



Log # 2020-4971

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 12, 2020, the Civilian Office of Police Accountability (COPA) initiated a complaint based on a civil lawsuit (case number 20C5733) brought by ██████████ (██████████) which alleged misconduct by members of the Chicago Police Department (CPD). Based on this lawsuit, COPA served allegations that on September 27, 2018, Sgt. Anthony Okon (who at the time of the incident was Officer Okon) and Officer Joseph Malek used excessive force while restraining ██████████ that Officer Malek additionally used verbal abuse while addressing ██████████ and that Officer Michael Wilson placed his foot on ██████████ head without justification. Following its investigation, COPA reached sustained findings regarding the allegations that Officer Malek verbally abused ██████████ and that Officer Wilson unjustifiably placed his foot on or about ██████████ head.

II. SUMMARY OF EVIDENCE²

The body-worn camera (BWC) footage from this incident depicted Sgt. Okon and Officer Malek travelling inside their unmarked CPD vehicle at what appeared to be a relatively slow pace with their blue emergency lights flashing before stopping at the scene of the arrest.³ Sgt. Okon rode in the front passenger seat and Officer Malek rode behind him in the passenger-side rear seat. Additionally, Officer Katie Blocker (who did not receive allegations related to this incident) was in the driver's seat. The CPD members were responding to two gunshot alerts that were detected by a ShotSpotter system in the vicinity of 8418 S. Green Street, which had closely followed another nearby shooting incident in which a female subject was shot in the face.⁴ They observed a silver minivan that failed to brake at a stop sign, and when they activated their emergency lights to stop the vehicle, the driver ignored them and drove on until finally stopping near the intersection of 82nd and Loomis.⁵ The video recordings show that Sgt. Okon sprinted out of the vehicle with his sidearm already drawn to pursue ██████████ who had fled from the passenger side of the stopped minivan.⁶ Although Sgt. Okon's BWC was positioned too close to the action to depict what happened during the next few seconds, it is evident that Sgt. Okon engaged in a physical encounter

¹ Appendix 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 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, police reports, court documents, civilian interviews, and officer interviews.

³ Att. 1 at 0:00 to 0:25; also Att. 2 at 0:00 to 0:15.

⁴ Att. 3, pg. 5.

⁵ Att. 3, pg. 5.

⁶ Att. 1 at 0:25 to 0:30.

with ██████ which resulted in ██████ being taken down to the ground.⁷ Officer Malek exited the vehicle several seconds after Sgt. Okon, and just as Officer Malek arrived at the scene of the encounter, Sgt. Okon began delivering what appeared to be several strikes to ██████ head area with his right hand.⁸ Sgt. Okon then quickly turned away to pick up a flashlight and a handgun lying on the ground nearby.⁹

Officer Malek moved in closer and began striking ██████ as Sgt. Okon moved away.¹⁰ Officer Wilson, who was not equipped with a BWC at the time of this incident, was also captured on video as he began assisting with the arrest.¹¹ Officer Malek ordered ██████ “Give me your hands now! Give me your fucking hands I swear to God! Give me your fucking hands now, bitch! Give me your fucking hands!”¹² Following this, Officer Malek said, “Give me your fucking hands, I’m not gonna tell you again, motherfucker!”¹³ The recording showed that ██████ was lying on the ground with his arms underneath his chest and his hands visible below his face.¹⁴ Officer Malek again shouted, “Give me your fucking hands!”¹⁵ At that point, Officer Wilson’s right foot was captured stepping down on the left side on ██████ head, where he continued to hold it for several seconds¹⁶ before lifting his foot as another officer affixed handcuffs to ██████ wrists.¹⁷ Officer Wilson then picked up a police radio from the ground and gave it to Officer Malek, which provided an opportunity to clearly identify Officer Wilson on Officer Malek’s BWC.¹⁸ Several other CPD members arrived to assist during the restraining process, and the incident was concluded as ██████ was placed in the rear seat of a CPD vehicle.¹⁹

██████ was charged with one count of Armed Habitual Criminal, two counts of Felony Possession of a Weapon, four counts of Aggravated Unlawful Use of a Weapon, two counts of Aggravated Unlawful Use of a Weapon, and one count of Resisting a Peace Officer.²⁰ He entered a guilty plea for one of the counts of Unlawful Use of a Weapon, and all his other charges were disposed as “Nolle Prosequi.”²¹ ██████ was given a mandatory supervisory release on December 16, 2020, after having served two years in prison.²² Upon his release, he brought a civil suit against the City of Chicago, from which he ultimately received a settlement of \$75,000.00.²³ This COPA complaint was also initiated following ██████ release and his subsequent lawsuit.

⁷ Att. 1 at 0:30 to 0:33.

⁸ Att. 1 at 0:37 to 0:39

⁹ Att. 1 at 0:39 to 0:41.

¹⁰ Att. 1 at 0:41 to 0:43; also Att. 2 at 0:26 to 0:30.

¹¹ Att. 1 at 0:43 to 0:46.

¹² Att. 1 at 0:46 to 0:59; also Att. 2 at 0:37 to 0:45, and Att. 43 at 4:05 to 4:14.

¹³ Att. 1 at 0:59 to 1:02, also Att. 2 at 0:48 to 0:52, and Att. 43 at 4:18 to 4:21.

¹⁴ Att. 2 at 0:37.

¹⁵ Att. 1 at 1:03 to 1:03; also Att. 2 at 0:52 to 0:53, and Att. 43 at 4:21 to 4:22.

¹⁶ Att. 1 at 1:03 to 1:10.

¹⁷ Att. 2 at 1:00 to 1:06, also Att. 43 at 4:29 to 4:34.

¹⁸ Att. 2 at 1:04 to 1:20.

¹⁹ Att. 1 at 2:05 to 2:20; also Att. 2 at 1:56 to 2:09.

²⁰ Att. 17, pg. 5. (Case Summary of *People of the State of Illinois vs. ██████*)

²¹ Att. 17, pg. 5.

²² Att. 17, pg. 4.

²³ Att. 34, pg. 1. (Letter from the City of Chicago Department of Law).

████████ provided an audio-recorded telephone interview to COPA, during which he stated that when this incident began, he had just gotten off work and was getting a ride to his grandmothers' house from a co-worker, who was driving the vehicle.²⁴ He explained that a police vehicle tried to pull them over, and that he tried to run away because he knew that his co-worker had a firearm in the car and he himself was on parole at the time.²⁵ When asked if he had been involved in any other events prior to the police pursuit, he answered that he had not.²⁶

████████ explained that when the police flashed their emergency lights to initiate a traffic stop, his co-worker drove on without stopping.²⁷ He said his co-worker continued driving for four or five blocks, at which point ██████ told him to let him out when they arrived at his grandmother's house.²⁸ When asked about where the gun was when he left the vehicle, he said as far as he knew, the gun was in the car with the driver.²⁹ He said after the CPD members caught up to him they kicked him and struck him with pistols and batons, causing him to receive cuts to his face.³⁰ When asked to identify the CPD member who hit him with a baton, ██████ said he specifically remembered Officer Okon as one who had beaten him.³¹ During further questioning, ██████ said that a total of four or five CPD members struck him with batons.³² ██████ insisted that he did not have a gun at the time of his arrest, and when asked why he pled guilty to the weapons charge, he answered that he had done so in order to be released from prison and returned to his family.³³ He added that he was motivated to make the plea despite being innocent because he felt he had already been imprisoned for too long.³⁴

Officer Malek explained during his COPA interview that he witnessed ██████ holding a firearm in his hand as he exited from the minivan and fled from the traffic stop.³⁵ He said he realized at that point that ██████ might have been the person responsible for the shooting incident that had just been reported,³⁶ and felt he had to act with urgency while restraining ██████³⁷ He added that he was concerned that Sgt. Okon might have become injured during his struggle with ██████ and felt he had an urgent responsibility to assist him in completing ██████ arrest.³⁸

With regard to his verbal and physical interactions with ██████ Officer Malek said that he gave ██████ verbal commands ordering him to give over his hands and allow himself to be restrained, and when those commands were not obeyed, he began delivering physical strikes

²⁴ Att. 19, pg. 7, lns. 7 to 10.

²⁵ Att. 19, pg. 7, lns. 10 to 16.

²⁶ Att. 19, pg. 8, ln. 14.

²⁷ Att. 19, pg. 9, lns. 14 to 16.

²⁸ Att. 19, pg. 10, lns. 4 to 10.

²⁹ Att. 19, pg. 12, lns. 12 to 13.

³⁰ Att. 19, pg. 13, lns. 3 to 5.

³¹ Att. 19, pg. 13, lns. 11 to 13.

³² Att. 19, pg. 13, lns. 17 to 18.

³³ Att. 19, pg. 28, lns. 12 to 13.

³⁴ Att. 19, pg. 28, ln. 22.

³⁵ Att. 27, pg. 22, lns. 7 to 12.

³⁶ Att. 27, pg. 30, lns. 20 to 23.

³⁷ Att. 27, pg. 32, lns. 2 to 6.

³⁸ Att. 27, pg. 33, lns. 5 to 9.

against ██████³⁹ He specifically stated that he delivered strikes to the right side of ██████ head,⁴⁰ but had no recollection of striking ██████ anywhere about the body.⁴¹ He defended his use of direct mechanical strikes by stating that he had reason to believe that ██████ had previously shot someone, and he did not know where ██████ handgun was or whether it was still in his possession at the time of the struggle.⁴²

When asked to give a direct response to the allegations served against him, Officer Malek stated that he believed under the circumstances he was justified in striking ██████ about the head with a closed fist,⁴³ and he denied ever having struck ██████ in the torso area.⁴⁴ With regard to the allegation that he addressed ██████ as “bitch,” Officer Malek admitted that he had done so, said he regretted it, and added that he would apologize to ██████ if given the opportunity.⁴⁵

During his COPA interview, Sgt. Okon stated that when he first saw ██████ exiting from the silver minivan, he observed that ██████ was holding a firearm in his right hand as he ran away. Sgt. Okon pursued ██████ conducted an emergency takedown, and performed several direct mechanical strikes on him in order to gain control over him and the firearm.⁴⁶ When asked to give further details about his reason for performing the mechanical strikes against ██████ Sgt. Okon said he had believed ██████ to be an armed assailant who might have just committed an earlier shooting.⁴⁷ With regard to the particular target of his strikes and the number of times he struck, Sgt. Okon said he believed he performed three to five direct mechanical strikes to the side of ██████ head.⁴⁸ He further stated that he did not strike ██████ in his abdomen area or his ribs, he did not recall striking him on his back, and he also did not recall any other officers striking him in those areas.⁴⁹ He stated that after the other CPD members had taken control of ██████ he discovered the handgun ██████ had been carrying – still hot from being recently fired – lying nearby on the ground within arm’s reach of where the struggle had occurred.⁵⁰ Sgt. Okon stated that he did not recall ██████ complaining of having injuries while at the scene of the arrest and was not aware of him being injured until he saw ██████ being returned from the hospital, at which point he noticed that there was an abrasion around ██████ left eye.⁵¹

When asked to give his response to the allegations of misconduct made against him, that he unjustifiably struck ██████ about the head and unjustifiably struck ██████ about the body, Sgt. Okon denied both allegations. When asked why, he answered that he believed he was justified in striking ██████ about the head, and he did not believe he had ever struck ██████ about the body.⁵²

³⁹ Att. 27, pg. 34, lns. 9 to 11.

⁴⁰ Att. 27, pg. 34, lns. 13 to 14.

⁴¹ At. 27, pg. 34, lns. 23 to 24.

⁴² Att. 27, pg. 35, lns. 17 to 22.

⁴³ Att. 27, pg. 42, lns. 5 to 6.

⁴⁴ Att. 27, pg. 42, lns. 11 to 13.

⁴⁵ Att. 27, pgs. 42 to 43.

⁴⁶ Att. 32, pgs. 17 to 18.

⁴⁷ Att. 32, pgs. 23 to 24.

⁴⁸ Att. 32, pg. 25, lns. 2 to 4.

⁴⁹ Att. 32, pg. 25, lns. 5 to 16.

⁵⁰ Att. 32, pgs. 30 to 31.

⁵¹ Att. 32, pg. 33, lns. 6 to 15.

⁵² Att. 32, pg. 38, lns. 5 to 8.

Officer Wilson gave an interview to COPA in which he described his involvement during the physical encounter between ██████ Officer Malek, and Sgt. Okon. He said he recalled that ██████ resisted arrest, that there was a firearm in close proximity to the struggle, and that he placed his foot on ██████ back in an attempt to control his movements.⁵³ When questioned further about how he used his foot in this situation, Officer Wilson repeated that he put his foot on ██████ back for the purpose of controlling him, and said that his foot was there for about a second.⁵⁴ When asked if there was a reason why he used his foot to control ██████ movement instead of using his hands, Officer Wilson answered that he was unable to recall his reasoning, saying that his mind was focused in two places at the time because of the ongoing physical struggle and his knowledge that there was a gun somewhere nearby.⁵⁵ During further questioning about the placement of his foot on ██████ body, Officer Wilson insisted his foot was initially placed on ██████ shoulders, but it slipped and ended up on ██████ head.⁵⁶

Given that Officer Wilson stated he was currently serving as a Use of Force Instructor at the CPD Academy,⁵⁷ COPA asked him whether he had learned to use his foot on a detainee in this manner from his CPD training, but Officer Wilson attempted to deflect away from the subject, saying that he instead wanted to emphasize the severity of the crime and the situation the members were dealing with during this encounter.⁵⁸ He further defended his act by noting that he considered ██████ to be an assailant at that time, and added that he believed under those circumstances it was appropriate to use any measure necessary to get ██████ under control for the safety everyone involved.⁵⁹ He reiterated that he initially placed his foot on ██████ back, that his foot had slipped until it was placed on ██████ head, that his foot had stayed there for a couple of seconds before he removed it,⁶⁰ and that he never specifically intended to put his foot on ██████ head.⁶¹ Throughout the remainder of his interview, Officer Wilson avoided directly answering the question of whether or not stepping on an arrestee was part of his CPD training, despite being pressed on this point.⁶²

COPA also conducted an interview with Officer Blocker, who drove the CPD vehicle during the pursuit of the silver minivan and participated in the arrests that followed. She stated that she was not equipped with a BWC at the time of this incident because the camera that had been issued to her was defective.⁶³ Officer Blocker explained that while the other CPD members were apprehending ██████ she had focused her efforts on arresting the driver remaining inside the vehicle,⁶⁴ and therefore she did not directly witness the others' physical struggle with ██████⁶⁵ She said her search of the silver minivan resulted in the discovery of spent ammunition casings

⁵³ Att. 40, pg. 9, lns. 5 to 10.

⁵⁴ Att. 40, pg. 9, lns. 19 to 21.

⁵⁵ Att. 40, pg. 10, lns. 9 to 13.

⁵⁶ Att. 40, pg. 15, ln. 5.

⁵⁷ Att. 40, pg. 12, lns. 4 to 7.

⁵⁸ Att. 40, pg. 15, lns. 21 to 23.

⁵⁹ Att. 40, pg. 16, lns. 12 to 16.

⁶⁰ Att. 40, pg. 17, lns. 7 to 12.

⁶¹ Att. 40, pg. 18, lns. 1 to 2.

⁶² Att. 40, pg. 19, lns. 14 to 24.

⁶³ Att. 22, pg. 8, lns. 2 to 16.

⁶⁴ Att. 22, pg. 18, lns. 20 to 22.

⁶⁵ Att. 22, pg. 20, lns. 6 to 15.

and an open box of live rounds near the passenger seat.⁶⁶ She also observed that the minivan's interior emitted an odor of gunfire.⁶⁷ Officer Blocker later saw ██████ while he was in the holding area, where she observed he had scratches on his face and subsequently called an ambulance to transport him to the hospital for treatment.⁶⁸ When asked if ██████ complained of being injured, she said he did not claim to be injured but only engaged in yelling and name-calling.⁶⁹ Officer Blocker also said that she personally heard ██████ admit that he had shot someone and say that he would shoot that person again.⁷⁰ When questioned further about this, she explained, "He just said, I don't care. I'll shoot that bitch again. I don't care."⁷¹ She added that she regretted the fact that she had not been able to capture these words on a BWC recording to prove that he had said this.⁷²

III. ALLEGATIONS

Sergeant Anthony Okon:

- 1) Struck ██████ about the head with a closed fist, without justification.
 - Exonerated.
- 2) Struck ██████ about the body with a closed fist, without justification.
 - Not Sustained.

Officer Joseph Malek:

- 1) Struck ██████ about the head with a closed fist, without justification.
 - Exonerated.
- 2) Struck ██████ about the body with a closed fist, without justification.
 - Not Sustained.
- 3) Yelled words to the effect of "Give me your hands, now Bitch!"
 - Sustained, Violation of Rules 2, 3, 6, 8, and 9.

Officer Michael Wilson:

- 1) Placed his foot on or about the head of ██████ without justification.
 - Sustained, Violation of Rules 2, 3, 6, 8, and 9.

IV. CREDIBILITY ASSESSMENT

██████ claim that the officers beat him with pistols and batons was not supported by the BWC recordings. COPA also notes that ██████ pled guilty in court to one of the weapon charges, but during his recorded interview he contradicted that plea and instead asserted that he was innocent. He explained that he only pled guilty because he wished to shorten the duration of his imprisonment. He also insisted that the gun that was found next to the scene of his struggle with the officers was actually in the minivan in the possession of the driver,⁷³ which directly

⁶⁶ Att. 22, pgs. 20 to 22.

⁶⁷ Att. 22, pg. 21, lns. 22 to 23.

⁶⁸ Att. 22, pgs. 26 to 27.

⁶⁹ Att. 22, pg. 27, lns. 17 to 19.

⁷⁰ Att. 22, pgs. 28 to 29.

⁷¹ Att. 22, pg. 29, lns. 7 to 8.

⁷² Att. 22, pg. 29, lns. 10 to 13.

⁷³ Att. 19, pg. 12, lns. 12 to 13.

contradicted the available video evidence. Furthermore, Officer Blocker told COPA that ██████ admitted to shooting a female subject while he was in holding after his arrest.⁷⁴ Although no video documentation was available to independently verify that ██████ made that admission, this and other incongruous details were factors in COPA's assessment of ██████ credibility.

As discussed below, COPA finds that the four CPD members who provided statements gave generally credible accounts of the incident, although Officer Wilson did attempt to minimize and deflect from his misconduct.

V. ANALYSIS⁷⁵

a. The uses of force employed by Sgt. Okon and Officer Malek

COPA finds Allegation #1 against Sgt. Okon and Officer Malek, that they each individually struck ██████ about the head with a closed fist without justification, is **exonerated**. Additionally, COPA finds that Allegation #2 against the same members, that they each struck ██████ about the body with a closed fist without justification, is **not sustained**. CPD's Rules of Conduct establish a list of acts which are expressly prohibited for all members, including Rule 8, which states that officers may not disrespect or maltreat any person, and Rule 9, which prohibits officers from engaging in any unjustified verbal or physical altercation with any person.⁷⁶ Additionally, CPD policy specifies that all uses of force by officers must be "objectively reasonable, necessary, and proportional" depending on the circumstances of the situation.⁷⁷ Ideally, officers will employ their training and experience to resolve problematic situations and obtain compliance in such a way as to make the use of force unnecessary.⁷⁸

According to established policy, officers are authorized to use force when it is necessary "to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape."⁷⁹ Throughout any potential force usage scenario, officers must continually assess the situation to determine if any use of force is necessary, which of the available force options are appropriate based on the totality of the circumstances, if the seriousness of the situation requires an immediate response, and if the level of force employed should be modified based on the subject's actions or other changes in the circumstances.⁸⁰ In the event a person begins offering less resistance as an encounter progresses, policy dictates that "the member will decrease the amount or type of force accordingly."⁸¹

CPD members are trained to view the use of force according to a spectrum of possible encounters based on whether the individual involved is a cooperative person, a passive resister, an active resister, or an assailant, with greater levels of force being permitted as the individual's

⁷⁴ Att. 22, pg. 29, lns. 7 to 8.

⁷⁵ For a definition of COPA's findings and standards of proof, *see* Appendix B.

⁷⁶ Att. 41, Rules and Regulations of the Chicago Police Department, Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present).

⁷⁷ Att. 37, G03-02(III)(B), Use of Force (effective October 16, 2017 to February 28, 2020).

⁷⁸ Att. 37, G03-02(II)(C).

⁷⁹ Att. 37, G03-02(III)(B).

⁸⁰ Att. 36, G03-02-01(II)(F)(1-4).

⁸¹ Att. 37, G03-02(III)(B)(3).

behavior becomes more dangerous.⁸² According to policy, an active resister is defined as “a person who attempts to create distance between himself or herself and the member’s reach with the intent to avoid physical control and/or defeat the arrest.”⁸³ By contrast, the definition of an assailant is “a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.”⁸⁴ Assailants are further subdivided into two categories: (1) a subject whose actions are aggressively offensive with or without weapons and (2) a subject whose actions constitute an imminent threat of death or great bodily harm to a CPD member or to another person.⁸⁵

CPD policy also establishes clear guidelines governing the use of hand strikes, such as those employed by the officers during this encounter. Within the range of force options, weaponless hand strikes fall into two categories: stunning strikes,⁸⁶ which may be employed against active resisters, and direct mechanical strikes,⁸⁷ which may be employed against assailants. CPD defines stunning as “diffused-pressure striking or slapping the subject to increase control by disorienting the subject and interfering with his or her ability to resist.”⁸⁸ In contrast, direct mechanical techniques are “forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures.”⁸⁹ The justification for employing either stunning strikes or direct mechanical strikes depends on whether the strike is used against an active resister or an assailant.

i. Sgt. Okon’s uses of force

Under the circumstances that occurred during [REDACTED] arrest, the fact that Sgt. Okon and Officer Malek observed [REDACTED] fleeing from the minivan with a firearm in his hand would likely have caused the members to identify [REDACTED] as an assailant. Additionally, the prior vehicle pursuit and the members’ knowledge that a shooting had just occurred in the area would have also factored into their perception of the potential threat that [REDACTED] posed. During his COPA interview, Sgt. Okon stated that he observed [REDACTED] holding a handgun, performed an emergency takedown on him, and employed direct mechanical strikes because he believed [REDACTED] still had the handgun either on his person or within his range of access.⁹⁰ As Sgt. Okon explained, he believed he was justified in striking [REDACTED] head because at the time of the encounter, he considered [REDACTED] to be an armed assailant.⁹¹ The BWC recording shows that after Sgt. Okon stood up and allowed Officer Malek to take charge of [REDACTED] Sgt. Okon first bent down to pick up a fallen flashlight from the ground, then quickly turned around and found [REDACTED] handgun on the ground.⁹² COPA notes that this particular sequence of actions lent credence to Sgt. Okon’s assertion that he did not know

⁸² Att. 36, G03-02-01(IV)(A-C), Force Options (effective October 16, 2017 to February 28, 2020).

⁸³ Att. 36, G03-02-01(IV)(B)(2).

⁸⁴ Att. 36, G03-02-01 (IV)(C).

⁸⁵ Att. 36, G03-02-01 (IV)(C)(1-2).

⁸⁶ Att. 36, G03-02-01(IV)(B)(2)(C)((1)).

⁸⁷ Att. 36, G03-02-01(IV)(C)(1)(a)((1)).

⁸⁸ Att. 36, G03-02-01(IV)(B)(2)(c)((1)).

⁸⁹ Att. 36, G03-02-01(IV)(C)(1)(a)((1)).

⁹⁰ Att. 32, pgs. 17 to 18.

⁹¹ Att. 32, pg. 23, lns. 21 to 24.

⁹² Att. 1, at 0:38 to 0:42. (Sgt. Okon first picked up a flashlight at 0:38, and then picked up a handgun lying on the ground near [REDACTED] at 0:42.)

where ██████ handgun was located at the time he delivered the strikes,⁹³ as he most likely would have picked up the firearm before the flashlight if he had been aware that it was lying so close to ██████ prone position. Consequently, it is evident that Sgt. Okon was justified in using direct mechanical strikes in this circumstance because he had sufficient cause to believe that ██████ was still an armed assailant. COPA thus finds Allegation #1 against Sgt. Okon, that he unjustifiably struck ██████ about the head with a closed fist, is exonerated by clear and convincing evidence.

With regard to the allegation of striking ██████ body with a closed fist, Sgt. Okon stated during his interview that he did not recall ever striking ██████ anywhere on his body.⁹⁴ The available video evidence is unclear on this point, as Sgt. Okon's BWC was positioned too close to ██████ torso during the physical struggle to show a clear view of any potential body blows. In the absence of objective verifiable evidence, COPA is unable to either prove or disprove that this act occurred. Therefore, COPA finds Allegation #2 against Sgt. Okon, that he unjustifiably struck ██████ about the body with a closed fist, is not sustained.

ii. Officer Malek's uses of force

Regarding the allegation of unjustifiably striking ██████ head, Officer Malek stated during his interview that he believed he was justified in performing those strikes, because ██████ was an armed assailant who was resisting arrest, and he was suspected of having just shot another person.⁹⁵ Officer Malek also explained that he was unable to see where ██████ handgun was located, as Sgt. Okon's body was blocking his view as he ran up to the scene of the struggle, so he had reason to believe that ██████ was still holding the weapon.⁹⁶ The BWC evidence confirms that Officer Malek arrived at the scene behind Sgt. Okon and had less opportunity to observe ██████ actions before he was taken down to the ground; therefore, in COPA's assessment, it is unlikely that Officer Malek had any more knowledge than Sgt. Okon did about the exact whereabouts of ██████ handgun. As a result, COPA also accepts that Officer Malek believed he was acting against an armed assailant during this struggle, and therefore finds Allegation #1 against Officer Malek, that he unjustifiably struck ██████ about the head with a closed fist, is exonerated by clear and convincing evidence.

Regarding the allegation that he unjustifiably struck ██████ body, Officer Malek stated that he did not recall striking any part of ██████ torso during the incident.⁹⁷ Officer Malek's BWC did not definitively show such strikes due to its close proximity to ██████ body, and from the sudden motions of the camera COPA can only surmise that he made approximately a dozen quick actions which could have been strikes to either ██████ head or body.⁹⁸ As there is insufficient evidence to either prove or disprove this point, COPA finds Allegation #2 against Officer Malek, that he unjustifiably struck ██████ about the body with a closed fist, is not sustained.

⁹³ Att. 32, pg. 24, lns. 12 to 15.

⁹⁴ Att. 32, pg. 38, lns. 6 to 8.

⁹⁵ Att. 27, pg. 35, lns. 17 to 19.

⁹⁶ Att. 27, pg. 32, lns. 13 to 18.

⁹⁷ Att. 27, pg. 42, lns. 11 to 13.

⁹⁸ Att. 2, at 0:26 to 0:36.

b. Officer Malek's verbal misconduct

COPA finds the allegation that Officer Malek called ██████ by the pejorative term “bitch” during the course of his arrest is **sustained**. As previously stated, CPD Rule 8 prohibits officers from disrespecting or mistreating any person, and Rule 9 forbids officers from engaging in any unjustified verbal or physical altercation with any person.⁹⁹ Additionally, CPD policy requires officers to “act, speak, and conduct themselves in a professional manner...and maintain a courteous, professional attitude in all contacts with the public.”¹⁰⁰ Officer Malek admitted during his COPA statement that he addressed ██████ in this manner, and said that he used this language due to the fear and stress he experienced during the confrontation.¹⁰¹ As there is no dispute about the evidence of this misconduct, COPA finds Allegation #3 against Officer Malek, that he yelled words to the effect of “Give me your hands, now Bitch!,” is sustained in violation of Rules 2, 3, 6, 8, and 9.

c. The placement of Officer Wilson's foot during the arrest

COPA finds the allegation against Officer Wilson, that he unjustifiably placed his foot against ██████ head, is **sustained**. Although Officer Wilson was not assigned a BWC at the time of the incident, Sgt. Okon's BWC video¹⁰² provided evidence that while other officers were engaged in the process of restraining ██████ Officer Wilson did place his right foot on the side of ██████ head in violation of CPD Rule 8 (the prohibition against disrespecting or mistreating any person) and Rule 9 (the prohibition against engaging in unjustified verbal or physical altercations). When questioned about this during his COPA interview, Officer Wilson repeatedly attempted to deflect the discussion away from his misconduct. When shown the BWC video and pressed to give a response, Officer Wilson downplayed his behavior toward ██████ He insisted that he placed his foot on ██████ back, but for a brief time his foot inadvertently slipped to the area of ██████ head.¹⁰³ Under the circumstances, COPA finds this use of force was not objectively reasonable, necessary, or proportional. Consequently, COPA finds Allegation #1 against Officer Wilson, that he placed his foot on or about ██████ head without justification, is sustained in violation of Rules 2, 3, 6, 8, and 9.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Joseph Malek

i. Complimentary and Disciplinary History¹⁰⁴

Officer Malek's complimentary history is comprised of 140 awards, the highlights of which include one Superintendent's Award of Tactical Excellence, one Superintendent's Honorable Mention, two Problem Solving Awards, one Honorable Mention Ribbon Award, one Annual

⁹⁹ Att. 41, Rules and Regulations of the Chicago Police Department, Rules of Conduct, Rules 8 to 9, pg. 7

¹⁰⁰ Att. 42, G02-01(III)(B), Human Rights and Human Resources (effective October 5, 2017 to June 30, 2022).

¹⁰¹ Att. 27, pgs. 42 to 43.

¹⁰² Att. 1 at 1:03 to 1:10.

¹⁰³ Att. 40, pg. 17, lns. 7 to 12.

¹⁰⁴ Atts. 44 and 45.

Bureau Award of Recognition, three Joint Operations Awards, and four Department Commendations. He has no recent disciplinary history.

ii. **Recommended Discipline**

COPA has found that Officer Malek directed profanity at [REDACTED] without justification, in violation of Rules 2, 3, 6, 8 and 9. Officer Malek's misconduct was captured on BWC, and it is undisputed that he directed profanity at [REDACTED]. COPA notes, however, that the circumstances were highly stressful, and that Officer Malek accepted responsibility for his actions during his statement to COPA. Given Officer Malek's extensive complimentary history and lack of disciplinary history, COPA recommends he receive a **reprimand and retraining** regarding CPD's standards of professionalism.

b. **Officer Michael Wilson**

i. **Complimentary and Disciplinary History**¹⁰⁵

Officer Wilson's complimentary history is comprised of 58 awards, the highlights of which include one Unit Meritorious Performance Award, one Joint Operations Award, and 52 Honorable Mentions. His disciplinary history includes a sustained finding for a 2019 incident involving Personnel Violations/Misuse of Department Records, resulting in a violation noted.

ii. **Recommended Discipline**

COPA has found that Officer Wilson stepped on [REDACTED] face without justification, in violation of Rules 2, 3, 6, 8 and 9. Officer Wilson's misconduct was captured on BWC and is not in dispute. COPA notes that the nature of Officer Wilson's misconduct is particularly egregious because he is currently employed as a Use of Force Instructor at the CPD Academy, and yet throughout his COPA interview he failed to accept his responsibility for a use of force which was not objectively reasonable, necessary, or proportional to the circumstances of the situation. Considering Officer Wilson's complimentary and disciplinary history, as well as the passage of time, COPA recommends he receive a **10-day suspension and retraining** regarding CPD's use of force policy.

Approved:

[REDACTED]

Steffany Hreno
Director of Investigations

11/22/2023

Date

¹⁰⁵ Atts. 46 and 47.

Appendix ACase Details

Date/Time/Location of Incident:	September 27, 2018 / 9:52 p.m. / 8200 S. Loomis Boulevard, Chicago, IL 60620
Date/Time of COPA Notification:	December 12, 2020 / 3:20 p.m.
Involved Officer #1:	Sgt. Anthony Okon / Star #1565 (previously #15833) / Date of Appointment: September 29, 2014 / Unit of Assignment: 008 / Male / White
Involved Officer #2:	Officer Joseph Malek / Star #17438 / Date of Appointment: September 1, 2010 / Unit of Assignment: 006 / Male / White
Involved Officer #3:	Officer Michael Wilson / Star #17643 / Date of Appointment: January 17, 2017 / Unit of Assignment: 001 / Male / Black
Involved Individual #1:	██████████ / Male / Black

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 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 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- G02-01, Human Rights and Human Resources (effective October 5, 2017 to June 30, 2022).
- G03-02: Use of Force (effective October 16, 2017 to February 28, 2020).
- G03-02-01: Force Options (effective October 16, 2017 to February 28, 2020).

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.¹⁰⁶ For example, 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. 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.”¹⁰⁷

¹⁰⁶ 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).

¹⁰⁷ *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