrest, but ██████████ resisted.¹⁰

¹Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² The younger ██████████ sibling was a minor at the time of the incident and will be referred to as ██████████

³ Att. 37 (2020 C 811, civil suit complaint); Att. 45 (civil suit dismissal order); Att. 49 (\$80k settlement amount).

⁴ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, CPD reports, and officer interviews.

⁵ Att. 19, pg. 3 (Arrest Report, ██████████ Att. 20, pg. 3 (Arrest Report, ██████████ Att. 23, pg. 4 (Original Case Incident Report); Att. 41, p. 2 (Heinen TRR).

⁶ Att. 23, pg. 4.

⁷ Att. 19, pg. 3; Att. 23, pg. 4.

⁸ Att. 19, pg. 3.

⁹ Att. 20, pg. 3; Att. 65 (cell phone video by ██████████

¹⁰ Att. 56, pg. 14.

Meanwhile, Officers George Spacek and Damen Balesteri, also part of the tactical team assigned to execute a search warrant, arrived on the scene.¹¹ Officer Heinen requested the assistance of Officer Spacek, who then entered the vehicle from the driver's side to try to handcuff ██████ from inside the car.¹² ██████ kicked Spacek while exiting the vehicle and barreled into Officer Heinen.¹³ Once out of the vehicle, a struggle ensued between Officers Spacek and Heinen and ██████. Officers Spacek and Heinen did not know whether ██████ was armed as no pat-down had been done.¹⁴ Officer Spacek delivered a strike to ██████ face to stun him.¹⁵ After that, the officers were able to get handcuffs on ██████ and place him in custody. At one point during the struggle between Officers Spacek and Heinen and ██████ made her way over and kicked Officer Heinen in the back.¹⁶

While Officers Spacek and Heinen were contending with ██████ Officer Moran and assisting officers arrested ██████ for battery, and ██████ for aggravated assault for stating to Officer Spacek: "Take these cuffs off I will kill you."¹⁷

While ██████ was led to a squad car, Officer Moran told her to "Stop acting like a fucking savage."¹⁸

██████ was transported to the 7th District for processing by Officer Edward Bielawski.¹⁹ Later he was transported to Holy Cross Hospital to treat his eye where it was determined he suffered a fractured orbital bone of his right eye.²⁰ Officer Spacek suffered a contusion to his right eye and was taken to Little Company of Mary Hospital for treatment.²¹ A CPD Evidence Technician took photographs of both ██████ and Officer Spacek's injuries.²²

██████ was released from custody without being charged.²³ Subsequently, ██████ plead guilty to aggravated assault and the remaining charges against him were dismissed; and ██████ pleaded guilty to battery and the remaining charges against her were dismissed.

¹¹ Att. 44, pg. 2 (Spacek TRR).

¹² Att. 16 at 32:44 (POD video); Att. 44, pg. 2 (Spacek TRR); Att. 57, pg. 9 (Spacek transcribed statement).

¹³ Att. 20, pg. 3; Att. 57, pg. 9.

¹⁴ Att. 57, pg. 16.

¹⁵ Att. 44, pg. 2; Att. 57, pg. 17.

¹⁶ Att. 19, pg. 3; Att. 56, pg. 26.

¹⁷ Atts. 19 and 21 (Arrest Report, ██████).

¹⁸ Att. 12 at 16:34:44 (Alberto Sanchez BWC).

¹⁹ Att. 20, pgs. 3-4.

²⁰ Att. 24, pgs. 4-6 (ambulance report); Att. 31, pg. 7 (Holy Cross medical records).

²¹ Att. 20, pg. 3; Att. 47 (E.T. Photos).

²² Att. 47.

²³ Atts. 38 and 39.

III. ALLEGATIONS

Officer George Spacek:

1. Striking ██████████ in the face without justification.
 - Not Sustained
2. Forcing ██████████ out of the vehicle without justification.
 - Not Sustained
3. Arresting ██████████ without justification.
 - Exonerated

Officer Timothy Moran:

1. Directing words to the effect of “fucking savage” at arrestee ██████████
 - Sustained, Violation of Rules 2, 3, 8 and 9.

Officer Edward Bielawski:

1. Failing to immediately call for medical aid for arrestee ██████████
 - Sustained, Violation of Rules 6 and 10.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Here, although none of the ██████████ were formally interviewed by COPA, ██████████ made contemporaneous statements on body-worn camera immediately following the incident which somewhat aligned with what could be seen on the available video. Officers Spacek's and Heinen's statements were mostly consistent with the reports they wrote and what could be seen on video. There was nothing outstanding regarding the credibility of either Officer Moran or Officer Bielawski.

V. ANALYSIS²⁴

a. Allegation 1 against Officer Spacek – striking ██████████ in the face without justification.

CPD General Orders G03-02 Use of Force, and G03-02-01 Force Options, govern an officer's use of force in various situations. Generally, the level of resistance posed by a subject and the situational circumstances in their totality will determine the appropriate level of force.²⁵ Any use of force must be “objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject.”²⁶ The de-escalation of a situation is also paramount to minimize the level of force necessary.²⁷ “Stunning,” which is “diffused-pressure striking or slapping the subject to increase control by disorienting the subject and interfering with his or her ability to resist,” is generally allowed against an active resister.²⁸ Direct mechanical strikes, including punches, are generally allowed when subjects are assailants.²⁹

Officers Spacek and Heinen were not assigned BWC at the time of the incident.³⁰ ██████████ videotaped a small portion of the interaction with Officer Heinen.³¹ A POD video captures the events from a distance and is blurry in spots.³² BWC and ICC from responding officers captured the aftermath.³³

What can be established from the available video and reports is that after failing to comply with orders to step out of the vehicle, ██████████ threatened Officer Heinen with a balled-up fist.³⁴ Officer Spacek was in another police vehicle bound for the search warrant execution when he saw Officers Moran and Heinen engaged in the traffic stop and stopped to assist. ██████████ was not complying with Officer Heinen's directions and Officer Spacek heard ██████████ threaten Officer Heinen.³⁵ Officer Spacek entered the driver's side of the vehicle to arrest ██████████ when a struggle ensued.³⁶

According to the POD video, about two seconds after Officer Spacek entered the driver's side of the car, ██████████ exited the vehicle, pushing Officer Heinen down, and exiting the vehicle

²⁴ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁵ G03-02 II. D. (effective 10-16-17 to 2-29-20)

²⁶ G03-02-01 II. C. (effective 10-16-17 to 2-29-20).

²⁷ G03-02-01 II B.

²⁸ G03-02-01 Force Options, IV. B. 2. C. (1).

²⁹ G03-02-01 Force Options, IV. C. 1. A. (1).

³⁰ Att. 57, pg. 34.

³¹ Att. 65.

³² Att. 16

³³ Att. 3-15.

³⁴ Att. 65 at :05

³⁵ Att. 44, pg. 2.

³⁶ Att. 44, pg. 2.

head and arms first.³⁷ Officer Spacek was positioned over ██████ while it appears Officer Heinen pulled himself up from the ground and then joined in the struggle.³⁸ Officer Spacek appeared to bring ██████ to the ground, Officer Heinen appeared to turn away, and then ██████ appeared to push himself up on his hands and knees.³⁹ Both officers appear to be on top of a struggling ██████ when, Officer Spacek can be seen delivering a strike.⁴⁰

In both his TRR and statement to COPA, Officer Heinen related that when ██████ exited the vehicle, ██████ lowered his shoulder into Officer Heinen and attempted to flee, whereupon Officer Heinen grabbed ██████ and performed an emergency take down.⁴¹ ██████ then “grabbed hold of Officer Heinen’s leg and attempted to lift Officer Heinen off the ground. [Officer Heinen] attempted to cuff [██████] at which point [██████] continued to stiffen his body and flail his arms to defeat the arrest.”⁴² Officer Heinen stated that ██████ was “resisting,” and “being an assailant,” where ██████ struck Officer Heinen in the chest and threw his elbows at the officers.⁴³ At that point, Officer Spacek conducted an open hand strike and ██████ began to comply.⁴⁴

In Officer Spacek’s TRR, he reported that when he entered the vehicle, ██████ jumped out of the vehicle and pushed past Officer Heinen. During the struggle to arrest ██████ struck Officer Spacek in Officer Spacek’s right orbital bone causing pain, redness and swelling, and also grabbed Officer Heinen by his left leg and attempted to push Officer Heinen over. At that point, Officer Spacek struck ██████ with an open hand strike to his face, after which, ██████ complied.⁴⁵ In his statement to COPA, Officer Heinen relayed that as he started to approach, ██████ turned away and started to exit the vehicle.⁴⁶ Officer Spacek tried to grab onto to ██████ leg, and in the struggle to control his leg as ██████ was pulling himself out of the car, ██████ kicked Officer Spacek in the face.⁴⁷ Officer Spacek was pulled out of the car with ██████ who was driving into Officer Heinen, wrapping his hands around Officer’s Heinen’s legs to take Officer Heinen down.⁴⁸ Officer Spacek was concerned about ██████ proximity to the “belt line[s]” of the officers: “there’s two firearms involved in this wrestling match.”⁴⁹ Officer Heinen was trying to “break [██████] base” to get him flat to cuff him.⁵⁰ Officer Spacek considered ██████ an

³⁷ Att. 16 at 32:44.

³⁸ Att. 16 at 32:51.

³⁹ Att. 16 at

⁴⁰ Att. 16 at 33:02.

⁴¹ Att. 41, pg 2; Att. 56, pg. 18

⁴² Att. 41, pg. 2.

⁴³ Att. 56, pg. 19.

⁴⁴ Att. 56, pg. 19.

⁴⁵ Att. 44, pg. 2

⁴⁶ Att. 57, pgs. 15-16, 35-36.

⁴⁷ Att. 57, pgs. 15-16, 35-36.

⁴⁸ Att. 57, pgs. 15-16, 29-30.

⁴⁹ Att. 57, pgs. 16, 29.

⁵⁰ Att. 57, pg. 30.

assailant where ██████ was “physically attacking Officer Heinen.⁵¹ As a result, Officer Spacek delivered an open-hand stun to ██████ head, after which, ██████ became compliant.⁵²

█████ made statements in the aftermath of the incident that were captured on BWC. ██████ told Officer Bielawski that he was pushed out of the vehicle and into Officer Heinen, and was punched in the face.⁵³

In considering whether the use of force was justified, COPA will consider that if ██████ was a resister, then an open-hand strike would have been permissible. If he was an assailant, then a punch would have been permissible. The POD video shows ██████ being an active resister, but does not clearly depict one way or the other whether he was an assailant. The POD video shows the arm-motion of Officer Spacek consistent with striking ██████ but does not depict whether Officer Spacek used a closed fist or an open-hand.⁵⁴ Both Officers Heinen and Spacek said that ██████ did not comply until he was struck.

█████ suffered a fractured eye bone in the melee, while Officer Spacek suffered a contusion to his eye.⁵⁵ ██████ plead guilty to making threats to physically harm Officer Heinen,⁵⁶ one of which – “I’m fitting to bust off your ass” – was captured on ██████ own video.⁵⁷

Based on the foregoing, COPA cannot determine by a preponderance of the evidence whether ██████ was a resister or an assailant, and whether Officer Spacek used an open-hand strike or a closed fist. Thus, COPA cannot determine what the level of force used was, and whether it was reasonable, necessary, or proportional. Therefore, COPA finds **Allegation 1** against Officer Spacek is **Not Sustained**.

b. Allegation 2 against Officer Spacek – forcing ██████ out of the vehicle without justification.

Officer Spacek heard ██████ threaten Officer Heinen and entered the driver’s side of the vehicle in order to place him under arrest. Both Officers Spacek and Heinen said ██████ exited the vehicle and tried to defeat the arrest. Whether ██████ exited the vehicle on his own or was pushed out, ██████ was required to exit the vehicle because he was under arrest. Therefore, COPA finds **Allegation 2** against Officer Spacek is **Not Sustained**.

⁵¹ Att. 57, pgs. 17, 34, 39

⁵² Att. 57, pgs. 17, 31.

⁵³ Att. 9 at 16:39:16 (Bielawski BWC); Att. 5 at 16:54:43 (Bielawski BWC); Att. 44, pg. 3.

⁵⁴ Att. 16 at 33:02 (POD video).

⁵⁵ Att. 47.

⁵⁶ Att. 39.

⁵⁷ Att. 65, 0:05.

c. Allegation 3 against Officer Spacek – arresting ██████████ without justification.

According to the arrest report, Officer Spacek’s statement, Officer Heinen’s statement, and ██████████ cell phone video, ██████████ threatened Officer Heinen and refused a lawful order to exit the vehicle after he was told he was under arrest. There was probable cause to arrest ██████████ and effectuate that arrest, which is what Officer Spacek initiated when he entered the driver’s side of the vehicle, and ultimately gained control of and arrested ██████████. Accordingly, COPA finds **Allegation 3** against Officer Spacek is **Exonerated**.

d. Allegation 1 against Officer Moran – directing words to the effect of “fucking savage” at ██████████

As mentioned earlier, there is BWC from the incident captured by Officer Sanchez of Officer Moran telling ██████████ she is acting like “a fucking savage.” In his statement, Officer Moran admitted to saying it, but said it was because ██████████ had just kicked one of the other officers in the back and had also kicked him. He said he was upset and angry at the whole situation because it was an unplanned traffic stop while they were on their way to execute the search warrant.⁵⁸ Based on the foregoing, COPA finds **Allegation 1** against Officer Moran is **Sustained**.

e. Allegation 1 against Officer Bielawski – failing to immediately call for medical aid.

General Order G03-02 requires that once the scene is safe and as soon as practical, whenever a person is injured or complains of injury, medical aid will be immediately requested. In this case, Officer Bielawski was responsible for transporting ██████████ to the 7th District. Body-worn camera video from Officer Bielawski shows complaining about his eye several times before being transported and multiple times on the way to the 7th District.⁵⁹ However, Officer Bielawski did not call for an ambulance until after ██████████ was taken to the station.⁶⁰ Although Officer Bielawski said it didn’t appear that ██████████ was badly injured,⁶¹ ██████████ did say he was hurt and complained of injury and not being able to clearly see out of his eye. Ultimately, ██████████ eye was found to have a fractured orbital. For the foregoing reasons, COPA finds **Allegation 1** against Officer Bielawski is **sustained**.

⁵⁸ Att. 55, pg. 15 (Moran transcribed statement).

⁵⁹ Att. 9 at 16:37:46, 16:37:57, 16:38:17, 16:40:02, 16:40:58, 16:42:45, 16:43:03.

⁶⁰ Att. 24 pg. 5; Att. 5 (Bielawski BWC).

⁶¹ Att. 54, pg. 11 (Bielawski transcribed statement).

VI. DISCIPLINARY RECOMMENDATION

a. Officer Timothy Moran

i. Complimentary and Disciplinary History

Officer Moran has received a total of 178 awards, including 143 honorable mentions, 10 department commendations and one Police Officer of the Month award. He has no sustained disciplinary history in the past five years.

ii. Recommended Discipline

In mitigation, COPA will consider Officer Moran's complimentary history and that he admitted to making the statement. In aggravation COPA will consider that calling someone a "savage" could be considered racially motivated, in violation of CPD standards that members maintain their professionalism and treat all individuals with dignity and respect. COPA recommends a 5-day Suspension.

b. Officer Edward Bielawski

i. Complimentary and Disciplinary History

Officer Bielawski has received a total of 16 awards, including 12 honorable mentions, one department commendations and one Crime Reduction Award. He has had no sustained disciplinary history in the past five years.

ii. Recommended Discipline

In mitigation COPA will consider Officer Bielawski's complimentary history. Officer Bielawski also visually inspected [REDACTED] eye, which did not appear obviously injured. Once they got to the district police station, an ambulance was called for [REDACTED]. In aggravation, COPA will consider that [REDACTED] repeatedly complained about his eye, which should have led Officer Bielawski to call for medical attention, whether he thought he needed it or not, instead of waiting. COPA recommends a 1-day suspension.

Approved:

[REDACTED]

Matthew Haynam
Deputy Chief Administrator

Date: 11/30/2023

Appendix A

Case Details

Date/Time/Location of Incident:	August 3, 2019 / 11:30 am / 65 W. Marquette Rd.
Date/Time of COPA Notification:	August 3, 2019 / 3:40 pm
Involved Member #1:	George Spacek / Star #3913, Employee ID [REDACTED], Date of Appointment: August 27, 2001, 7th District / white male.
Involved Member #2:	Matthew Heinen / Star #15961 / Employee ID [REDACTED] / Date of Appointment: April 28, 2008 / 7th District / white male.
Involved Member #3:	Timothy Moran / Star #14413 / Employee ID [REDACTED], Date of Appointment: March 25, 2002 / 6th District / white male
Involved Member #4:	Edward Biewlawski / Star #2930 / Employee ID [REDACTED] / Date of Appointment: Nov. 16, 2017 / 7th District / white male
Involved Individual #1	[REDACTED] / 22 years old / black female
Involved Individual #2	[REDACTED] / 20 years old / black male
Involved Individual #3	[REDACTED] / 16 years old

Applicable 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 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 5: Failure to perform any duty.

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

Rule 10: Inattention to duty.

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

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Rule 10: Inattention to duty.

Rule 11: Incompetency or inefficiency in the performance of duty.

Applicable Policies and Laws

G03-02 Use of Force, effective 10-16-17 to 2-29-20.

G03-02-01 Force Options, effective 10-16-17 to 2-29-20.

Appendix B

Definition of COPA’s Findings and Standards of Proof

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 a proposition is proved.⁶² For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”⁶³

⁶² 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 is found to be more probably true than not).

⁶³ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation