

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 27, 2021
Time of Incident:	11:33 am
Location of Incident:	931 N Rush St.
Date of COPA Notification:	August 27, 2021
Time of COPA Notification:	2:27 pm

This investigation began on August 27, 2021, when Lieutenant (Lt.) Timothy Weiglein, Star #217, reviewed a use-of-force incident and recommended this case for further review by the Civilian Office of Police Accountability (COPA). COPA gathered Police Observation Device (POD) video recordings, third-party video recordings, Body Worn Camera (BWC) video recordings, Department reports, and conducted interviews of the involved individual, witnesses, and the involved Chicago Police Department (CPD) members. The investigation revealed that CPD members responded to multiple 911 calls reporting a reckless driver in the vicinity of Northwestern Memorial Hospital, culminating in a traffic crash into the Christian Dior store at 931 N Rush St. The driver of the involved vehicle, identified as ██████████ exited his vehicle after the traffic crash, ran into the store, attempted to destroy store property, and became combative. Dior personnel restrained ██████████ until police arrived on scene. Numerous CPD members responded to the scene and tried to restrain ██████████ who resisted arrest. Several CPD members used force to place ██████████ into custody. COPA ultimately served a total of seven allegations against one sergeant and two police officers. COPA finds that one allegation of excessive force is Exonerated, while the remaining allegations are Sustained.

II. INVOLVED PARTIES

Involved Officer #1:	Robert Markvart; ¹ Star #13905; Employee ID ██████████; Date of Appointment: October 26, 1998; Police Officer; Unit: 018; Male; White
Involved Officer #2:	Chris Chausse; Star #10422; Employee ID # ██████████; Date of Appointment: October 26, 1998; Police Officer; Unit: 001/123; Male; White
Involved Sergeant #1:	Michael Bartz; Star #2364; Employee ID # ██████████ Date of Appointment: August 2, 1999; Unit: 018/136; Sergeant of Police; Male; White
Involved Individual #1:	██████████ Male; Hispanic

¹ Officer Markvart retired on November 13, 2021, during the pendency of this investigation. Att. 133.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Robert Markvart	<p>It is alleged by the above [Lt. Timothy Weiglein, #217] that on or about August 27, 2021, at approximately 11:33 A.M., at or near 931 Rush St., Chicago, IL, 60611, that you, Officer Robert Markvart committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Struck [REDACTED] in the face, without justification. 2. Struck [REDACTED] in the abdomen, without justification. 3. Failed to activate BWC during law enforcement activity. 4. Brought discredit to the Department when you stated “no, he tried biting me – whacked him in the face.” 	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
Officer Christopher Chausse	<p>It is alleged by the above [Lt. Timothy Weiglein, #217] that on or about August 27, 2021, at approximately 11:33 A.M., at or near 931B. Rush St., Chicago, IL, 60611, that you, Officer Chris Chausse committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Applied pressure to [REDACTED] face using your foot, without justification. 2. Failed to activate BWC during law enforcement activity. 	<p>Sustained</p> <p>Sustained</p>
Sergeant Michael Bartz	<p>It is alleged by the above [Lt. Timothy Weiglein, #217] that on or about August 27, 2021, at approximately 11:33 A.M., at or near 931B. Rush St., Chicago, IL, 60611, that you, Sergeant Michael Bartz committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Failed to activate BWC during law enforcement activity. 	<p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

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.

General Orders

1. G03-02: De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021)²

2. G03-02-01: Response to Resistance and Force Options (effective April 15, 2021)³

Special Orders

1. S03-14: Body Worn Cameras (effective April 30, 2018)⁴

V. INVESTIGATION⁵

a. Interviews

COPA interviewed **witness** ██████████ on September 15, 2021.⁶ ██████████ is employed as a boutique sales supervisor and is keyholder for Christian Dior (Dior). On the date of this incident, he was walking on Walton Street back to the store when he heard a vehicle maneuvering through traffic. The vehicle crossed in front of stopped traffic in a perpendicular direction and crashed into Dior's window, narrowly missing pedestrians on the sidewalk. An individual exited the crashed vehicle and walked toward Dior's entrance. ██████████ briefly waited with a crowd of onlookers before walking past the vehicle, a red sports car, to Dior's entrance. ██████████ observed the individual through the window and door being corralled by a security guard known as ██████████ near the entrance. Dior's manager, ██████████ instructed ██████████ and other employees to remain outside. Police officers arrived on scene and entered Dior. Because ██████████ and other Dior employees then moved to a next-door business, they did not witness any subsequent actions by the individual who exited the vehicle or the police inside of Dior. ██████████ returned to Dior approximately thirty minutes later. ██████████ later saw video recorded by one of Dior's security cameras, and he noted that when the subject entered the store following the crash, ██████████ wrestled the subject to the ground. ██████████ did not personally witness any words or actions by any police officer on scene that he found concerning.

² Att. 130.

³ Att. 131.

⁴ Att. 132.

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁶ Atts. 7 and 64.

COPA interviewed witness [REDACTED] on September 15, 2021.⁷ [REDACTED] is employed as the boutique director at Dior. On the date of this incident, [REDACTED] was in the rear area of the main floor training a new employee when he heard a large crash. Believing that the crash was from a fallen fixture, [REDACTED] entered the main sales floor where he saw one of the store's walls collapsed and employees headed toward the rear exit. [REDACTED] instructed all employees to exit the store, but he remained inside with two security officers. An individual approached the front entrance doors, which were partially ajar, yelling, "Help me!" Not knowing what had happened, [REDACTED] and the security officers allowed the individual to enter the store. [REDACTED] went outside and saw the crashed vehicle and went back inside, assuming the individual was the driver of the vehicle. The individual bounced off the walls and the store's fixed display cases. [REDACTED] noticed that the individual was bloodied, was not wearing shoes, and appeared to possibly have drug residue on his face. Security Officer [REDACTED] cornered the individual, and the individual grabbed onto a display rack. Security Officers [REDACTED] and [REDACTED] kept the individual on the ground for approximately twenty seconds before the first police officer entered the store. The individual also attempted to use the display rack as a weapon against the responding CPD officers. It was apparent to [REDACTED] that the individual was experiencing a mental crisis, drug episode, or both.⁸

[REDACTED] provided a statement to COPA on October 15, 2021, while incarcerated at the Cook County Department of Corrections.⁹ [REDACTED] said he was attempting to drive to Northwestern Hospital to get help for his heart failure when he crashed his vehicle into a Christian Dior store. Upon exiting his vehicle, [REDACTED] yelled for help to anyone who could hear him. Several police officers appeared and started hitting and punching [REDACTED] all over his body. Afraid the officers would kill him, [REDACTED] entered Christian Dior and pulled the fire alarm. [REDACTED] somehow ended up face down on the floor, with an unknown person choking him. At least five officers struck [REDACTED] about the body as he was being choked. [REDACTED] began shaking and lost consciousness. He woke up in the hospital one or two days later. [REDACTED] sustained multiple blood clots and injuries to his head, ribs, abdomen, and various locations about his body.

[REDACTED] was asked to clarify when he was initially attacked by the officers, and he responded that it started inside of the store. [REDACTED] did not recall hearing any verbal orders from officers. He denied resisting arrest or attempting to disarm anyone, and he denied being under the influence of alcohol or narcotics at the time of the incident. [REDACTED] said he is under medical care for congestive heart failure at Advocate Illinois Masonic Medical Center.

COPA interviewed **Police Officer Dominic Crescente Jr.** on October 21, 2021.¹⁰ Officer Crescente was working in the 18th District with his partner, Officer Nolan, when they heard several radio calls identifying a vehicle that was driving recklessly. Officer Crescente saw the vehicle, [REDACTED] red Camaro, moving approximately a half block down Walton St., but then he lost sight of the car. Moments later, Officer Crescente saw that the car had crashed into the Dior store. Officers Crescente and Nolan were the first officers on scene following the crash and were directed

⁷ Atts. 4 and 65.

⁸ Attempts to interview Dior Security Officers [REDACTED] and [REDACTED] were unsuccessful. Case Management System Notes CO-0102526, CO-0103032, CO-0103244, CO-0103263, CO-0103900, CO-0105378, CO-0105384, and CO-0105527.

⁹ Atts. 2 and 107.

¹⁰ Atts. 39 and 111.

by multiple civilians to the entrance of Dior. Officer Crescente entered Dior and observed store security holding an individual, later identified as ██████ on the ground. ██████ was slightly bloodied and had white residue on his face. Officer Crescente presumed he was the driver of the crashed vehicle. Due to ██████ initial behavior, size, and profuse sweatiness, Officer Crescente requested backup from additional officers before attempting to handcuff ██████. Officer Crescente recalled that ██████ possibly said, "Kill me," but he was unsure because ██████ words were muffled.¹¹ ██████ grabbed a display stand. Officer Crescente took the stand from ██████ and placed one handcuff on ██████ as additional officers arrived. ██████ pulled away from Officer Crescente. As Officer Crescente tried to control and handcuff ██████ with the assistance of other officers, Officer Crescente felt ██████ hand on his firearm. Officer Crescente immediately pulled away from ██████ covered his firearm with his own hand, and verbally announced something to the effect that ██████ had access to his firearm. Simultaneously, Officer Crescente heard Officer Markvart say, "He's got your gun."¹² Officer Crescente demonstrated and described that ██████ hand gripped the top of his holstered firearm on his left hip. Officer Crescente explained that ██████ had a secure grip where the handle and slide of the firearm protrude from the holster. Although brief and lasting approximately one second, Officer Crescente believed that ██████ intended to disarm him.

Officer Crescente said that he did not have any independent recollection of any officer's response to ██████ attempt to disarm him. Officer Crescente did not use any force on ██████ but a supervisor instructed Officer Crescente to complete a Tactical Response Report (TRR) because of ██████ attempt to disarm him. Officer Crescente believed that ██████ was under the influence of drugs and alcohol because of his erratic behavior, profuse sweatiness, and his appearance of not being mentally present.

During an interview with COPA on November 10, 2021, **Officer John Nolan** provided an account consistent with Officer Crescente's account.¹³ Officer Nolan recalled that once he and Officer Crescente observed the Camaro driving erratically, they tried to catch up to the Camaro but could not because of heavy traffic. Officers Nolan and Crescente entered the Dior store and assessed the situation. Once additional officers arrived, they attempted to handcuff ██████. ██████ moved his arms and legs to avoid being handcuffed. Officer Nolan said it was difficult to gain control of ██████ limbs because ██████ was so sweaty. ██████ kicked his legs throughout the incident. Officer Nolan helped hold ██████ down on the floor, possibly holding his legs, and tried to calm him. After some time, there were so many officers on scene and things were chaotic, so Officer Nolan backed away. ██████ continued resisting after he was handcuffed. According to Officer Nolan, ██████ seemed dazed, confused, and appeared to be under the influence of something. Officer Nolan said he never saw ██████ hand on Officer Crescente's weapon on scene, but later saw it on someone's BWC recording.¹⁴

Officer Nolan did not observe any CPD member strike or kick ██████ on the face, and he never saw any member's foot make contact with ██████ body. Officer Nolan also denied

¹¹ Att. 111, pg. 23, ln. 12.

¹² Att. 111, pg. 34, lns. 13 to 14.

¹³ Atts. 54 and 105.

¹⁴ Officer Nolan explained that he reviewed multiple BWC video recordings with a member of the State's Attorney's Office, and he did not remember which recording contained this footage.

observing any CPD member choke or place their hands around ██████ throat or neck. Upon viewing BWC recordings during the interview, Officer Nolan acknowledged that Officer Markvart struck ██████ in the abdomen, but Officer Nolan explained that he did not observe that strike at the time of this incident.

During an interview with COPA on October 28, 2021, **Officer Robert Markvart** said that he responded to a radio call from Officer Crescente for assistance at Dior.¹⁵ Officer Markvart arrived on scene and saw Officers Crescente, Nolan, and a security officer wrestling with ██████ was thrashing around, and the officers tried to hold him down.¹⁶ Officer Markvart tried to grab ██████ hand, but ██████ pulled away. Then, officers placed one handcuff on ██████ and ██████ pulled away. ██████ placed his right hand around the butt of Officer Crescente's gun and yanked it. Officer Markvart yelled, "He has your gun!"¹⁷ Officer Markvart struck ██████ twice on the jaw area of his face to make him release the gun. Officer Markvart then grabbed ██████ wrist and pulled his hand off the gun, and he held ██████ hand to the floor so that someone could handcuff him. Once ██████ was handcuffed, the officers placed him on his side so he could breathe.¹⁸ ██████ repeatedly flailed and rolled onto his stomach. Officer Markvart held ██████ legs while other officers retrieved shackles. ██████ grabbed and ripped Officer Markvart's pants, which prevented Officer Markvart from standing and brought him down to one knee. Officer Markvart struck ██████ twice on the right hip to make him release his pant leg.¹⁹ Officer Markvart and two other officers pried ██████ fingers off his pants. Officer Markvart said he struck ██████ because, "He was an assailant because he was grabbing my leg, my pant leg. He was still fighting."²⁰ Officer Markvart explained that ██████ grabbed his pant leg so tightly that it put pressure on his leg and caused his knee to buckle. Officer Markvart tried pulling his leg away but was unsuccessful.²¹ When asked why he did not instead grab ██████ hand and pull it off his pant leg, he explained that he thought a stunning blow would make ██████ let go. During the interview, Officer Markvart viewed a photograph with apparent bruises on ██████ indicative of him being struck on the abdomen and not the hip.²² Officer Markvart responded that he believed he struck ██████ on the hip, as that was his intent.²³

When questioned about whether ██████ tried to bite him, Officer Markvart denied saying that ██████ attempted to bite him. Officer Markvart viewed BWC recordings during the interview and acknowledged that he said, "No, he tried biting me – whacked him in the face."²⁴

¹⁵ Atts. 46 and 104.

¹⁶ Officer Markvart said initially it was mostly the security officer trying to hold ██████ down.

¹⁷ Att. 104, pg. 13, ln. 16.

¹⁸ Officer Markvart does not know which officer handcuffed ██████

¹⁹ See Att. 24, Officer Bubacz's BWC recording at 11:35:49 – 11:35:52. At 11:35:51, between the first and second strike, Officer Markvart is heard saying on video, "Leave my pants alone."

²⁰ Att. 104, pg. 32, lns. 21 to 22.

²¹ Att. 104, pg. 35, lns. 17 to 18.

²² Att. 17.

²³ Upon reviewing his TRR during the statement, Officer Markvart noted that he did not include that he struck ██████ on the hip for the purpose of causing ██████ to release his pant leg. Officer Markvart also made two corrections: ██████ activity was not drug-related, but rather he believed that ██████ was under the influence of drugs; and the incident did not involve a foot pursuit. Att. 104, pg. 42, ln. 23 through pg. 43, ln 6; and pg. 37, lns. 13 to 24.

²⁴ Att. 96, BWC recording of Officer Burnett at 11:42:30; BWC recording of Officer Markvart at 11:42:32.

Officer Markvart explained that he does not remember why he made that statement; he may have been close to ██████ mouth.²⁵ He asserted that he struck ██████ on the face because ██████ had his hand on Officer Crescente's firearm,²⁶ and when he made that statement he was not referencing when he actually "whacked" ██████ in the face.²⁷ Officer Markvart explained that he does not remember the context of his statement, and could have been joking around.²⁸ Officer Markvart added that he did not activate his Body Worn Camera because it had been knocked off.²⁹

In an interview with COPA on November 4, 2021, **Sergeant (Sgt.) Michael Bartz** recounted that he was at the police station when he heard numerous reports over the radio of a vehicle driving on the sidewalk.³⁰ He drove toward the general area and observed a car crashed into Dior's window. Sgt. Bartz exited his vehicle and double-tapped his BWC to activate it. Sgt. Bartz entered the store and observed Officers Nolan, Crescente, and a security officer trying to handcuff ██████³¹ Sgt. Bartz assisted and tried to control ██████ left wrist, which he believes was cuffed. Sgt. Bartz described ██████ as "a 300-pound, sweaty man high on cocaine."³² Sgt. Bartz said there was something coming out of ██████ nose. He could not tell whether ██████ was frothing at the mouth or nose, or if it was cocaine. ██████ fought and refused to be handcuffed, and it took many officers to subdue him. During the struggle, Officer Markvart told Officer Crescente that ██████ had his (Officer Crescente's) gun. Officer Crescente also shouted that ██████ had his gun. Sgt. Bartz responded, "Hit him,"³³ although he never saw ██████ hand near Officer Crescente's gun.³⁴ Sgt. Bartz explained that ██████ became an assailant when he reached for the weapon, and it was a matter of life and death.³⁵ Officer Markvart struck ██████ with a closed hand twice near the jaw area. Once ██████ was handcuffed, he kept moving his legs trying to get up. Sgt. Bartz requested leg shackles for ██████. Once the officers secured ██████ Sgt. Bartz instructed the officers to sit ██████ up to keep his airway clear. It appeared that ██████ passed out, so Sgt. Bartz told the officers to place ██████ on his side. An ambulance arrived and transported ██████ to the hospital. Sgt. Bartz explained that once ██████ was placed into the ambulance, he pressed the button to turn off his BWC, and he then realized it was never activated. He believed he previously activated it.³⁶ Sgt. Bartz said he did not observe anyone choke ██████ to unconsciousness, and he does not believe he observed Officer Markvart, or anyone else, strike ██████ in the abdomen or hip area.

COPA interviewed **Officer Christopher Chausse** on October 28, 2021.³⁷ Officer Chausse recounted that he and his partners, Officers Timothy Hayes and Timothy Bubacz, responded to a radio request for assistance at the Dior store. The officers entered Dior and found other officers

²⁵ Att. 104, pg. 40, lns. 4 to 20.

²⁶ Att. 104, pg. 62, lns. 6 to 9.

²⁷ Att. 104, pg. 62, lns. 21 to 24 through pg. 63, lns. 1 to 3.

²⁸ Att. 104, pg. 67, lns. 3 to 23.

²⁹ Att. 104, pg. 65, lns. 2 to 6.

³⁰ Atts. 50 and 106.

³¹ Sgt. Bartz explained that Officer Markvart arrived just before him, or around the same time.

³² Att. 106, pg. 11, ln. 5.

³³ Sgt. Bartz did not direct this statement to any particular officer.

³⁴ Att. 106, pg. 14, lns. 4 to 7.

³⁵ Att. 106, pg. 14, lns. 11 to 24.

³⁶ Att. 106, pg. 64, lns. 17 to 24 through pg. 65, ln. 1.

³⁷ Atts. 45 and 109.

struggling with ██████ on the floor. As Officer Chausse assisted the officers, he heard an officer say words to the effect of, “He’s going for my gun.... He’s got the handle of my gun or the butt of my gun.”³⁸ Officer Chausse repositioned himself toward ██████ upper body as multiple officers attempted to secure ██████ right arm. Officer Chausse attempted to place his foot on ██████ left shoulder. Officer Chausse explained that he intended to apply pressure to ██████ shoulder to control his arm; however, with all the movement, Officer Chausse’s foot slipped from ██████ shoulder to his head. Officer Chausse instantly realized his foot was on ██████ head and immediately removed his foot. Officer Chausse then went to the floor and handcuffed ██████³⁹ During the interview, Officer Chausse viewed a still shot from Officer Crescente’s BWC and acknowledged it was his foot on ██████ face.⁴⁰ Officer Chausse denied that he intentionally applied pressure to ██████ face and added that it was brief, inadvertent contact.

Officer Chausse described ██████ as a large, strong person who was difficult to control even with the large number of officers on scene. According to Officer Chausse, ██████ was very sweaty and appeared to be under the influence of drugs or alcohol. Officer Chausse said ██████ was initially an active resister, but he became an assailant when he attempted to disarm Officer Crescente. Once ██████ was handcuffed, he kept trying to kick officers. Officers ultimately placed shackles on ██████ legs. Officer Chausse said he believed that he activated his BWC before entering Dior, but he did not check to ensure it was activated. Officer Chausse denied observing any CPD member strike ██████

COPA interviewed **Officer Timothy Bubacz** on November 8, 2021.⁴¹ Officer Bubacz entered Dior and saw several officers struggling with a man, ██████ who was yelling, “Kill me.”⁴² Officers told ██████ to relax, stop fighting, and that they were trying to help him, or words to that effect. Officer Bubacz went to assist with handcuffing ██████ but only briefly placed his hand on ██████ hip area, which was the extent of Officer Bubacz’s physical contact with ██████ During the struggle, Officer Bubacz heard officers say that ██████ was going for someone’s gun, but he did not witness ██████ hands near any officer’s firearm. Officer Bubacz did not witness Officer Markvart strike ██████ in the face. Officer Bubacz heard Officer Markvart say something about letting go of his pants, and he saw Officer Markvart’s arm rise, but he did not see Officer Markvart’s strikes make physical contact with ██████

COPA interviewed **Officer Timothy Hayes** on January 20, 2022.⁴³ Officer Hayes entered Dior and observed ██████ actively resisting a sergeant and several officers who were trying to handcuff him. One of ██████ hands had an open handcuff attached.⁴⁴ Officer Hayes attempted to grab the arm with the open handcuff, but his hand slipped off because ██████ was extremely

³⁸ Att. 109, pg. 9, Ins. 1 to 4. Officer Chausse is unsure which officer said this. He never saw ██████ hand on Officer Crescente’s weapon.

³⁹ Officer Chausse said they applied two sets of handcuffs to ██████ due to his size.

⁴⁰ Att. 19.

⁴¹ Atts. 51 and 108.

⁴² Att. 108, pg. 8, ln. 5.

⁴³ Atts. 67 and 103.

⁴⁴ An open handcuff is when there is one bracelet locked onto an individual’s wrist while the other is open and dangling; in this manner, the individual has not been completely mechanically detained.

sweaty.⁴⁵ Officer Hayes repositioned himself on the right side of [REDACTED] who was laying on his right side with his arms crossed. Officer Hayes could not recall which arm had the handcuff attached, but Officer Hayes was able to grip [REDACTED] forearm to control and guide the arm behind [REDACTED] back to complete handcuffing. Once [REDACTED] was handcuffed, Officer Hayes helped prop [REDACTED] up to ensure that he could breathe and to prevent him from injuring himself. Officer Hayes did not recall observing anyone strike [REDACTED] at the time of the incident, but upon reviewing his BWC recording during the interview he observed Officer Markvart strike [REDACTED] on his midsection, and he saw an officer he could not identify place their foot on [REDACTED] face.

COPA interviewed **Officer Agatha Chow** on November 24, 2021.⁴⁶ Officer Chow responded to the scene of the crash at Dior and witnessed several officers struggling to handcuff [REDACTED]. Officer Chow assisted with handcuffing by guiding [REDACTED] left forearm to an open handcuff. Officer Chow classified [REDACTED] actions during handcuffing as that of an active resister. Once [REDACTED] was handcuffed, Officer Chow stood up and went outside. Upon reviewing her BWC recording, Officer Chow acknowledged that an officer struck [REDACTED] on his abdomen; however, she had no independent recollection of witnessing that strike.

b. Digital Evidence

The Office of Emergency Management and Communications (OEMC) received more than twenty **911 calls** between 11:17 am and 11:34 am reporting a reckless driver of a red sports car near Northwestern Memorial Hospital and Lurie Children's Hospital.⁴⁷ Callers reported that the driver struck multiple objects, nearly struck multiple pedestrians, and committed numerous traffic violations. At 11:37 am, a Dior employee dialed 911 and reported that she was working in the basement of the Dior store, and some unknown emergency was occurring upstairs; the caller reported that the store's alarm was sounding.

An OEMC dispatcher broadcast information about a reckless driver of a red Camaro in the 18th District over **Zone 4 of the police radio**.⁴⁸ Approximately two minutes later, a police unit reported seeing a car traveling east from Michigan Avenue, but the unit could not catch up to it because of the car's high speed and traffic conditions. The dispatcher transmitted other reported sightings of the vehicle and its location over the air and requested assistance from any available units.

COPA obtained and reviewed **third-party video recordings**,⁴⁹ **Police Observation Device (POD) video recordings**,⁵⁰ and **Body Worn Camera (BWC) recordings**.⁵¹ The following summary reflects the most material evidence to this investigation. POD video captures [REDACTED] car driving in and out of camera range in the vicinity of 878 N. Michigan Ave.⁵² An external

⁴⁵ Att. 103, pg. 12, lns. 20 to 22.

⁴⁶ Atts. 55 and 110.

⁴⁷ Atts. 25 and 71 to 94. Some callers alternatively described the color of the car as either maroon or burgundy.

⁴⁸ Att. 95.

⁴⁹ Atts. 42, 98, and 128.

⁵⁰ Atts. 39, 40, 101, and 102.

⁵¹ Atts. 10 to 14, 23, 24, 96, and 118 to 127.

⁵² Att. 102.

security camera from Waldorf Astoria Chicago⁵³ depicts [REDACTED] vehicle crashing into Christian Dior's store window.⁵⁴ [REDACTED] then exits his vehicle and runs toward the store. An internal surveillance camera from Dior⁵⁵ depicts employees gathered inside the store when suddenly a wall collapses. Moments later, [REDACTED] runs into the store and pushes a display case.⁵⁶ He then runs toward the entrance door but returns, picks up an unknown object, and slams it against a store display. A Dior employee, likely a security officer, subdues [REDACTED] wrapping his right arm around [REDACTED] neck and shoulder area.⁵⁷ [REDACTED] goes to a seated position on the floor and a struggle ensues. The security officer restrains [REDACTED] maintaining his grip around [REDACTED] neck and shoulder area.

Two police officers, now identified as Officers Crescente and Nolan, enter the store;⁵⁸ [REDACTED] is laying on his side, still being restrained by the security officer. Officer Crescente speaks into his radio. [REDACTED] grabs a metal object from the floor⁵⁹ and yells, "Kill me. Kill me. Kill me already."⁶⁰ Officers Crescente, Nolan, and the security officer pull the object away from [REDACTED]. Officer Markvart and Sgt. Bartz enter the store.⁶¹ The sergeant, officers, and security officer struggle to handcuff [REDACTED] as he appears to stiffen his arms. Officer Crescente applies a handcuff to [REDACTED] left wrist.⁶² Additional officers arrive on scene to assist as [REDACTED] resists and flails on the floor. The officers struggle to place [REDACTED] left arm behind his back. Officer Crescente says, "He's holding on to me... He pulled away... He's holding onto my gun!"⁶³ Another officer says, "He's got your gun!" Officer Markvart strikes [REDACTED] on the face.⁶⁴ Simultaneously, Officer Chausse places his right foot on [REDACTED] face, and then places his foot on or near [REDACTED] face and neck two additional times.⁶⁵ Officer Markvart looks in Officer Chausse's direction and says, "No. No. Don't."⁶⁶ As multiple officers restrain [REDACTED] an officer places a second set of handcuffs on [REDACTED] right wrist.⁶⁷ [REDACTED] squeezes the open cuff in his right hand and the officers pry it out of his hand.

After the struggle, [REDACTED] is handcuffed behind his back with two sets of cuffs.⁶⁸ [REDACTED] rolls from his stomach to his side and screams, "Help me!" Officer Markvart, who is now behind [REDACTED] places his right knee on [REDACTED] right side and holds him down. Officer Markvart then strikes [REDACTED] once on the abdomen, shouts, "Leave my pants alone," and strikes

⁵³ Att. 98.

⁵⁴ The crash occurs ten seconds into the recording.

⁵⁵ Att. 42 at 11:32:03.

⁵⁶ Att. 42 at 11:32:13.

⁵⁷ Att. 42 at 11:32:24.

⁵⁸ Att. 42 at 11:33:08.

⁵⁹ Att. 42 at 11:33:45; and Att. 12, Officer Crescente's Body Worn Camera, at 11:33:57.

⁶⁰ Att. 12 at 11:33:59.

⁶¹ Att. 42 at 11:34:10.

⁶² Att. 12 at 11:34:28.

⁶³ Att. 12 at 11:34:36.

⁶⁴ Att. 12 at 11:34:44; Atts. 18 and 20 to 22, which are still photographs from Officer Crescente's Body Worn Camera.

⁶⁵ Atts. 12 and 23 at 11:34:42; Att. 19, which is a still photograph from Officer Crescente's Body Worn Camera. Att. 23, Officer Hayes' Body Worn Camera, at 11:35:18; Att. 96, Officer Burnett's Body Worn Camera, at 11:35:10 to 11:35:34.

⁶⁶ Att. 12 at 11:34:47.

⁶⁷ Att. 12 at 11:35:02.

⁶⁸ Att. 42 at 11:35:29; Att. 12 at 11:35:35.

██████████ a second time on the abdomen.⁶⁹ An officer places shackles on ██████████ ankles.⁷⁰ Officer Markvart apparently sees a body worn camera on the floor, looks at his vest, and realizes it belongs to him.⁷¹ Officer Markvart affixes the camera to his vest and activates it. CFD personnel arrive on scene.⁷² ██████████ is placed onto a gurney and into an ambulance.⁷³ Officer Markvart stands outside with a group of officers shortly after ██████████ is placed into custody and tells other officers, “No he tried biting me – whacked him in the face.”⁷⁴

Evidence Technician photographs depict ██████████ intubated at the hospital.⁷⁵ There is apparent bruising to ██████████ left eye and cheek area, extending to his left ear. The photographs also depict what appears to be dried blood or other residue below ██████████ left nostril.

Evidence Technician photographs depict the scene from various angles.⁷⁶ Additionally, the photographs depict Officer Crescente; Officer Markvart; and Officer Markvart’s torn, right pant leg.

c. Physical Evidence

COPA reviewed **Northwestern Memorial Hospital records** for ██████████⁷⁷ Medical staff received ██████████ on August 27, 2021. Per the records, ██████████ was unconscious and had reportedly crashed his car into a storefront. ██████████ was in an altered mental status and required mechanical ventilation. ██████████ has a history of congestive heart failure. Bruising and swelling was noted to ██████████ left eye, along with a right temporal scalp laceration, and he was diagnosed with a rib fracture. ██████████ family members reportedly told medical staff that ██████████ had been consuming cocaine and alcohol continuously for the previous five days. A urine sample from ██████████ identified the presence of cocaine and benzodiazepine. ██████████ reportedly could not recall any events leading to his hospitalization. ██████████ was eventually extubated and discharged into CPD custody on August 31, 2021.

An **Ambulance Report** documents that CFD Ambulance 41 (A41) was dispatched at 11:35 am to 931 N Rush St. for an automobile crashing into a building.⁷⁸ A41 personnel found ██████████ unresponsive, laying on his back inside of Dior under the care of CFD Engine 98 (E98). E98 personnel reported that ██████████ was unresponsive upon their arrival. CPD officers told A41 personnel that ██████████ was extremely combative and was handcuffed for safety. A41 personnel documented early exhibition of bruising to the left side of ██████████ face and eye. ██████████ could

⁶⁹ Att. 42 at 11:35:40; Att. 23 at 11:35:48 to 11:35:52; Att. 24, Officer Bubacz’s Body Worn Camera, at 11:35:49 to 11:35:52; Att. 10, Officer Chow’s Body Worn Camera, at 11:35:48; Att. 11, Officer Nolan’s Body Worn Camera, at 11:35:48; Att. 12 at 11:35:52.

⁷⁰ Att. 127, Body Worn Camera of Officer Wayne Kramer Jr., at 11:36:23.

⁷¹ Att. 14, Officer Markvart’s Body Worn Camera, at 11:37:15.

⁷² Att. 42 at 11:39:46.

⁷³ Att. 42 at 11:45:02; Att. 126, Body Worn Camera of Officer Alfredo Delgadillo, at 11:45:38. Officer Delgadillo agrees to ride with ██████████ in the ambulance.

⁷⁴ Att. 96 at 11:42:30.

⁷⁵ Atts. 31 to 36. ██████████ is partially covered with a sheet and his abdomen is not fully depicted in these photographs.

⁷⁶ Att. 99.

⁷⁷ Atts. 26 to 29.

⁷⁸ Att. 41.

not be intubated due to jaw clenching. A skin assessment noted that [REDACTED] was diaphoretic or unusually sweaty. [REDACTED] was transported to Northwestern Memorial Hospital.

d. Documentary Evidence

An **Initiation Report** dated August 27, 2021, documents that Lieutenant Timothy Weiglein, #217, recommended further investigation of the incident by COPA.⁷⁹

A CPD **Arrest Report** documents that [REDACTED] was arrested and charged with attempting to disarm a peace officer, resisting or obstructing a peace officer, reckless driving, leaving the scene of an accident, driving under the influence of drugs, possession of a controlled substance, criminal damage to property, and battery. [REDACTED] was also cited for driving on sidewalks or parkways, operating an uninsured motor vehicle, and striking fixtures or other property.⁸⁰ The report documents that officers responded to multiple calls of a reckless driver in a red Camaro. The car purportedly drove recklessly in the vicinity of Northwestern Hospital, drove on the sidewalk and nearly struck a pedestrian, reentered traffic and struck a parked vehicle, and finally drove on the sidewalk and crashed into Christian Dior's building, causing heavy damage to the window and structure of the building. Responding officers observed the car unattended. Officers entered Dior and found a security officer, [REDACTED] Chevalier, holding [REDACTED] on the floor. [REDACTED] had scratches and blood on his face, and he also had a white substance on his nose that resembled narcotics residue. [REDACTED] grabbed a metal display rack, which officers took from him. Officer Crescente placed one handcuff on [REDACTED] and [REDACTED] pulled away. As officers attempted to place a second handcuff on [REDACTED] grabbed Officer Crescente's gun with his right hand. [REDACTED] struggled with the officers and resisted arrest, but he was ultimately placed into custody. While handcuffed, [REDACTED] grabbed Officer Markvart's right ankle and refused to let go. Officer Markvart pried open [REDACTED] hands to release his grip. [REDACTED] was transported by ambulance to Northwestern Hospital. [REDACTED] vehicle was impounded; during a custodial search of the vehicle, an officer located a \$20.00 bill covered in white powder, suspected to be cocaine, on the front passenger-side floor of the car.

A CPD **Case Report** contains information consistent with the Arrest Report.⁸¹ Responding officers spoke with witnesses who told police that [REDACTED] initially drove westbound on Walton Street and then erratically made a right turn and ran his vehicle into the side of Dior. Dior Security Officer [REDACTED] Chevalier reported that [REDACTED] ran into the store and began smashing store shelves and threatening staff. Chevalier and a staff member, [REDACTED] tried to restrain [REDACTED] until the police arrived.⁸²

Tactical Response Reports (TRRs)⁸³ document that [REDACTED] did not follow verbal direction; was unable to understand verbal direction; stiffened; pulled away; posed an imminent threat of battery without a weapon; physically attacked without a weapon; and grabbed, held, or restrained a CPD member. The TRRs documented that [REDACTED] appeared to suffer from mental

⁷⁹ Att. 1.

⁸⁰ Att. 129.

⁸¹ Att. 44.

⁸² The metal display rack referenced in the Arrest Report was referenced in the Case Report as a belt stand.

⁸³ Atts. 15, 16, and 57 to 61.

illness or an emotional disorder, and he was possibly under the influence of drugs. The officers responded with member presence, verbal direction, control techniques, and additional unit members.

Additionally, **Officer Chausse's TRR**⁸⁴ documents that he responded with handcuffs and placed his foot on [REDACTED]. The narrative section of Officer Chausse's TRR documents that upon hearing officers yell that [REDACTED] reached for and grabbed an officer's gun, Officer Chausse attempted to place his foot on [REDACTED] shoulder to hold him down but lost his balance, causing his foot to unintentionally graze [REDACTED] head. The TRR also documents that Officer Chausse hurried into the location to assist fellow officers, pushing the center button on his BWC and believing it was on. Officer Chausse documented that he went to deactivate his BWC after the incident and then realized it was not on. Lt. Weiglein's review of the incident documents that Officer Chausse's use of force was not in compliance with CPD policy and directives. The TRR also documents that Lt. Weiglein reviewed CPD Special Order S03-14 with Sgt. Bartz and Officer Chausse for failing to activate their Body Worn Cameras.

Officer Markvart's TRR⁸⁵ documents that he responded to [REDACTED] actions by creating a zone of safety and by using a wristlock, an armbar, and a closed hand strike or punch. The TRR documents that Officer Markvart observed [REDACTED] trying to disarm Officer Crescente. In fear for his own and his fellow officers' lives, Officer Markvart used a closed hand hammer punch to [REDACTED] head or jaw area so that he would release the gun. Officer Markvart then grabbed [REDACTED] wrist and pulled his hand off Officer Crescente's weapon. Once [REDACTED] was cuffed, [REDACTED] kicked his legs and writhed his body around on the floor, and he grabbed and squeezed Officer Markvart's pant leg, causing pain to Officer Markvart's ankle. Officer Markvart gave verbal direction for [REDACTED] to release his pants to no avail. Given that [REDACTED] tried to disarm a fellow officer, Officer Markvart feared that [REDACTED] might grab his gun, as the pant leg he grabbed was on Officer Markvart's gun side. Officer Markvart wanted to create distance and a zone of safety, so he struck [REDACTED] twice with his fist around the hip area so [REDACTED] would release his pant leg. [REDACTED] tore Officer Markvart's pant leg, but Officer Markvart ultimately pried [REDACTED] fingers off his pants and created distance from him. The TRR also notes that Officer Markvart's BWC was knocked off its holder during the incident.

Sgt. Bartz's TRR⁸⁶ documents that he responded to [REDACTED] actions with escort holds, a wristlock, an armbar, and handcuffs. **Officer Chow's TRR**⁸⁷ documents that he responded with emergency handcuffing. **Officer Hayes's TRR**⁸⁸ documents that he responded with a wristlock and an armbar.

In addition to the aforementioned subject's actions, **Officer Crescente's TRR**⁸⁹ documents that [REDACTED] posed an imminent threat of battery with a weapon, attempted to obtain

⁸⁴ Att. 15.

⁸⁵ Att. 16.

⁸⁶ Att. 57.

⁸⁷ Att. 58.

⁸⁸ Att. 60.

⁸⁹ Att. 59.

the officer's weapon, and was armed with a blunt object described as a metal display rack. Officer Crescente documented that he responded with movement to avoid attack and used handcuffs.

Officer Nolan's TRR⁹⁰ documents that [REDACTED] also used a physical obstruction. Officer Nolan used escort holds and attempted to disarm [REDACTED]

A **Traffic Crash Report**⁹¹ documents that on August 27, 2021, at 11:31 am, Helen Cerrato was sitting in the front passenger seat of a vehicle at 77 E Walton St. when she heard tires screeching and observed [REDACTED] car driving on the sidewalk. [REDACTED] car struck the front driver's side of Cerrato's vehicle and fled westbound down Walton Street. [REDACTED] was issued citations for driving on the sidewalk and operating an uninsured vehicle.

A second **Traffic Crash Report**⁹² documents that [REDACTED] car crashed into the Dior store located at 931 N Rush St. at 11:32 am. Officers found [REDACTED] car on the sidewalk, inoperable, with the airbags deployed.

Court records from the Circuit Court of Cook County document that on March 1, 2022, [REDACTED] pled guilty to criminal damage to property over \$100,000 and attempting to disarm a peace officer.⁹³ [REDACTED] was sentenced to a term of four-and-a-half year's incarceration in the Illinois Department of Corrections.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. **Sustained** - where it is determined that an allegation is proven by a preponderance of the evidence;
2. **Not Sustained** - where it is determined that there is insufficient evidence to prove the allegation by a preponderance of the evidence;
3. **Unfounded** - where it is determined an allegation is false or not factual by clear and convincing evidence; 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.⁹⁴ For example, if the evidence gathered in an investigation

⁹⁰ Att. 61.

⁹¹ Att. 62.

⁹² Att. 63.

⁹³ Att. 134.

⁹⁴ See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) ("A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.").

establishes that it is more likely that the conduct violated 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.”⁹⁵

VII. 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.

In this case, COPA finds that [REDACTED] account is not credible. [REDACTED] allegation that he was immediately set upon by CPD officers after crashing his car is contradicted by both video evidence and the statements of multiple witnesses. There is also reason to doubt [REDACTED] ability to accurately perceive and remember the events in question because of his ingestion of narcotics.

The statements provided by the involved CPD members are largely consistent with the available video evidence and with each other. COPA finds all of the CPD members credible as to their recollection of the event and their recollection of their own actions. However, for reasons explained below, COPA does not credit the accused members’ proffered explanations for the actions that they took or failed to take.

VIII. ANALYSIS

COPA finds that **Allegation #1 against Officer Markvart**, that he struck [REDACTED] in the face without justification, is **Exonerated**. Under CPD directives, members are permitted to use force to overcome resistance.⁹⁶ However, the nature of the force used must be proportional to the level of resistance faced.⁹⁷ When a citizen “fails to comply (non-movement) with verbal or other direction” they are considered a passive resister.⁹⁸ Members are permitted to respond to passive resistance by using holding techniques, compliance techniques, control instruments, and oleoresin capsicum (OC) spray in certain instances. In contrast, “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” is an active resister.⁹⁹ This type of resistance includes, but is not

⁹⁵ People v. Coan, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

⁹⁶ Att. 131, G03-02-01.

⁹⁷ Att. 131, G03-02-01 (II)(F).

⁹⁸ Att. 131, G03-02-01 (IV)(B)(1).

⁹⁹ Att. 131, G03-02-01 (IV)(B)(2).

limited to, evasive movement of the arm, flailing arms, and full flight by running. In addition to the force options authorized for passive resisters, members may respond to active resistance using stunning techniques, takedowns, and tasers.

In addition to the force options authorized for passive and active resisters, members may use direct mechanical techniques against an assailant, which the policy defines as a subject who is using or threatening the use of force likely to cause physical injury.¹⁰⁰ Direct mechanical techniques are defined as “forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures.”¹⁰¹ In the instant case, ██████████ undoubtedly resisted arrest. He pulled away, flailed, and made movements to avoid physical control. It took several minutes and multiple officers to restrain ██████████. The available video recordings, CPD member interviews, and CPD reports reflect that as the officers tried to handcuff ██████████ Officer Crescente yelled that ██████████ was reaching for his gun. Almost instantaneously, Officer Markvart exclaimed that ██████████ had Officer Crescente’s gun. Officer Markvart subsequently struck ██████████ on the face so that ██████████ would release Officer Crescente’s gun. Officer Markvart’s use of a direct mechanical technique, punching, would be permissible under CPD directives if Officer Markvart reasonably believed that ██████████ was an assailant at the time the punch(es) were delivered. Here, because Officer Markvart believed that ██████████ was attempting to gain control of Officer Crescente’s gun, it was reasonable for Officer Markvart to believe that ██████████ was using, or threatening to use, force likely to cause physical injury. Given ██████████ level of resistance at that moment, COPA finds there is clear and convincing evidence that Officer Markvart was justified in striking ██████████ in the face.

COPA finds that **Allegation #2 against Officer Markvart**, that he struck ██████████ in the abdomen without justification, is **Sustained**. Under CPD directives, members are only permitted to use direct mechanical techniques against an assailant, not a passive or active resister. Members must modify their force in relation to the amount of continued resistance offered by the person. As the person offers less resistance, the member must immediately lower the amount or type of force used.¹⁰² CPD directives further require that all uses of force must be objectionably reasonable, necessary, and proportional. CPD members will refrain from using force against a person who is secured and restrained with handcuffs or other restraining devices unless the member must act to prevent injury to the member, the restrained person, or another person; must act to prevent escape; or is compelled by other law enforcement objectives.¹⁰³

In the instant case, specifically when Officer Markvart struck ██████████ on the abdomen, ██████████ could reasonably be considered an active resister. The video evidence shows that ██████████ continued to flail on the floor after he was handcuffed and surrounded by multiple officers. Officer Markvart knelt on ██████████ right side and held him down. According to Officer Markvart, the fact that ██████████ grabbed and ripped his pant leg made ██████████ an assailant. He added that the force from ██████████ grabbing his pant leg prevented him from standing and brought him down to one knee. Therefore, he struck ██████████ twice on the right hip to make him release his pant leg. The video evidence shows that Officer Markvart struck ██████████

¹⁰⁰ Att. 131, G03-02-01 (IV)(C).

¹⁰¹ Att. 131, G03-02-01 (IV)(C)(1)(a)(1).

¹⁰² Att. 131, G03-02-01 (II)(F).

¹⁰³ Att. 131, G03-02-01 (II)(G).

on the abdomen. Additionally, Officer Markvart was already kneeling on ██████████ when Officer Markvart reprimanded ██████████ for grabbing his pants.

Officer Markvart's characterization of ██████████ as an assailant when he struck ██████████ on the abdomen is unreasonable. While photographs depict Officer Markvart's torn right pant leg, ██████████ was handcuffed behind his back and had limited mobility. Pulling the pant leg of an officer, who was standing behind him, while handcuffed behind his back and lying on his side, surrounded by multiple officers does not make ██████████ an assailant. In that moment, ██████████ was not using or threatening the use of force likely to cause physical injury. Instead, ██████████ was an active resister. That level of resistance would not have permitted Officer Markvart to strike ██████████ on his abdomen or hip. While the photographic evidence supports Officer Markvart's contention that ██████████ grabbed and ripped Officer Markvart's pant leg, Officer Markvart had lower-level force options available to him. Officer Markvart could have pulled his leg away or pulled ██████████ fingers off his pant leg, as he ultimately did. Officer Markvart's decision to instead use a direct mechanical technique and strike ██████████ twice on the abdomen was not objectionably reasonable, necessary, or proportional to ██████████ actions. COPA finds that the preponderance of evidence establishes that Officer Markvart's use of force violated CPD directives and Rules 2, 3, 6, and 8.

COPA finds that **Allegation #3 against Officer Markvart**, that he failed to activate his BWC during law-enforcement activity, is **Sustained**. To increase transparency and improve the quality and reliability of investigations, CPD directives require law-enforcement-related encounters to be electronically recorded. Law-enforcement encounters include, but are not limited to, vehicle pursuits, traffic stops, investigatory stops, high-risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene. The decision to record is mandatory, not discretionary. Members must activate at the beginning of an incident and record the entire incident. If there are circumstances preventing the member from activating the BWC at the beginning of the incident, CPD directives provide that it shall be activated as soon as practical.¹⁰⁴

In the instant case, Officer Markvart responded to a radio call for assistance following reports of a reckless driver and subsequent traffic crash. Once ██████████ was handcuffed and shackled, Officer Markvart saw a BWC on the floor and realized it was his. Officer Markvart asserted that he did not activate his BWC because it was knocked off. However, the BWC had not been activated prior to it being knocked off or falling to the floor, as there are no BWC recordings for the incident even before the BWC landed on the floor. While Officer Markvart did activate his BWC after he picked it up and affixed it to his vest, he had a duty to activate his BWC at the beginning of the incident and certainly before he became entangled with ██████████. A preponderance of the evidence establishes that Officer Markvart failed to comply with Chicago Police Department Special Order S03-14 by failing to activate his BWC, violating Rules 2, 3, 5, and 6.

COPA finds that **Allegation #4 against Officer Markvart**, that he brought discredit to CPD when stated, "No, he tried biting me – whacked him in the face," is **Sustained**. As discussed above, the evidence establishes that Officer Markvart did in fact strike or "whack" ██████████ on

¹⁰⁴ Att. 132, S03-14 (III)(A).

the face. CPD reports and video evidence corroborate Officer Markvart's contention that he struck [REDACTED] after [REDACTED] grabbed Officer Crescente's gun. Officer Markvart subsequently stood around with other officers after the incident and boasted about striking [REDACTED] suggesting that it was because [REDACTED] attempted to bite him. There is no record that [REDACTED] tried to bite Officer Markvart. Officer Markvart acknowledged that he made the statement; however, he claimed that he was not referencing when he actually struck [REDACTED] on the face. Officer Markvart offered no explanation as to why he made the statement, and he explained that he could have been joking. Officer Markvart made this statement on the public way and was within sight and sound of members of the public. Officer Markvart's statement was deceptive, disrespectful, and unbecoming of a Chicago police officer. The Rules and Regulation of the Chicago Police Department expressly prohibits conduct which brings discredit upon the Department. A preponderance of the evidence establishes that Officer Markvart brought discredit on the Department when he stated, "No, he tried biting me – whacked him in the face," in violation of Rules 2 and 3.

COPA finds that **Allegation #1 against Officer Chausse**, that he applied pressure to [REDACTED] face using his foot, without justification, is **Sustained**. The available evidence establishes that as officers attempted to restrain [REDACTED] on the floor, Officer Chausse applied pressure to [REDACTED] face using his foot. At the time when Officer Chausse placed his foot on [REDACTED] face, [REDACTED] was best classified as an active resistor because he was attempting to avoid the officers' physical control.¹⁰⁵ By forcefully placing his foot on [REDACTED] face, Officer Chausse used a direct mechanical technique, forceful pressure. Direct mechanical techniques are not authorized for use against active resisters.¹⁰⁶ Also, given the number of CPD members available to assist in controlling [REDACTED] level of resistance, and the high potential for causing injury to [REDACTED] head or neck, Officer Chausse's use of force was not objectively reasonable, necessary, or proportional to [REDACTED] level of resistance.¹⁰⁷ This would be the case even if the technique Officer Chausse used was classified as a holding technique or compliance technique rather than a direct mechanical technique.¹⁰⁸

According to Officer Chausse, he attempted to place his foot on [REDACTED] left shoulder, using pressure to control [REDACTED] arm; however, with all the movement, his foot slipped from [REDACTED] shoulder to his head. Officer Chausse added that he realized his foot was on [REDACTED] head and immediately removed his foot. Officer Chausse's claim that his foot inadvertently slipped onto [REDACTED] face is implausible and inconsistent with the evidence. Video evidence shows that Officer Chausse placed his right foot on [REDACTED] face, and then placed his foot on or near [REDACTED] face and neck two additional times, demonstrating intent. It is notable that Officer Markvart looked in Officer Chausse's direction and said, "No. No. Don't," when he saw what Officer Chausse was doing. This suggests that even Officer Markvart, who was confronted with the same circumstances and similarly situated, believed that Officer Chausse's actions were improper. COPA finds that the preponderance of evidence establishes that Officer Chausse's use of force violated CPD directives and Rules 2, 3, 6, and 8.

¹⁰⁵ Att. 131, G03-02-01 (IV)(B)(2).

¹⁰⁶ Att. 131, G03-02-01 (IV)(C).

¹⁰⁷ Att. 131, G03-02-01 (II)(C).

¹⁰⁸ Att. 131, G03-02-01 (IV)(B).

COPA finds that **Allegation #2 against Officer Chausse**, that he failed to activate his BWC during law enforcement activity, is **Sustained**. In his interview, Officer Chausse explained that he believed he activated his BWC before he entered the Dior store, but he did not verify that it was activated. There are no BWC recordings of the incident from Officer Chausse's camera; therefore, a preponderance of the evidence establishes that Officer Chausse failed to comply with Special Order S03-14 by failing to activate his BWC, in violation of Rules 2, 3, 5, and 6.

COPA finds that **Allegation #1 against Sgt. Bartz**, that he failed to activate his BWC during law enforcement activity, is **Sustained**. Sgt. Bartz explained that he believed he double-tapped his BWC to activate it upon exiting his vehicle, and he only realized it was never activated at the conclusion of the event when he pressed the button to deactivate it. There are no BWC recordings of the incident from Sgt. Bartz's camera; therefore, a preponderance of the evidence establishes that Sgt. Bartz failed to comply with Chicago Police Department Special Order S03-14 by failing to activate his BWC, in violation of Rules 2, 3, 5, and 6.

IX. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Markvart

Because Officer Markvart retired during the pendency of this investigation, COPA does not make a disciplinary recommendation. This investigation will be placed in Close Hold status with respect to Officer Markvart and may be re-opened should Officer Markvart seek future employment with the City of Chicago.

b. Officer Chausse

i. Complimentary and Disciplinary History¹⁰⁹

Officer Chausse has received two Life Saving Awards, nine Department Commendations, seventeen complimentary letters, 116 honorable mentions, and twelve other awards and recognitions. Officer Chausse has no disciplinary history within the time period contemplated by the applicable collective bargaining agreement.

ii. Recommended Penalty

Here, COPA found that Officer Chausse violated Rules 2, 3, 6, and 8 when he applied pressure to [REDACTED] face using his foot. While Officer Chausse asserted that placing his foot on [REDACTED] face was an accident, COPA does not accept this explanation; instead, COPA find that Officer Chausse acted deliberately. COPA has also found that Officer Chausse failed to record his encounter with [REDACTED] using his BWC, in violation of Rules 2, 3, 5, and 6. BWCs are a critical tool because they allow the true circumstances of police-citizen encounters to be known and for CPD members to be held accountable if they commit misconduct. Based on this information, combined with Officer Chausse's history, COPA recommends a minimum 180-day suspension, up to and including Separation from the Chicago Police Department.

¹⁰⁹ Att. 135.

c. Sgt. Bartz

i. Complimentary and Disciplinary History¹¹⁰

Sgt. Bartz has received three Department Commendations, four complimentary letters, 77 honorable mentions, and seven other awards and recognitions. Sgt. Bartz has no disciplinary history within the time period contemplated by the applicable collective bargaining agreement.

ii. Recommended Penalty

COPA has found that Sgt. Bartz failed to record his encounter with [REDACTED] using his BWC, in violation of Rules 2, 3, 5, and 6. BWCs are a critical tool because they allow the true circumstances of police-citizen encounters to be known and for CPD members to be held accountable if they commit misconduct. Sgt. Bartz also should have been more attentive to his responsibility to record law-enforcement activity based on his experience and his position as a supervisor. Based on this information, combined with Sgt. Bartz' history, COPA recommends a 5-day suspension.

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Investigator

2-24-2023

Date

[REDACTED]

Andrea Kersten
Chief Administrator

2-24-2023

Date

¹¹⁰ Att. 136.