

FINAL SUMMARY REPORT

I. EXECUTIVE SUMMARY

Date of Incident:	July 24, 2019
Time of Incident:	4:24 pm
Location of Incident:	838 North Homan Avenue, Chicago, IL 60651
Date of COPA Notification:	January 26, 2021
Time of COPA Notification:	8:01 am

On July 24, 2019, officers were traveling southbound on Homan Avenue when they received information regarding a ShotSpotter alert at the intersection of Chicago Avenue and Homan Avenue. Upon arriving on scene at North Homan Avenue, the officers observed multiple people running toward them before they were flagged down by an individual who pointed them in the direction of a gangway located at 836 North Homan. As the officers exited their vehicle, they observed a man, now known as ██████████ in a grey t-shirt and jeans running westbound in the gangway and attempting to climb the fence between 836 and 838 North Homan. The officers also heard a sound that they recognized as gunfire as ██████████ climbed the fence. Officer Tyler Fokas pursued ██████████ through the gangway, while his partner, Officer Matthew Beesley, ran northbound to go around to the alley. Officer Fokas apprehended ██████████ handcuffed him, and placed him into custody in the alley at 832 North Homan. Officers later located a weapon in an immediately adjacent yard. At the 11th District Station, ██████████ told detectives that while attempting to jump over the fence between 836 and 838 N. Homan, he discharged the gun that was later found nearby. He also told officers that he had pain and numbness in his extremities related to the incident and was later sent to Mount Sinai Hospital for treatment.

COPA's investigation found that Officer Fokas's use of force during ██████████ arrest was objectively reasonable, necessary, and proportional under the totality of the circumstances. Additionally, COPA determined that Officer Fokas's use of force did not directly cause injury to ██████████ due to the presence of chronic degenerative changes in his spine, which could not be caused by or result from a traumatic injury. However, COPA found that Officers Fokas and Beesley violated Chicago Police Department (CPD) policy when they failed to provide medical treatment to ██████████ after he alleged injury.¹ Additionally, Officer Fokas failed to complete a Tactical Response Report (TRR) following a use of force incident in violation of CPD policy.²

¹ Attachment 94, G03-02(IV)(A)(1), Use of Force (effective October 16, 2017 to February 29, 2020); G03-02-01(V)(D), Force Options (effective October 16, 2017 to February 29, 2020).

² Attachment 95, G03-02-02(III)(A)(1)(a), Incidents Requiring the Completion of a Tactical Response Report (effective October 16, 2017 to February 29, 2020).

II. INVOLVED PARTIES

Involved Officer #1:	Tyler Fokas; Star Number: 19036; Employee Number: [REDACTED]; Date of Appointment: 2/20/2018; Rank: Police Officer; Unit of Assignment: 012; White Male
Involved Officer #2:	Matthew Beesley; Star Number: 18844; Employee Number: [REDACTED]; Date of Appointment: 7/15/2013; Rank: Police Officer; Unit of Assignment: 011; White Male
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED]/1985; Black Male

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Tyler Fokas	1. Using excessive force when he removed [REDACTED] from atop a fence, causing him to forcibly make impact with the ground.	Not Sustained
	2. Causing injury to [REDACTED] back when he removed [REDACTED] from atop a fence and caused him to forcibly make impact with the ground and land on his back.	Not Sustained
	3. Failing to provide medical treatment to [REDACTED] when he refused his requests for medical treatment for approximately seven hours.	Sustained
	4. Failing to complete a Tactical Response Report (TRR) after an incident involving a use of force following which [REDACTED] alleged injury, in violation of CPD General Order G03-02-02, Incidents Requiring the Completion of a Tactical Response Report.	Sustained
Officer Matthew Beesley	1. Failing to provide medical treatment to [REDACTED] when he refused his requests for medical treatment for approximately seven hours.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 2. Rule 3: Any failure to promote the Department's efforts to implement its policy or achieve its goals.
 3. Rule 5: Failure to perform any duty.
 4. Rule 6: Disobedience of an order or directive, whether written or oral.
 5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
 6. Rule 11: Incompetency or inefficiency in the performance of duty.
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General Orders

1. G03-02: Use of Force (effective October 16, 2017 to February 29, 2020).³
2. G03-02-01: Force Options (effective October 16, 2017 to February 29, 2020).⁴
3. G03-02-02: Incidents Requiring the Completion of a Tactical Response Report (effective October 16, 2017 to February 29, 2020).⁵

V. INVESTIGATION⁶

a. Interviews

██████████ was interviewed by COPA investigators on July 16, 2021.⁷ This statement was conducted remotely, as ██████████ was in custody at the Danville Correctional Center. ██████████ told COPA that on July 24, 2019, he was sitting with friends in front of a house in the area of 832 North Homan when gunshots rang out and everyone started running in different directions. ██████████ and several other people ran through a gangway, and he got stuck on a fence while trying to climb over it. While ██████████ saw the police running toward him as he was stuck on the gate, he never heard any officer tell him to stop or halt. ██████████ stated that someone shot a gun while he was running. A bystander, who allegedly saw the officer "slam" ██████████ to the ground, told the officers, "that was him, that was him,"⁸ referencing ██████████. ██████████ said the bystander later told the officers that she had the wrong guy, but ██████████ had no way of contacting this woman.⁹ An officer then grabbed ██████████ by his shirt while he was still trying to detach himself from the gate and slammed him onto the ground onto his back and head.¹⁰ ██████████ said that was when everything from his waist down went completely numb.¹¹ He was then handcuffed.

³ Attachment 94, G03-02.

⁴ Attachment 96, G03-02-01.

⁵ Attachment 95, G03-02-02.

⁶ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁷ Attachments 13, 67.

⁸ Attachment 67, pg. 13, lns. 1 to 2.

⁹ Attachment 67, pg. 6, lns. 9 to 10.

¹⁰ Attachment 67, pg. 6, lns. 4 to 6.

¹¹ Attachment 67, pg. 6, lns. 6 to 8.

█████ stated that he immediately told the officers he was injured and could not feel his legs, but they kept telling him to get up. He said he also repeatedly asked the officers to take him to the hospital, but despite his multiple requests for medical treatment, he waited six or seven hours before receiving medical treatment.¹² █████ acknowledged that when they arrived at the station, he had regained some feeling and was able to walk into the station. Additionally, at the hospital, medical personnel did not see anything wrong with █████¹³ █████ said he still suffers from injuries sustained as a result of this incident. He additionally explained that he had surgery due to a slipped disk in his neck, a cervical discectomy.¹⁴

█████ told COPA investigators that he watched video of Officer Fokas telling a sergeant that he had not seen a gun or a shiny object.¹⁵ █████ further maintained that no gun was found at the scene.

Officer Tyler Fokas was interviewed by COPA investigators on December 13, 2022.¹⁶ Officer Fokas recalled that on July 24, 2019, a ShotSpotter notification alerted him and his partner to Homan Avenue when they were nearby on patrol. Upon arrival, Officer Fokas saw a person pointing in the direction of an individual who was running, later determined to be █████. Officers Fokas and Beesley exited the squad car and engaged in a foot pursuit of █████. Officer Fokas stated that he ran through the gangway on Homan Avenue, while his partner went around it. As █████ jumped over a fence, he discharged his weapon and continued to flee. Officer Fokas encountered █████ when █████ attempted to climb over another fence. Officer Fokas then detained and arrested █████. The firearm was later recovered at the scene.

Officer Fokas said he guided █████ from the fence to the ground, then attempted to place █████ in handcuffs.¹⁷ Officer Fokas reported that he utilized de-escalation techniques and force mitigation principles during the foot pursuit, prior to using force. Officer Fokas classified █████ as both actively and passively resisting, because █████ fired a weapon while being chased by the police, hopped fences, and failed to listen to verbal commands.¹⁸

Officer Fokas did not recall █████ complaining of any injury following his apprehension, nor did he recall █████ specifically complaining of pain or numbness in his legs or back.¹⁹ Additionally, Officer Fokas did not recall █████ appearing to be injured, and he said that █████ was able to get up and walk to Sgt. Schuler's squad car. Officer Fokas could not remember whether █████ needed assistance walking when he was at the station, but he did recall █████ complaining of back pain at some point while at the station, after which █████ was taken to the hospital. Officer Fokas acknowledged that when an individual complains of injury after a use of force and is taken to the hospital, CPD policy requires that the officer who used force must

¹² Attachment 67, pg. 6, lns. 20 to 23.

¹³ Attachment 67, pg. 7, lns. 7 to 13.

¹⁴ Attachment 67, pg. 16, lns. 9 to 20.

¹⁵ Attachment 67, pgs. 19 to 20.

¹⁶ Attachment 68.

¹⁷ Attachment 68 at 9:48 and 11:50.

¹⁸ Attachment 68 at 13:20.

¹⁹ Attachment 68 at 19:54.

complete a TRR.²⁰ Officer Fokas did not believe a TRR was required in this case because he said ██████ did not complain until after the paperwork had been completed.²¹ Officer Fokas believed any injury ██████ sustained was due to his jumping fences, although Officer Fokas acknowledged that it could have occurred when ██████ was taken to the ground. Officer Fokas said that if ██████ had complained of injury at the scene, he would have immediately taken ██████ to the hospital.

Officer Matthew Beesley was interviewed by COPA investigators on December 14, 2022.²² Officer Beesley recalled a ShotSpotter incident on July 24, 2019, while he and Officer Fokas were driving down Homan Avenue. When the officers arrived at the location of the ShotSpotter alert, there was a large crowd of people in the street. Officer Beesley noticed ██████ running from the scene. ██████ jumped a fence, firing a round while going over the fence. The officers pursued ██████ who hopped multiple fences, discarded his firearm in a nearby backyard, and was then apprehended by Officer Fokas in the alley between Homan and St. Louis. Officer Beesley told COPA that he had seen a firearm in ██████ possession before he heard a loud pop as ██████ climbed over a fence. According to Officer Beesley, ██████ also admitted to detectives that he had discharged a firearm.

Officer Beesley did not recall ██████ complaining about any injury or numbness in his back or legs while on scene, and ██████ did not appear to be injured. Officer Beesley said ██████ must have complained of injury at some point while at the station, because they brought him to the hospital before he entered lockup.²³ Officer Beesley said the fact that they did not bring ██████ to the hospital until later led him to believe that ██████ had not complained of any pain. Officer Beesley noted that ██████ had other opportunities to tell someone he needed to go to the hospital, such as when he was interviewed by detectives or initially transported to the station.²⁴

Sgt. Philip Schulter was interviewed by COPA investigators on January 19, 2023.²⁵ Sgt. Schulter related that he did not have an independent recollection of this incident. After reviewing his body-worn camera (BWC) footage, he was unable to give a definitive answer regarding whether ██████ appeared to be injured, although he said he said he could hear ██████ telling him something about his leg.²⁶ Sgt. Schulter did not recall whether ██████ appeared to have trouble walking.

b. Digital Evidence

COPA obtained the **BWC footage of Officer Beesley²⁷ and Sgt. Schulter²⁸** related to this incident.²⁹ Officer Beesley's footage shows that he ran into the alley between Homan Avenue and

²⁰ Attachment 68 at 19:40.

²¹ Attachment 68 at 20:07.

²² Attachment 69.

²³ Attachment 69 at 13:23.

²⁴ Attachment 69 at 15:47.

²⁵ Attachment 70.

²⁶ Attachment 70 at 7:42 and 8:40.

²⁷ Attachments 2, 7.

²⁸ Attachment 23.

²⁹ Officer Fokas did not have a functioning BWC at the time of this incident and was issued a replacement camera shortly afterwards. See Attachments 57 and 58.

St. Louis, where Officer Fokas and ██████ were located. Officer Fokas knelt beside ██████ who was lying on his stomach with his hands behind his back, and handcuffed him. Officer Fokas attempted to pull ██████ up from the ground, but ██████ did not stand up. Instead, ██████ insisted that his whole body was numb.³⁰ Officer Fokas then told ██████ to stand up, noting that ██████ had just been walking and jumping a fence,³¹ but ██████ stayed on the ground. Sgt. Schuler arrived and Officer Beesley told him that ██████ jumped a fence and fired a round.³² Officer Fokas then walked through the alleyway to the fence at 838 North Homan with two other officers, and he showed them where ██████ hopped the fence. Officer Beesley said they had not seen the gun, but ██████ was the only person in the area where the gunshot came from. Officer Beesley observed the other officers as they located the gun in the next yard over.³³

Officer Beesley spoke to a woman who resides at ██████. She related that she was at home with her daughter when they heard gunshots.³⁴ She looked out the window and observed four men walking up the street, one of whom had a gun.³⁵ She also observed two officers chase the gunman before she heard more shots from what she believed was a nearby gangway.

Sgt. Schuler transported ██████ to the 11th District. Upon their arrival, ██████ stepped out of the police vehicle.³⁶ Sgt. Schuler grabbed both of ██████ arms and assisted him in walking across the parking lot. As ██████ walked, he was slightly bent over and moving slowly. At one point, ██████ stated that his legs were numb.³⁷ Once inside the 11th District Station, Sgt. Schuler was asked if ██████ was okay. Sgt. Schuler responded that ██████ jumped a couple fences but was now playing, apparently referring to ██████ complaints.³⁸ Other officers then assisted in placing ██████ in a chair.

c. Documentary Evidence

██████ **Arrest Report**³⁹ indicates that he was arrested for Reckless Discharge of a Firearm and Unlawful Use of a Weapon by a Felon. The narrative section of the report contains information that is consistent with the officers' COPA statements. Additionally, the Lockup Keeper processing section of the report notes that, when ██████ was received at the holding facility at 10:13 pm, he stated that he had back pain. The Lockup Keeper comments also refer to ██████ claim that he could not walk.

A **Crime Scene Report**⁴⁰ details that one Ruger 9mm handgun, one magazine, and twelve live rounds were examined for ridge impressions and swabbed for biological evidence. A **Forensic**

³⁰ Attachment 7 at 2:30.

³¹ Attachment 7 at 2:30.

³² Attachment 7 at 2:43.

³³ Attachment 7 at 8:08

³⁴ Attachment 2 at 2:09.

³⁵ Attachment 2 at 2:16.

³⁶ Attachment 23 at 1:45.

³⁷ Attachment 23 at 2:25.

³⁸ Attachment 23 at 2:57 and 3:20.

³⁹ Attachment 1.

⁴⁰ Attachment 27.

Firearm Worksheet⁴¹ states that the firearm was a 9mm semi-automatic pistol with a high-capacity magazine.

COPA additionally obtained three **Event Queries from the Office of Emergency Management and Communications (OEMC)** in relation to this incident. Event Query #1920511374⁴² details a shots fired incident that took place at 3358 West Chicago on July 24, 2019, at 4:24 pm. The comments indicate that an offender jumped a fence at 838 North Homan and was apprehended and placed into custody at 4:26 pm. A weapon was later recovered at [REDACTED] [REDACTED] Event Query #1920511406⁴³ notes that at 4:26 pm, an anonymous 911 caller reported hearing five gunshots at 3400 West Chicago/799 North Homan.

Mount Sinai Hospital Records⁴⁴ show [REDACTED] was admitted to the Emergency Department on July 24, 2019, at 11:04 pm. [REDACTED] related to ER doctors that he jumped over a wall and landed in a rolling position while being apprehended by police. He complained of numbness and tingling in his hands and feet, along with lower back and neck pain, but denied hitting his head. [REDACTED] did not complain of any weakness, and he described his pain as a four out of ten. He received three CT scans: one of his brain, which revealed no evidence of acute intracranial abnormality; one of his cervical spine, which revealed no significant abnormalities but did show some spinal stenosis and mild degenerative changes; and one of his lumbar spine, which revealed no significant abnormalities but showed a bulging disc. He also received X-Rays on his chest, wrist, and pelvis. No injuries or abnormalities were revealed, but his wrist had some soft tissue swelling. [REDACTED] was later diagnosed with a sprained right wrist and lower back strain and discharged on July 25, 2019.

[REDACTED] **criminal court records**⁴⁵ indicate that on October 6, 2020, [REDACTED] pled guilty to Felon in Possession/Use of a Weapon/Firearm and was sentenced to four and a half years in the Illinois Department of Corrections.

COPA additionally obtained several documents regarding the civil suit related to this incident, *Keith Terrell [REDACTED] v. Officer Fokas, et al., 20CV4974*, that were filed on August 24, 2020. A *pro se* Civil Rights Action⁴⁶ filed by [REDACTED] under 42 U.S.C Section 1983 alleged that Officers Fokas and Beesley used excessive force against him during his arrest and disregarded his requests for medical treatment. An **Agreed Order of Dismissal**⁴⁷ filed on August 5, 2022 dismissed [REDACTED] claims without prejudice.

In the **Deposition Transcript of [REDACTED] taken on November 16, 2021**,⁴⁸ [REDACTED] gave a similar account of the incident that he told COPA in his statement. [REDACTED] denied that he ever possessed the gun that the officers recovered from the scene.

⁴¹ Attachment 33.

⁴² Attachment 28.

⁴³ Attachment 29.

⁴⁴ Attachment 40.

⁴⁵ Attachment 55.

⁴⁶ Attachment 14.

⁴⁷ Attachment 60.

⁴⁸ Attachment 64.

In the Deposition Transcripts of ██████████ taken on January 26, 2022,⁴⁹ ██████████ testified that she performed surgery on ██████████ in December 2019. ██████████ stated that she could not testify to a reasonable degree of medical certainty that ██████████ injury was caused by the police purportedly slamming him onto the ground from a fence.⁵⁰ ██████████ explained that “the underlying MRI showed chronic degenerative disc changes that are of a chronic process with underlying myelomalacia, which could possibly have been present or most likely would have been present in a degenerative chronic process.”⁵¹ At the beginning of her deposition, ██████████ also testified that a traumatic injury would not have caused the degenerative disk disease present in ██████████ spine.

VI. LEGAL STANDARD

a. Use of Force

The main issues in evaluating every use of force are whether the amount of force used by the officer was (1) objectively reasonable in light of the totality of the circumstance faced by the officer; (2) necessary; and (3) proportional to the threat, actions, and level of resistance offered.⁵² The analysis of the reasonableness of an officer’s actions must be grounded in the perspective of a reasonable officer on the scene, in the same or similar circumstances, and not with benefit of the 20/20 hindsight.⁵³

The factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the person is posing an imminent threat to the officer or others; (2) the risk of harm, level of threat, or resistance presented by the person; (3) the person’s proximity or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; and (5) the availability of other resources.⁵⁴ In all uses of force, the goal of a CPD member’s response is to act with the “foremost regard for the preservation of human life and the safety of all persons involved.”⁵⁵

b. 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

⁴⁹ Attachment 66.

⁵⁰ Attachment 66, pg. 63.

⁵¹ Attachment 66, pg. 63, lns. 18 to 23.

⁵² Attachment 94, G03-02(III)(B), Use of Force (effective October 16, 2017 to February 28, 2020).

⁵³ See *Plumhoff v. Rickard*, 572 U.S. 765, 775 (2014).

⁵⁴ Attachment 94, G03-02(III)(C)(1).

⁵⁵ Attachment 94, G03-02(II)(A).

4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is more likely than not that the conduct occurred and violated CPD policy.⁵⁶ If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.⁵⁷ 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.”⁵⁸

VII. ANALYSIS

a. 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 interviewed Officers Beesley and Fokas in December 2022, and Sgt. Schuler in January 2023. Due to the passage of time, none of the officers had an independent recollection of the incident; however, the information they did provide was consistent with the BWC footage and other evidence, and COPA finds the officers’ statements on the incident generally credible. Thus, this investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

b. Officer Fokas’ use of force

COPA finds **Allegation #1 against Officer Fokas**, that he used excessive force when he removed [REDACTED] from atop a fence, is **not sustained**. Similarly, **Allegation #2 against Officer Fokas**, that he caused injury to [REDACTED] back when he forcibly removed [REDACTED] from atop a fence causing [REDACTED] to impact the ground, is **not sustained**.

CPD policy defines “force” as any physical contact by a CPD member, either directly or through the use of equipment, to compel a person’s compliance.⁵⁹ Members may only use force that is objectively reasonable, necessary, and proportional under the totality of the circumstances in order to ensure the safety of officers or others, stop an attack, make an arrest, prevent an escape,

⁵⁶ 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.”).

⁵⁷ See *People v. Coan*, 2016 IL App (2d) 151036.

⁵⁸ *Coan*, 2016 IL App (2d) 151036 at ¶ 28.

⁵⁹ Attachment 94, G03-02(III)(A).

or bring a person or situation safely under control.⁶⁰ Members will also use verbal direction to avoid or minimize confrontation prior to, during, and after the use of force, and they are trained to adjust their communication techniques when encountering noncompliance to lawful verbal direction.⁶¹ When it is safe and feasible to do so, members will provide a warning prior to the use of physical force.⁶²

CPD policy classifies individuals who interact with CPD members into categories. A passive resistor is a person who fails to comply with verbal or other direction, while an active resistor is someone who attempts to create distance between themselves and an officer's reach with the intent to avoid physical control and/or defeat arrest.⁶³ One of the authorized force options for CPD members who encounter active resisters is a takedown, which involves directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject.⁶⁴

In this case, COPA finds that ██████ was an active resistor. As stated above, active resistance is demonstrated through one's attempt to create actual distance between themselves and an officer with the intention to avoid physical control or arrest. This type of resistance includes full flight by running.⁶⁵ ██████ told COPA that he ran after hearing a gunshot and the police chased him as he tried to jump over a fence.⁶⁶ When a bystander indicated to officers that ██████ was the shooter, ██████ said that one of the officers ran back to him, grabbed him by his shirt while he was still trying to detach himself from the gate, and slammed him onto his back. Officer Fokas, on the other hand, told COPA that he detained ██████ following a foot pursuit during which ██████ was actively fleeing from police and later discharged a weapon while attempting to climb a fence. Officer Fokas said he guided ██████ from the fence down to the ground.⁶⁷ As discussed above, a takedown was an authorized use of force to prevent escape and control ██████. Additionally, the preponderance of the evidence shows that Officer Fokas's takedown was objectively reasonable, necessary, and proportional under the totality of the circumstances.

However, in the absence of independent witness testimony or video evidence showing the manner in which Officer Fokas conducted the takedown, COPA lacks clear and convincing evidence to exonerate this allegation. As such, COPA finds that Allegation #1 against Officer Fokas is not sustained.

Allegation #2 against Officer Fokas, that he caused injury to ██████ back when he removed ██████ from atop a fence and caused him to forcibly impact the ground on his back, is also not sustained. As discussed above, the preponderance of the evidence shows that a takedown was an appropriate tactic for Officer Fokas to use under the circumstances. Therefore, even if ██████ was inadvertently injured, Officer Fokas did not commit misconduct in taking him to the ground. It is also important to note that ██████ alternatively described the incident as him falling

⁶⁰ Attachment 94, G03-02(III)(B).

⁶¹ Attachment 96, G03-02-01(III)(A).

⁶² Attachment 96, G03-02-01(III)(A)(2).

⁶³ Attachment 96, G03-02-01(IV)(B).

⁶⁴ Attachment 96, G03-02-01(IV)(B)(2)(c)(3).

⁶⁵ Attachment 96, G03-02-01(IV)(B)(2).

⁶⁶ Attachment 67, pg. 5, lns. 18 to 24, pg. 10, lns. 14 to 23.

⁶⁷ Attachment 68 at 9:48.

from the fence and being slammed to the ground. Finally, COPA gives significant weight to the deposition testimony of ██████ who indicated that ██████ injuries appeared to be the result of a degenerative disease as opposed to a traumatic injury. Therefore, COPA finds that Allegation #2 against Officer Fokas is not sustained.

c. The officers' failure to provide medical care

COPA finds **Allegation #3 against Officer Fokas and Allegation #1 against Officer Beesley**, that they failed to provide medical care to ██████ when he complained of injury, are **sustained**. In his statement to COPA, ██████ told investigators that, following his arrest, he told both officers at the scene that he was injured and could not feel his legs. He related that he repeatedly asked the officers, as well as the sergeant at the station, to take him to the hospital because he could not feel anything from his waist down, but, "They ignored me. Took me to the police station for at least six, seven, hours, without giving me any medical treatment."⁶⁸ ██████ recounted that by the time they arrived at the station, he had regained a little feeling and was able to walk into the station. He stated that he requested medical assistance multiple times while in the holding room at the 11th District, estimating that he did so approximately ten times. Each time, the response he was given was that he would be taken to the hospital only after the officers finished their paperwork.

In his statement to COPA, Officer Fokas said that he did not recall ██████ complaining of any pain or injury at the scene immediately following his arrest, nor did he remember ██████ appearing to be injured in any way.⁶⁹ Officer Fokas stated that ██████ did not discuss getting medical treatment until much later on.⁷⁰ Similarly, Officer Beesley told COPA that although he did not observe Officer Fokas and ██████ until after ██████ was handcuffed, ██████ did not appear to be injured.⁷¹ He also did not recall ██████ complaining about any numbness, pain, or injury while on scene.

However, BWC footage corroborates ██████ statement that, immediately following his arrest, he told both officers he could not feel his legs and his whole body was numb.⁷² Additionally, the video appears to show ██████ was unable to stand up on his own at the scene.⁷³ Officer Fokas responded to ██████ complaints by pointing out that ██████ had just been walking, running, and jumping a fence.⁷⁴ However, when ██████ was led into the 11th District Station by Sgt. Schuler, he walked slowly across the parking lot, slightly bent over, before saying, "My legs is numb."⁷⁵ Given this evidence, COPA finds that regardless of how ██████ became injured, he provided enough information and complaints of injury that the officers should have taken him for medical

⁶⁸ Attachment 67 at 6.

⁶⁹ Attachment 68 at 19:54.

⁷⁰ Attachment 68 at 19:30.

⁷¹ Attachment 69 at 13:00.

⁷² Attachment 7 at 2:05.

⁷³ Attachment 7 at 2:30.

⁷⁴ Attachment 7 at 2:05.

⁷⁵ Attachment 23 at 1:50 and 2:25.

treatment. Notably, ██████ was arrested at 4:27 pm,⁷⁶ but he was not admitted to Mt. Sinai Hospital until 11:04 pm.⁷⁷

CPD policy provides that members should immediately request the appropriate medical aid for a subject who is injured or complains of injury.⁷⁸ This includes arranging for transportation to a hospital. Because it was clear that ██████ alleged injury, the officers' delay in providing medical aid to him for almost seven hours was a direct violation of CPD policy.⁷⁹ For the foregoing reasons, COPA finds that Allegation #3 against Officer Fokas and Allegation #1 against Officer Beesley are sustained in violation of Rules 2, 3, 5, 6, 8, 10, and 11.

d. Officer Fokas' failure to complete a TRR

Allegation #4 against Officer Fokas, that he failed to complete a TRR after a use of force incident following which ██████ alleged injury, is **sustained**.⁸⁰ CPD policy requires members to complete a TRR for all use of force incidents involving a subject who is injured or alleges injury as a result of the member's use of force, or the active resistance of a subject.⁸¹

The evidence demonstrates that ██████ was an active resistor who was fleeing, and Officer Fokas performed a takedown of ██████ while he was on top of a fence. As discussed above, the evidence also demonstrates that ██████ repeatedly complained of injury. Although Officer Fokas did not recall that ██████ complained of injured immediately following his arrest, Officer Beesley's BWC footage shows that ██████ did in fact allege injury to Officer Fokas at the scene.⁸² ██████ further appeared to be unable to stand up on his own,⁸³ and he moved slowly and required assistance while walking into the 11th District Station.⁸⁴ Because CPD policy requires officers to complete a TRR under these circumstances, COPA finds that Allegation #5 against Officer Fokas is sustained in violation of Rules 3, 5, 6, 10, and 11.

VIII. DISCIPLINARY RECOMMENDATION⁸⁵

a. Officer Tyler Fokas

i. Complimentary and Disciplinary History⁸⁶

Officer Fokas has received 27 various awards and has no disciplinary history in the past five years.

⁷⁶ Attachment 1 at 1.

⁷⁷ Attachment 40 at 6.

⁷⁸ Attachment 94, G03-02(IV)(A)(1) and Attachment 96, G03-02-01(V)(D).

⁷⁹ Attachment 94, G03-02(IV)(A)(1).

⁸⁰ Attachment 95, G03-02-02(III)(A)(1)(a), Incidents Requiring the Completion of a Tactical Response Report (effective October 16, 2017 to February 29, 2020).

⁸¹ Attachment 95, G03-02-02(III)(A)(1)(a) and (b).

⁸² Attachment 7 at 2:05.

⁸³ Attachment 7 at 2:30.

⁸⁴ Attachment 23 at 1:50.

⁸⁵ Attachment 97.

⁸⁶ Attachment 25.

ii. Recommended Discipline

COPA has sustained allegations against Officer Fokas for failing to provide medical care to ██████ and failing to complete a TRR after performing a takedown on ██████. While it is unclear how ██████ sustained the injury to his back, he complained about numbness and had trouble walking after the incident. Despite ██████ immediate and repeated claims of injury, Officer Fokas waited more than seven hours before ensuring that ██████ received medical care. This delay was an unacceptable violation of ██████ rights, and it could have resulted in serious medical harm to ██████. Additionally, Officer Fokas’s failure to complete a TRR constituted a clear violation of CPD policy. For these reasons, COPA recommends that Officer Fokas receive a **5-day suspension and retraining** regarding his responsibilities after using force.

b. Officer Matthew Beesley

iii. Complimentary and Disciplinary History⁸⁷

Officer Beesley has received 71 various awards. He has one sustained complaint for failing to timely activate his BWC, for which he received a violation noted.

iv. Recommended Discipline

COPA has sustained a violation against Officer Beesley for failing to provide medical care to ██████. Although Officer Beesley did not use force against ██████ he arrived at the scene within seconds of Officer Fokas’ takedown, and the evidence shows he was aware of ██████ complaints of injury. The seven hour delay in providing medical care to ██████ was an unacceptable violation of both ██████ rights and CPD policy. For these reasons, COPA recommends that Officer Beesley receive a **3-day suspension and retraining**.

Approved:

████████████████████

Steffany Hreno
Director of Investigations

1/23/2024

Date

⁸⁷ Attachment 97.

Appendix A**Transparency and Publication Information**

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