



Log # 2022-4299

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On October 7, 2022, the Civilian Office of Police Accountability (COPA) received an OIG complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on June 15, 2021, Officer John O'Brien pushed a minor without justification and called ██████████ words to the effect of, "you piece of dog shit," without justification.<sup>2</sup> Following its investigation, COPA reached sustained findings regarding the allegations of John O'Brien pushing a minor without justification and calling ██████████ words to the effect of, "you piece of dog shit," without justification.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On June 15, 2021, at approximately 8:00 pm, O'Brien was securing a scene where an individual was shot in the foot.<sup>4</sup> O'Brien first encountered ██████████ when he asked ██████████ to not walk across the street due to shell casings still being present.<sup>5</sup> Mr. ██████████ turned to the officer and said words to the effect of, "I swear to god ... give me a turn with your goofy ass."<sup>6</sup> Mr. ██████████ then attempted to strike and/or intimidated a strike to Officer O'Brien with his right arm, while verbally warning, "touch me again."<sup>7</sup> With the assistance of other officers, ██████████ detained and handcuffed ██████████.<sup>8</sup> While ██████████ was being patted down, O'Brien called ██████████ words to the effect of "you're going to jail, you piece of dog shit."<sup>9</sup>

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

<sup>2</sup> One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>3</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, ICC footage, police reports, and an officer interview.

<sup>4</sup> Att. 4 ██████████ Arrest Report; Att. 1 O'Brien BWC 0:00 to 10:21

<sup>5</sup> Att. 1 6:45 to 8:00

<sup>6</sup> Att. 1 6:45 to 8:00; Att 10 O'Brien TRR

<sup>7</sup> Att. 1 6:45 to 8:00; Att 10 O'Brien TRR

<sup>8</sup> Att. 1 6:45 to 8:00

<sup>9</sup> Att. 1 8:10 to 8:20

While [REDACTED] was patted down by the officers, an unidentified black male minor on the sidewalks spoke to [REDACTED]<sup>10</sup> [REDACTED] told the minor words to the effect of “calm down.”<sup>11</sup> O’Brien then walked away from [REDACTED] and walked down the sidewalk.<sup>12</sup> The unidentified black male minor said something to O’Brien in a calm manner.<sup>13</sup> O’Brien angrily said to the minor words to the effect of “get on the other side of the tape, right now.”<sup>14</sup> Without giving the minor any time to react to O’Brien’s instructions, O’Brien immediately grabbed the minor’s Adidas jacket and pushed him backwards multiple feet.<sup>15</sup> O’Brien then said to the minor words to the effect of “get on the other side of the tape and stay there.”<sup>16</sup>

Officer Kylie Bossard, another officer on the scene apparently had a view of the interaction between O’Brien and the minor.<sup>17</sup> During the altercation between O’Brien and the minor, she said words to the effect of “hey O’Brien, watch out.”<sup>18</sup> While walking in the direction of O’Brien, she said words to the effect of “all you need to do is chill out.”<sup>19</sup>

O’Brien walked to a police vehicle and entered the driver’s side of this vehicle.<sup>20</sup> O’Brien then drove off.<sup>21</sup>

### III. ALLEGATIONS

#### Officer John O’Brien:

1. Pushed a minor without justification.
  - Sustained, Violations of Rules 2, 3, 5, 6, 8, 9, and 10
2. Called [REDACTED] words to the effect of “you piece of dog shit” without justification.
  - Sustained, Violations of Rules 2, 3, 5, 8, and 10

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of the officer who provided a statement.

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<sup>10</sup> Att. 1 8:45 to 9:30; in O’Brien’s statement, he indicated that this individual is [REDACTED] son, [REDACTED] (spelling not provided)

<sup>11</sup> Att. 1 8:45 to 9:00

<sup>12</sup> Att. 1 9:35 to 10:30

<sup>13</sup> Att.1 9:25 to 9:40

<sup>14</sup> Att. 1 9:25 to 9:40

<sup>15</sup> Att. 9:25 to 9:40

<sup>16</sup> Att. 1 9:40 to 9:45

<sup>17</sup> Att. 4 Bossard BWC 4:35 to 4:55.

<sup>18</sup> Att. 4 4:30 to 4:45

<sup>19</sup> Att. 4 Bossard BWC 4:49 to 4:55

<sup>20</sup> Att. 1 9:50 to 10:21

<sup>21</sup> Att. 1 9:50 to 10:21

v. **ANALYSIS**<sup>22</sup>

a. **Pushed a minor without justification**

COPA finds Allegation 1, that Officer O'Brien pushed a minor without justification is **Sustained**. The CPD's Rules of Conduct establish a list of acts which are expressly prohibited for all members, including Rule 8, which states that officers may not engage in any behavior that would result in disrespect toward or maltreatment of any person, and Rule 9, which prohibits officers from engaging in any unjustified verbal or physical altercation with any person.<sup>23</sup> Additionally, CPD policy specifies that all uses of force employed by officers must be "objectively reasonable, necessary, and proportional," depending on the circumstances of the situation.<sup>24</sup> CPD members are trained to view the use of force according to a spectrum of possible encounters based on whether the subject involved is a cooperative person, a passive resister, an active resister, or an assailant, with greater levels of force being permitted as the subject's behavior becomes more dangerous.<sup>25</sup>

In his statement, O'Brien said that the minor was a passive resister.<sup>26</sup> However, as O'Brien did not give the minor any time to respond to his direction, the minor cannot be considered either an active resister or a passive resister.<sup>27</sup> Moreover, at no point during physical interaction did the minor attempt to resist or push back against O'Brien. Therefore, the minor would likely be considered a cooperative individual within the use of force model.<sup>28</sup> As a result, O'Brien was not authorized to push the minor.<sup>29</sup> Therefore, COPA finds that Allegation 1 is **Sustained**...

b. **Called [REDACTED] words to the effect of, "you piece of dog shit," without justification**

COPA finds Allegation 2, that Officer O'Brien called [REDACTED] words to the effect of, "you piece of dog shit," without justification is **Sustained**. In his statement, O'Brien confirmed that he said, "you piece of dog shit," to [REDACTED] and that it was disrespectful to do so.<sup>30</sup> The CPD's Rules of Conduct establish a list of acts which are expressly prohibited for all members, including Rule 8, which states that officers may not engage in any behavior that would result in disrespect

<sup>22</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>23</sup> Att. 9 Rules and Regulations of the Chicago Police Department, (V) Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present).

<sup>24</sup> Att. 7 G03-02(III)(B), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 27, 2023)

<sup>25</sup> Att. 8 G03-02-01(IV) (A to C), Response to Resistance and Force Options (effective April 15, 2021 to June 27, 2023).

<sup>26</sup> Att. O'Brien statement transcript, Page 17, Line 15

<sup>27</sup> Att. 1 9:25 to 9:40

<sup>28</sup> Att. 8 G03-02-01(IV) (A to C), Response to Resistance and Force Options (effective April 15, 2021 to June 27, 2023).

<sup>29</sup> Att. Att. 8 G03-02-01(IV) (A to C), Response to Resistance and Force Options (effective April 15, 2021 to June 27, 2023).

<sup>30</sup> Att. 13, Page 12, Lines 17 to 24; Page 13, Lines 1 to 2

toward or maltreatment of any person, and Rule 9, which prohibits officers from engaging in any unjustified verbal or physical altercation with any person.<sup>31</sup> In the BWC footage, O'Brien clearly says, "you piece of dog shit," to ██████. Additionally, in his statement, O'Brien confirmed the allegation that he called ██████ words to the effect of, "you piece of dog shit," without justification.<sup>32</sup> This type of language is a clear violation of Department Rules and there was no justification for O'Brien to say this to ██████. Therefore, COPA finds this Allegation is **Sustained**.

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. Officer John O'Brien**

#### **i. Complimentary and Disciplinary History<sup>33</sup>**

Officer John O'Brien has received 49 complimentary awards, including 40 honorable mentions and two Department commendations. Officer O'Brien has two sustained cases, both for operations violations, that resulted in a violation noted and a reprimand. Officer O'Brien has received four SPARs, two for court appearance violations, one for failure to perform assigned tasks, and one for a preventable accident. For those incidents, Officer O'Brien received 1 day Suspension and a Reprimand.

#### **ii. Recommended Discipline**

COPA understands that Officer O'Brien responded to a chaotic scene after a shooting and was attempting to preserve the evidence, in this case, shell casings. Further, COPA acknowledges that it was likely frustrating to repeatedly tell civilians to stop walking through the taped off crime scene. While tensions were high, Officer O'Brien's decision to push a minor and call another civilian a piece of "dog shit," were not appropriate and brought discredit to the Department. Therefore, COPA recommends a **Violation Noted**.

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<sup>31</sup> Att. 28 Rules and Regulations of the Chicago Police Department, (V) Rules of Conduct, Rules 8 to 9, pg. 7 (effective April 16, 2015 to present).

<sup>32</sup> Att. 13 Page 30, Lines 11 to 23; Page 31 Lines 5 to 11

<sup>33</sup> Att. 14

Approved:



4-10-2024

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A**Case Details**

Date/Time/Location of Incident:	06/15/2021 / 7923 S Halsted St., Chicago, IL 60620
Date/Time of COPA Notification:	10/07/2022 / 11:58 am
Involved Member #1:	Officer John O'Brien / Star#8344 / Employee# [REDACTED] / Date of Appointment: 08/29/2016 / Male / White

**Applicable Rules**

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule \_\_:** *[Insert text of any additional rule(s) violated]*

**Applicable Policies and Laws**

- G03-02 De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 27, 2023) G03-02-01(IV) (A to C), Response to Resistance and Force Options (effective April 15, 2021 to June 27, 2023)
- G03-02-01 Response to Resistance and Force Options (effective April 15, 2021 to June 27, 2023)

## Appendix B

### **Definition of COPA’s Findings and Standards of Proof**

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

1. Sustained – where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained – where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>34</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. Clear and convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>35</sup>

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<sup>34</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it is found to be more probably true than not).

<sup>35</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).

**Appendix C**

**Transparency and Publication Categories**

Check all that apply:

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