



Log # 2023-1294

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 27, 2023, the Civilian Office of Police Accountability (COPA) received a complaint referral from the Office of the Inspector General (OIG) in which [REDACTED] brought allegations of misconduct against members of the Chicago Police Department (CPD).² [REDACTED] had also filed a federal civil suit containing further allegations.³

[REDACTED] alleged that on April 7, 2021, CPD Field Training Officer (FTO) Gemera Brown and Probationary Police Officer (PPO) Jermaine Townsend arrested her without justification, searched her residence without justification, invaded her privacy, and used excessive force.⁴ Upon review of the evidence, COPA served additional allegations that included failure to conduct a thorough preliminary investigation, failure to request a misdemeanor non-traffic arrest warrant, and failure to provide police service during an earlier incident at [REDACTED] apartment on April 4, 2021, involving Police Officers Niyell Powell and Donovan Foster

Following its investigation, COPA reached sustained findings on allegations brought by [REDACTED] that FTO Brown and PPO Townsend entered her apartment without justification on April 7, 2021. COPA also reached sustained findings on allegations brought by COPA that Officer Powell and Officer Foster failed to conduct a thorough investigation at the scene on April 4, 2021. All of the remaining allegations were Not Sustained, Unfounded, or Exonerated.

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

² Atts. 39 to 41. There is a corresponding federal Civil Suit 23-cv-1761 (Att. 18) that was filed on March 20, 2023, that restates the same facts while raising other allegations outside COPA's investigative purview. COPA has limited this inquiry to the events of April 4, 2021, to April 7, 2021.

³ Att. 18. As of September 26, 2024, the United States District Court for the Northern District of Illinois has dismissed all of the counts of [REDACTED] *pro se* suit for a variety of reasons (some with prejudice, and some without), but [REDACTED] has been given leave to file an amended complaint as to some of her allegations. *See* Att. 77. COPA has also requested copies of any evidence related to this matter in the possession of the City's attorneys, but no depositions have been taken and no substantive discovery has taken place, and no evidence was returned to COPA. *See* CMS Notes CO-1399487 and CO-1404906.

⁴ 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. During the pendency of this investigation FTO Brown was assigned to a new position as an Evidence Technician, and PPO Townsend completed his probationary period and was appointed as a Police Officer. In this report, both members are referred to by the rank and title they held at the time of the incident under investigation.

II. SUMMARY OF EVIDENCE⁵

On April 4, 2021, at 2:23 pm, ██████ called 911 to report that her landlord, ██████ and others had entered her apartment at ██████ unannounced, and while she was in a state of undress.⁶ ██████ alleged that during the ensuing altercation, ██████ battered her using a wooden board and a chair and then sprayed her in the face with a chemical irritant.⁷ The Chicago Fire Department (CFD) arrived on scene at 2:40 pm and treated ██████ for pain in her hand.⁸ Officers Powell and Foster arrived at approximately 3:05 pm. ██████ met them at the front door and, after a short conversation, led them to her apartment.⁹ Officer Foster broke away from the group momentarily and traveled back down the stairs to look for ██████. He appeared to look over the railing toward the first floor.¹⁰ Soon after, Officer Powell remarked that he could smell the chemical irritant and the officers and ██████ returned outside.¹¹ As Officer Powell completed a Victim Information Notice (VIN), ██████ stated she wanted ██████ arrested.¹² In response, Officer Powell gave ██████ the VIN with instructions on how to obtain an arrest warrant for ██████ so the police could take him into custody.¹³

On April 5, 2021, ██████ went to the third district police station to report the altercation he had with ██████ the day before.¹⁴ ██████ alleged that he and his contractor ██████ were at the apartment complex performing renovations when ██████ assaulted him with a series of closed-fist punches.¹⁵ ██████ did not report any injuries, and he was issued a VIN.¹⁶

⁵ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including CPD reports, court records, body-worn camera (BWC) recordings, and interviews of involved civilians and CPD members.

⁶ Att. 3, pg. 2; Att. 18, pg. 2, ¶ 6; Att. 39, pg. 2. Because COPA was not notified about the events of April 4 and April 7, 2021, until almost two years later, the Office of Emergency Management and Communication (OEMC) no longer retained copies of many relevant audio recordings (i.e., 911 telephone recordings and police radio transmissions) and was unable to provide these materials to COPA. See Atts. 54 and 56 to 62.

⁷ Att. 3, pg. 2; Att. 18, pg. 2, ¶ 6; Att. 39, pg. 2; Att. 55, pg. 2.

⁸ Att. 33, pg. 1; Att. 55, pg. 2. According to this report there was a small abrasion to her left hand and knuckle.

⁹ Atts. 6 and 7 at 15:05:30 to 15:11:50. The officers waited outside at the front door before ██████ appeared. There was no sign of ██████ during this time. See also Att. 7 at 15:12:27. Just before they went upstairs, ██████ mentioned she thought ██████ had a gun.

¹⁰ Att. 6 at 15:13:32 and Att. 51, pg. 35, lns. 10 to 21. Other than looking around while entering and exiting the building or standing outside, the officers did not take any further investigative steps to determine if ██████ was nearby.

¹¹ Att. 7 at 15:14:53.

¹² Att. 7 at 15:17:48.

¹³ Att. 7 at 15:16:11 to 15:26:02. A Victim Information Notice (VIN) is given to the victim of a crime and includes description of the nature of the incident, date/time of occurrence, report number, name of victim, name of offender, and other relevant information. It also includes, among other things, instructions for obtaining a warrant if no arrest is made.

¹⁴ Att. 4.

¹⁵ Att. 4.

¹⁶ Att. 4.

On April 7, 2021 at 9:24 am, ██████ called 911 to report that ██████ was back on the premises and refused to leave.¹⁷ The event query related to the call documented that ██████ was wanted for an assault which was reported under RD# JE189942.¹⁸ FTO Brown and PPO Townsend were dispatched to the call and arrived on the scene at 9:39 am.¹⁹ The officers had a short conversation with ██████ who agreed to sign a complaint.²⁰ ██████ then led the group into the apartment building and up to ██████ alleged apartment.²¹ ██████ directed the officers to the main door that led to ██████ apartment, which did not appear to have a lock, and told the officers it was open.²² FTO Brown called out “Chicago Police” as she kicked open the door, which made a sound as though something metal was leaning against it, likely to keep it closed.²³ FTO Brown announced her office again and kicked the door several times until she heard ██████ call out, “What, who is it?”²⁴ FTO Brown announced her office again, walked through the doorway into a small common area, and asked ██████ to come out.²⁵ ██████ stuck her head out into the hallway, said that she was not dressed yet, and asked, “Are you helping me?”²⁶ FTO Brown told ██████ she needed her to “come over here,” asked who else was there, and then walked through a threshold where the main door to the apartment had been removed.²⁷ ██████ responded, “Nobody.” FTO Brown again told ██████ to step out, and ██████ then stepped into the hall unclothed from the waist down.²⁸

FTO Brown ordered ██████ to get dressed and handed her a pair of pants.²⁹ Once ██████ was dressed, FTO Brown handcuffed her and told her she was being arrested for assault.³⁰ ██████ became agitated, particularly when the officers declined to retrieve her purse, and then she sat down on the floor when PPO Townsend tried to guide her down the stairs.³¹ PPO Townsend returned ██████ to her feet, and ██████ then complained that her handcuffs were too tight. FTO Brown adjusted the handcuffs and escorted ██████ to a transport vehicle.

¹⁷ Att. 8.

¹⁸ Att. 8.

¹⁹ Att. 8.

²⁰ Att. 10 at 09:41:16 and Att. 65.

²¹ Att. 10 at 09:46:10.

²² Att. 11 at 09:46:07.

²³ Att. 10 at 09:46:13.

²⁴ Att. 10 at 09:46:27.

²⁵ Att. 10 at 09:46:30.

²⁶ Att. 10 at 09:46:32.

²⁷ Att. 10 at 09:46:42.

²⁸ Att. 10 at 09:46:53. BWC for PPO Townsend also captured ██████ undressed from the waist down.

²⁹ Att. 10 at 09:47:10.

³⁰ Att. 10 at 09:47:59. The charge of battery against ██████ was eventually stricken off with leave to reinstate in the Circuit Court of Cook County. See Att. 34.

³¹ Att. 11 at 09:50:25.

III. ALLEGATIONS

Officer Niyell Powell and Officer Donovan Foster:

- Failed to conduct a thorough investigation of the alleged battery call between the tenant and landlord.
-SUSTAINED, violation of Rule 2, 3, 5, 6, and 10
- Failed to provide service by not making an arrest when requested by the victim to do so.
-NOT SUSTAINED

FTO Gamera Brown and PPO Jermaine Townsend:

- Entered the apartment occupied by [REDACTED] without justification.
-SUSTAINED, violation of Rules 1, 2, 3, 6, 8, and 10
- Entered the residence of [REDACTED] without a warrant.
-SUSTAINED, violation of Rules 1, 2, 3, 6, 8, and 10
- Arrested [REDACTED] without justification.
-EXONERATED
- Arrested [REDACTED] without a warrant.
-EXONERATED
- Employed excessive force against [REDACTED] by throwing her down three flights of stairs.
-UNFOUNDED
- Failed to conduct a thorough preliminary investigation before arresting [REDACTED] in accordance with G04-01.
-EXONERATED

FTO Gamera Brown

- Failed to request a misdemeanor non-traffic arrest warrant for [REDACTED] arrest in accordance with S06-12-02.
-EXONERATED
- Invaded the privacy of [REDACTED] by compelling her to approach you and your male partner while she was in as [sic] state of undress.
-NOT SUSTAINED
- Purposely handcuffed [REDACTED] in a manner that caused her pain and discomfort.
-NOT SUSTAINED

PPO Jermaine Townsend:

- Engaged [REDACTED] while she was in a state of undress.
-NOT SUSTAINED

IV. CREDIBILITY ASSESSMENT

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

COPA finds that the account given by ██████ was unreliable for several reasons. First, she claimed that PPO Townsend and FTO Brown threw her down three flights of stairs. This allegation was contradicted by BWC footage. Secondly, BWC footage showed that ██████ had covered the walls and windows of the apartment with repetitive notes that stated, for example, that of all her property had been photographed, while others asked for people to stop stealing her property and to return what was taken. Further, ██████ complaint in the related civil litigation makes broad allegations of conspiracies against her that are highly implausible or incoherent,³² raising doubts about her ability to accurately perceive and recall events. COPA does note that Cook County Circuit Court Judge Thomas Cushing found ██████ testimony credible in a related civil matter between ██████ and ██████ involving an order of protection, finding that ██████ likely did reside in the third-floor apartment, whether or not she had a lease or some other right to be present.³³

The actions of the accused CPD members in this case were largely captured by BWC recordings, and there is little dispute as to what occurred. The statements provided by the accused CPD members are corroborated by the video and are therefore reliable. The main issues in this case do not involve the resolution of factual disputes, but rather revolve around the propriety (or impropriety) of the undisputed actions taken by the accused CPD members. While COPA credits their factual accounts, COPA does not credit some of the explanations offered for their actions, as explained further below.

V. ANALYSIS³⁴

a. Failure to conduct a thorough investigation

COPA finds that the allegations against Officer Powell and Officer Foster, that they failed to conduct a thorough investigation of the alleged battery call between the tenant and the landlord, are **Sustained**. CPD members conducting a preliminary investigation must be thorough and accurate; they must determine, among other things, if there is a reasonable belief that a crime has been or is being committed, and they should arrest the offender if he or she is still on or near the scene and probable cause for an arrest exists.³⁵

³² See Att. 18, pgs.10 to 14.

³³ See Att. 42, pg. 59, ln. 22, to pg. 61, ln. 5.

³⁴ For a definition of COPA's findings and standards of proof, see Appendix B.

³⁵ Att. 47, G04-01(III)(B)(1), (IV)(A)(2 and 4), Preliminary Investigations (effective December 30, 2020, to present).

Here, Officer Powell and Officer Foster spoke with [REDACTED] after they arrived on scene. She explained that her landlord, [REDACTED] attacked her with a board causing cuts to her hand and arm, sprayed her with mace, and threatened her.³⁶ [REDACTED] received first aid from CFD personnel. [REDACTED] then took the officers up the stairs to her apartment, and Officer Powell asked her where [REDACTED] was. She pointed to the first floor and said, “He’s down here, hiding. He’s always hiding in there.”³⁷ Shortly thereafter, Officer Foster walked down toward the second floor, looked down, and then went back up to the third floor.³⁸ [REDACTED] and the officers left the apartment shortly thereafter because of the smell and irritation of the chemical irritant. There was no mention of [REDACTED] by the officers or [REDACTED] as they exited the building past the two first-floor apartments.³⁹

Officer Powell gathered information from [REDACTED] to fill out a Victim Information Notice (VIN). The VIN explained how a victim can obtain an arrest warrant for the involved offender.⁴⁰ [REDACTED] asked him three times if they could go and arrest [REDACTED] now, but Officer Powell explained to her how to obtain a warrant for [REDACTED] on her own.⁴¹ Neither Officer Powell nor Officer Foster asked [REDACTED] if she believed [REDACTED] was home at that moment, nor did they query whether the blue vehicle they were standing near, parked on the buildings property, belonged to [REDACTED]. Neither officer went to the first-floor apartments to see if [REDACTED] was present and, if he was, interview him to determine if a crime had been committed and if there was probable cause for an arrest. Officer Powell told COPA that he was not sure if [REDACTED] was referring to a specific apartment when she mentioned that [REDACTED] was “down there,” but he also admitted that he did not ask her to clarify what she meant.⁴² Also, the narrative in the case report completed by Officer Powell for this incident stated, in part, “The offender retreated to his apartment on the first floor,”⁴³ indicating that Officer Powell did understand that [REDACTED] was referring to the first-floor apartment when she told the officers where [REDACTED] could be found. Officer Foster told COPA that he was not the primary officer interacting with [REDACTED] and he also offered, “We don’t knock down doors as police officers,”⁴⁴ when asked why he did not approach the door of the first-floor apartment.

Attempting to contact and interview [REDACTED] in the apartment pointed out by [REDACTED] would have been the minimum and most obvious next step in a proper preliminary investigation, as outlined in CPD directives. For these reasons, COPA finds the preponderance of the evidence

³⁶ Att. 6 at 15:11:52. [REDACTED] also mentioned she thought [REDACTED] had a gun. There was no evidence located that suggested that [REDACTED] did or did not have a gun.

³⁷ Att. 6 at 15:12:58.

³⁸ Att. 6 at 15:13:32.

³⁹ Att. 6 at 15:14:50.

⁴⁰ Att. 7 at 15:18:50.

⁴¹ Att. 6 at 15:26:01; Att. 7 at 15:21:11 to 14:21:30.

⁴² Att. 51, pg. 12, ln. 1, to pg. 13, ln. 14.

⁴³ Att. 3, pg. 2.

⁴⁴ Att. 50, pg. 23, ln. 3; pg. 24, ln. 22, to pg. 25, ln. 2.

showed that Officer Powell and Officer Foster violated CPD policy and Rules 2, 3, 5, 6, and 10, and these allegations are Sustained.

b. Failure to provide service

COPA finds that the allegations against Officer Powell and Officer Foster, that they failed to provide service by not making an arrest when requested by the victim to do so, are **Not Sustained**. Pursuant to General Order G04-01, as part of a preliminary investigation, CPD members will arrest the offender if he or she is still on or near the scene and probable cause for an arrest exists. According to 725 ILCS 5/107-2 (1)(c) a peace officer may arrest a person when he has reasonable grounds to believe that the person is committing or has committed an offense. This statute has been interpreted by the courts to mean that an officer has discretion to arrest that person immediately, later, or perhaps never.⁴⁵ Also, while the report from a single, credible victim or eyewitness can provide the basis for a police officer to make a misdemeanor arrest based on probable cause,⁴⁶ a police officer is not obligated to accept (and act upon) a victim's account, particularly where the officer has reason to believe that the accuser harbors a grudge against the accused or when the officer doubts that the allegations, even if true, would constitute a crime.⁴⁷

Because Officer Powell and Officer Foster did not locate or interview [REDACTED] it is impossible to know if they would have developed sufficient probable cause to support an arrest had they done so, as they would have needed to speak with him and to assess [REDACTED] complaint accordingly. While Officer Powell and Officer Foster should be held accountable for failing to conduct a thorough preliminary investigation (as discussed above), COPA can not make the leap to find that, had they conducted a proper investigation, they would have been obligated to make an arrest. Therefore, there is not a preponderance of evidence to show that these officers violated CPD policy by failing to arrest [REDACTED] and there is also not clear and convincing evidence that they acted properly. Based on these findings, the allegations that Officer Powell and Officer Foster failed to provide service by not arresting [REDACTED] when requested by [REDACTED] to do so are Not Sustained.

c. Search without Justification and Search without a Warrant

COPA finds that the allegations against FTO Brown and PPO Townsend, that they entered the apartment occupied by [REDACTED] without justification or a warrant, are **Sustained**. The right to be free from unwanted intrusion into one's home is chief among the protections of the Fourth Amendment. The Fourth Amendment guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.⁴⁸ And, although an officer may make a warrantless arrest in public places so long as there is probable cause, an officer may not enter a suspect's home to effectuate the arrest absent the suspect's consent or some exigent

⁴⁵ See *People v. Shepherd*, 242 Ill. App. 3d 24 (4th Dist. 1993).

⁴⁶ See *Woods v. City of Chicago*, 234 F.3d 979, 996 (7th Cir. 2000).

⁴⁷ See *Askew v. City of Chicago*, 440 F.3d 894, 895 (7th Cir. 2006).

⁴⁸ Att. 73, G02-01(IV)(A), Human Rights and Human Resources (effective October 5, 2017, to June 30, 2022).

circumstance.⁴⁹ Merely answering the door does not give police consent to enter a home.⁵⁰ And, for consent to be voluntary, the consenter must have been under no duress or coercion, actual or implied, and the consent must have been unequivocal, specific, and given freely and intelligently.⁵¹

Here, both FTO Brown and PPO Townsend claimed that they had permission to enter [REDACTED] apartment. According to FTO Brown, “the victim gave her permission to enter that area” which she described as the common dwelling.⁵² Then she said that she did not know the nature of the area she was entering, that it was dark and that there was concern for officer safety.⁵³ PPO Townsend told COPA that [REDACTED] allowed them in when she asked the officers if they were there to help her.⁵⁴

A review of BWC footage for FTO Brown and PPO Townsend disclosed that there was no clear, unequivocal, or specific expression of consent for the officers to enter the apartment given by [REDACTED]. Neither officer asked [REDACTED] for permission to enter her residence, nor did [REDACTED] ever verbally give it. The CPD members entrance into the small common area is questionable. Someone, likely [REDACTED] had removed the lock to the brown door leading from the common stairwell into the small vestibule shared by [REDACTED] apartment and the adjacent, vacant apartment; once inside the small vestibule, the entire door that led to [REDACTED] apartment had been removed. The brown door was barricaded by an object that moved when FTO Brown kicked and pushed the door open and entered the vestibule. It is reasonable to conclude that despite the possible technicalities of where [REDACTED] Fourth Amendment rights officially began, she demonstrated an expectation of privacy just beyond the brown door.⁵⁵ Also, during her initial interaction with [REDACTED] FTO Brown learned that [REDACTED] had given [REDACTED] a key to the building and that [REDACTED] had been staying in the third-floor apartment, and FTO Brown advised [REDACTED] that he might need to initiate eviction proceedings even if [REDACTED] was squatting.⁵⁶ This interaction tends to show that FTO Brown understood that [REDACTED] was living in the apartment and would have an expectation of privacy, regardless of the legal status of her tenancy.

FTO Brown admitted to COPA that she did not know the nature of the area she was entering, describing the area as dark and claiming that there was some concern for officer safety. BWC footage shows that both FTO Brown and PPO Townsend used flashlights to see inside the vestibule, but neither seemed at all hesitant to enter the area of [REDACTED] apartment. Furthermore, neither officer conducted a sweep for other people once they were inside. And, neither FTO Brown nor PPO Townsend made any inquiry as to the formation of the doors and apartments with either [REDACTED] or [REDACTED] before they entered. PPO Townsend’s contention that [REDACTED] question as

⁴⁹ Griffin v. Wisconsin, 483 U.S. 868, 883 (1987).

⁵⁰ United States v. Sabo, 724 F.3d 891, 893 (7th Cir. 2013).

⁵¹ People v. Cardenas, 237 Ill. App. 3d 584, 587 (3rd Dist. 1992).

⁵² Att. 53, pg. 18, lns. 10 to 12.

⁵³ Att. 53, pg. 18, lns. 18 to 24, and pg. 19, lns. 8 to 10.

⁵⁴ Att. 52, pg. 58, lns. 7 to 13.

⁵⁵ Since the other apartment attached to the small common area was vacant, it is reasonable to believe that it was [REDACTED] who barricaded the brown door from the inside.

⁵⁶ Att. 10 at 09:41:28 to 09:42:50.

to whether they were to help her was consent is also unconvincing. It was a simple question to the police to ascertain what their mission was. It was not a clear, unequivocal, or specific expression of consent for the officers to enter her apartment.

█████ claimed in her civil lawsuit that FTO Brown and PPO Townsend, among others, illegally entered her home.⁵⁷ There is no evidence on BWC footage that would suggest █████ made any verbal or non-verbal communication that could be interpreted as consent to enter the apartment. For these reasons, COPA finds the preponderance of the evidence showed that FTO Brown and PPO Townsend violated CPD policy and Rules 1, 2, 3, 6, 8, and 10, and these allegations are Sustained.

d. Arrest without Justification and Arrest without a Warrant

COPA finds the allegations that FTO Brown and PPO Townsend arrested █████ without justification or without a warrant are **Exonerated**. A police officer must have probable cause to effect a valid, warrantless, arrest.⁵⁸ Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and the existence of probable cause depends on the totality of the circumstances at the time of the arrest.⁵⁹

Here, a 911 call was placed by █████ who reported that █████ a person wanted for an assault on █████ was on his property at 5112 S. Ingleside Ave. and was refusing to leave a vacant apartment.⁶⁰ FTO Brown and PPO Townsend responded to the call and spoke with █████ told the officers that he was assaulted by █████ when he and his contractor tried to get into the apartment █████ was occupying.⁶¹ █████ went into the Third District police station on April 5, 2021, to report that on April 4, 2021, █████ struck him with closed fists about his shoulders.⁶² FTO Brown asked █████ if he was willing to sign a complaint to that effect, and he responded affirmatively.⁶³ █████ signed a complaint on April 7, 2024.⁶⁴

█████ prior police report, his statement to the officers, and the signed complaint served as objective evidence of probable cause in this case. For this reason, COPA finds there is clear and convincing evidence that the conduct described in these allegations occurred, but it was lawful and proper and therefore Exonerated.

⁵⁷ Att. 18, pg. 3, lns. 13 to 16.

⁵⁸ *People v. Johnson*, 408 Ill. App. 3d 107, 119 (1st Dist. 2010) (citing *Beck v. Ohio*, 379 U.S. 89, 91 (1964)).

⁵⁹ *People v. Johnson*, 408 Ill. App. 3d 107, 119 (1st Dist. 2010) (citing *People v. Wear*, 229 Ill. 2d 545, 563-64 (2008)).

⁶⁰ Att. 8.

⁶¹ Att. 10 at 09:40:40.

⁶² Att. 4. According to this Original Case Incident report, there was a witness, contractor █████

⁶³ Att. 53, pg. 12, lns. 14 to 16; pg. 14, lns. 22 to 24; pg. 15, lns. 20 to 22; pg. 16, lns. 10 to 11.

⁶⁴ Att. 65.

e. Excessive Force

COPA finds that the allegations against FTO Brown and PPO Townsend, that they employed excessive force against ██████ by throwing her down three flights of stairs, are **Unfounded**. Force is defined as any physical contact by a CPD member, either directly or through the use of equipment, to compel a person's compliance.⁶⁵ CPD members must use only the amount of force that is proportional to the threat, actions, and level of resistance offered by a person.⁶⁶ The use of excessive force, unwarranted physical force, or unlawful force by a CPD member is prohibited and will not be tolerated.⁶⁷

Here, FTO Brown arrested and handcuffed ██████ for the assault of ██████⁶⁸ Then, PPO Townsend led ██████ out of the apartment and to the stairwell, and ██████ lied down on the floor near the stairs when the officers failed to bring the items she requested.⁶⁹ BWC footage captured PPO Townsend's attempts to get ██████ back onto her feet, and there was no sign of unwarranted or excessive force used during that time. More importantly, at no time did BWC footage suggest that ██████ was thrown down three flights of stairs. For this reason, COPA finds there is clear and convincing evidence that the conduct described in the allegation did not occur and is Unfounded.

f. Engagement of ██████ while in a state of undress

COPA finds that the allegation against PPO Townsend, that he engaged ██████ while she was in a state of undress, is **Not Sustained**. The recognition of individual dignity is vital in a free society, and all persons have a right to dignified treatment under the law; the protection of this right is a fundamental responsibility of each CPD member, and CPD members must treat each person with respect.⁷⁰

Here, it was alleged that PPO Townsend engaged with ██████ while she was in a state of undress. PPO Townsend's BWC footage showed that he might have briefly seen ██████ in a state of undress when she stepped out into the hallway.⁷¹ However, he did not speak with or approach ██████ except to ask if anyone else was in the apartment, until after she was dressed.⁷² ██████ appeared to be behind a wall, out of PPO Townsend's line of view, during this very brief interaction, and a female police officer (Officer Brown) was the only CPD member in direct contact with her.⁷³ PPO Townsend could not see ██████ when he asked if anyone else was in the apartment, and he told COPA that he never saw ██████ in a state of undress because FTO Brown

⁶⁵ Att. 74, G03-02(III)(A), Use of Force (effective February 29, 2020, to April 15, 2021).

⁶⁶ Att. 74, G03-02(III)(B)(3).

⁶⁷ Att. 74, G03-02(III)(B)(5).

⁶⁸ Att. 9; Att. 10 at 09:47:08.

⁶⁹ Att. 10 at 09:50:57 to 09:56:00. ██████ kneeled down again on the landing near the 2nd floor

⁷⁰ Att. 73, G02-01(II)(B).

⁷¹ Att. 11 at 09:46:54.

⁷² Att. 11 at 09:45:53 to 09:48:15.

⁷³ Att. 11 at 09:47:09.

blocked his view.⁷⁴ Based on these facts, there is insufficient evidence to prove by a preponderance of evidence that PPO Townsend engaged with [REDACTED] while she was in a state of undress. However, because PPO Townsend should not have entered [REDACTED] apartment, COPA cannot find by clear and convincing evidence that his conduct was lawful and proper, so this allegation is Not Sustained.

g. Failure to conduct a thorough preliminary investigation

COPA finds that the allegations against FTO Brown and PPO Townsend, that they failed to conduct a thorough preliminary investigation before arresting [REDACTED] in accordance with G04-01, are **Exonerated**. CPD members conducting a preliminary investigation must be thorough and accurate; they must determine, among other things, if there is a reasonable belief that a crime has been or is being committed, and they should arrest the offender if he or she is still on or near the scene and probable cause for an arrest exists.⁷⁵ A police officer may arrest a person when the officer has reasonable grounds to believe that the person is committing or has committed an offense. A police officer has discretion to arrest that person immediately, later, or perhaps never.⁷⁶ The report from a single, credible victim or eyewitness can provide the basis for a police officer to make a misdemeanor arrest based on probable cause,⁷⁷ but a police officer is not obligated to accept (and act upon) a victim's account, particularly where the officer has reason to believe that the accuser harbors a grudge against the accused or when the officer doubts that the allegations, even if true, would constitute a crime.⁷⁸ Probable cause to arrest can exist even if some innocent explanation is possible and even in the face of some conflicting evidence; police officers can make an arrest even if they have not conclusively resolved all possible inconsistencies or contradictions in a victim's account.⁷⁹

Here, [REDACTED] called 911 to report a person who was refusing to leave his property, and who was wanted for a previous assault against him.⁸⁰ FTO Brown and PPO Townsend arrived on scene and met [REDACTED].⁸¹ [REDACTED] told the officers that [REDACTED] was trespassing, that she had assaulted him earlier, and that he had a police report for the assault.⁸² [REDACTED] gave the officers the history of the issue with [REDACTED] agreed to sign a complaint, and then took the officers up to the third floor to arrest [REDACTED].⁸³

FTO Brown and PPO Townsend determined that there was a reasonable belief that a crime had been committed, and after a short interaction with [REDACTED] FTO Brown placed [REDACTED] under

⁷⁴ See Att. 52, pg. 27, lns. 17 to 19.

⁷⁵ Att. 47, G04-01(III)(B)(1) and (IV)(A)(2 and 4).

⁷⁶ See *People v. Shepherd*, 242 Ill. App. 3d 24 (4th Dist. 1993).

⁷⁷ See *Woods v. City of Chicago*, 234 F.3d 979, 996 (7th Cir. 2000).

⁷⁸ See *Askew v. City of Chicago*, 440 F.3d 894, 895 (7th Cir. 2006).

⁷⁹ See *People v. Collins*, 2006 Ill. App. LEXIS 1282, *33-34 (1ST Dist.).

⁸⁰ Atts. 8.

⁸¹ Att. 10 at 09:39:58.

⁸² Att. 10 at 09:40:31.

⁸³ Att. 10 at 09:41:16.

arrest and handcuffed her. For this reason, COPA finds there is clear and convincing evidence that FTO Brown and PPO Townsend conducted an adequate preliminary investigation before arresting [REDACTED] and these allegations are Exonerated.

h. Failure to request a Misdemeanor non-traffic arrest warrant-S06-12-02

COPA finds that the allegation against FTO Brown, that she failed to request a misdemeanor non-traffic arrest warrant for [REDACTED] arrest in accordance with S06-12-02, is **Exonerated**. Police officers may request misdemeanor nontraffic arrest warrants from the warrant clerk assigned to any branch of the First Municipal District, Circuit Court of Cook County (Municipal Court of Chicago).⁸⁴

Here, as mentioned above, FTO Brown arrested [REDACTED] based on the already existing police report and the preliminary investigation that she conducted on scene. Because probable cause to arrest had already been established, a request for a misdemeanor non-traffic arrest warrant was unnecessary in this particular case. For this reason, COPA finds there is clear and convincing evidence that the conduct described in the allegation occurred, but it was lawful and proper and is Exonerated.

i. Invasion of Privacy

COPA finds that the allegation against FTO Brown, that she invaded the privacy of [REDACTED] by compelling [REDACTED] to approach her and her male partner while [REDACTED] was in a state of undress, is **Not Sustained**. The recognition of individual dignity is vital in a free society, and all persons have a right to dignified treatment under the law; the protection of this right is a fundamental responsibility of each CPD member, and CPD members must treat each person with respect.⁸⁵

Here, when FTO Brown and PPO Townsend arrived at [REDACTED] apartment, FTO Brown called out to her to get her attention. [REDACTED] asked who it was, and FTO Brown responded that it was Chicago Police. [REDACTED] responded that she was not dressed yet as she partially stepped out of the room she was in.⁸⁶ FTO Brown told [REDACTED] to “come out here,” and [REDACTED] responded that she was not dressed yet. FTO Brown told [REDACTED] to “come over here,” and [REDACTED] again responded she was not dressed yet, and [REDACTED] asked why FTO Brown was there and if she was there to help.⁸⁷ FTO Brown then told [REDACTED] she needed her to “come over here,” again, and she asked [REDACTED] if anyone else was present.⁸⁸ [REDACTED] responded that nobody else was there, and by then she was covered up but partially in the hallway.⁸⁹ FTO Brown told her to step out again, and when

⁸⁴ Att. 36, S06-12-02(II)(C), Non-Traffic Arrest Warrant Procedures (effective August 26, 2019, to present).

⁸⁵ Att. 73, G02-01(II)(B).

⁸⁶ Att. 10 at 09:46:25.

⁸⁷ Att. 10 at 09:46:30.

⁸⁸ Att. 10 at 09:46:40.

⁸⁹ Att. 10 at 09:46:44.

■■■■■ stepped out, she was partially undressed from the waist down.⁹⁰ FTO Brown told ■■■■■ to put some clothes on, and ■■■■■ walked back into the room where she had been.⁹¹ FTO Brown followed her in and handed ■■■■■ a pair of pants to put on.⁹²

During this interaction PPO Townsend was not far behind.⁹³ When ■■■■■ stepped out into the hall in a state of undress, it is possible that PPO Townsend could have seen her. However, as described above, PPO Townsend told COPA he did not see ■■■■■ in a state of undress because FTO Brown was blocking the way.⁹⁴ BWC footage is unclear as to whether FTO Brown blocked PPO Townsend's view, or even what direction he was looking at the time. For these reasons, COPA finds there is insufficient evidence to prove this allegation by a preponderance of the evidence, and the allegation is Not Sustained.

j. Handcuffing

COPA finds that the allegation against FTO Brown that she purposely handcuffed ■■■■■ in a manner that caused her pain and discomfort is **Not Sustained**. When feasible, an arrestee must be handcuffed with both hands behind the back with his or her palms positioned outward, and handcuffs must be double locked.⁹⁵

Once FTO Brown was able to get ■■■■■ properly dressed, she handcuffed ■■■■■ and informed her that she was under arrest for assault.⁹⁶ ■■■■■ made no mention that the handcuffs were too tight until the officers tried to take her to a transport vehicle, and she knelt down and sat on the floor near the stairs.⁹⁷ ■■■■■ kept struggling and yelling that the officers were hurting her and that the handcuffs were too tight. When FTO Brown looked at the handcuffs, she noticed that there was a screw missing on the cuff on ■■■■■ left hand, and then PPO Townsend adjusted the handcuffs.⁹⁸ As the handcuffs were adjusted, FTO Brown said to PPO Townsend, "This is not you, though, look at all this space."⁹⁹ ■■■■■ continued to complain about the handcuffs being too tight and her wrist going numb.¹⁰⁰ When she began to complain that her right wrist was going numb, FTO Brown loosened the right handcuff.¹⁰¹

It is difficult to determine from the available BWC footage whether the handcuffs were too tight, or whether they were adjusted properly, and ■■■■■ own movements were causing the handcuffs to hurt her. However, the BWC footage does show that FTO Brown examined the

⁹⁰ Att. 10 at 09:46:50.

⁹¹ Att. 10 at 09:46:54.

⁹² Att. 10 at 09:47:00.

⁹³ Att. 11 at 09:46:51.

⁹⁴ Att. 11 at 09:46:53.

⁹⁵ Att. 75, G06-01-02(V)(A)(1), Restraining Arrestees (effective December 8, 2017, to present).

⁹⁶ Att. 10 at 09:48:15.

⁹⁷ Att. 10 at 09:50:50.

⁹⁸ Att. 10 at 09:52:36.

⁹⁹ Att. 10 at 09:52:46.

¹⁰⁰ Att. 10 at 09:53:16.

¹⁰¹ Att. 10 at 09:54:25.

handcuffs and noted that there was sufficient space, and FTO Brown also adjusted one of the handcuffs in response to [REDACTED] continuing complaints. For these reasons, COPA finds there is insufficient evidence to prove this allegation by a preponderance of the evidence, and it is Not Sustained.

VI. DISCIPLINARY RECOMMENDATION¹⁰²

a. PPO Jermaine Townsend

i. Complimentary and Disciplinary History

Officer Townsend has received one Department Commendation, two Honorable Mentions, and the 2019 Crime Reduction Award. Officer Townsend has no sustained complaint registers within the past five years.

ii. Recommended Discipline

COPA has found that Officer Townsend violated Rules 1, 2, 3, 6, 8, and 9 by entering [REDACTED] apartment without a warrant or other justification. When a police officer uses their authority to enter a person's residence without justification, their actions tend to undermine confidence in CPD's ability to treat members of the public fairly and to adhere to the Fourth Amendment's requirements. Here, COPA notes that Officer Townsend was a probationary police officer at the time of this incident, under the mentorship of FTO Brown. Officer Townsend entered [REDACTED] apartment only after FTO Brown opened the outer door and entered the vestibule, and it is difficult to imagine Officer Townsend deciding to remain in the stairwell and to allow his training officer to enter the apartment alone. Considering Officer Townsend's complimentary and disciplinary history and considering his status as a probationary officer at the time of this incident, COPA recommends the entry of "**Violation Noted**" and no further discipline, along with additional training in lawful search and seizure under the Fourth Amendment.

b. FTO Gemera Brown

i. Complimentary and Disciplinary History

Officer Brown has received twenty-five Honorable Mentions, two complimentary letters, and at least seven other awards and commendations. Officer Brown was suspended for one day after a March 2021 incident where she was found to have failed to provide police service.

ii. Recommended Discipline

COPA has found that Officer Brown violated Rules 1, 2, 3, 6, 8, and 9 by entering [REDACTED] apartment without a warrant or other justification. When a police officer uses their authority to

¹⁰² See Att. 76 for the complimentary and disciplinary history of each accused CPD member.

enter a person's residence without justification, their actions tend to undermine confidence in CPD's ability to treat members of the public fairly and to adhere to the Fourth Amendment's requirements. Here, COPA notes that Officer Brown was acting as a training officer at the time of this incident, and she was responsible for both her own actions and the actions of her trainee, who followed her into [REDACTED] apartment. Officer Brown did not set a proper example for her trainee and did not adhere to CPD policy. Considering these facts, and considering Officer Brown's complimentary and disciplinary history, COPA recommends that Officer Brown be **suspended for between five and fifteen days**, at the discretion of the Superintendent, along with additional training in lawful search and seizure under the Fourth Amendment.

c. Police Officer Niyell Powell

i. Complimentary and Disciplinary History

Officer Powell has received two Life Saving Awards, five Department Commendations, twenty-five Honorable Mentions, one complimentary letter, and at least twelve other awards and commendations. Officer Powell has no sustained complaint registers within the past five years, but was disciplined once through the summary punishment process, receiving a reprimand for an October 2023 preventable accident.

ii. Recommended Discipline

COPA has found that Officer Powell violated Rules 2, 3, 5, 6, and 10 by failing to conduct a thorough investigation of the alleged battery call between [REDACTED] and [REDACTED]. Officer Powell did not fulfill his duty to conduct a proper preliminary investigation under the relevant CPD directive, and his actions (or lack thereof) tend to undermine confidence in CPD's ability to carry out its law-enforcement mission. As an experienced police officer, Officer Powell should have recognized that some further investigative action was necessary under the circumstances he encountered. Officer Powell was respectful towards [REDACTED] during their encounter and did take time to explain other steps that [REDACTED] could take. Based on these facts, and considering Officer Powell's complimentary and disciplinary history, COPA recommends that Officer Powell be **suspended for between one and three days**, at the discretion of the Superintendent.

d. Police Officer Donovan Foster

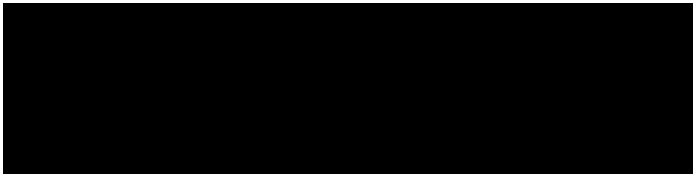
i. Complimentary and Disciplinary History

Officer Foster has received two Department Commendations, eight Honorable Mentions, and at least three other awards and commendations. Officer Foster has no sustained complaint registers within the past five years.

ii. Recommended Discipline

COPA has found that Officer Foster violated Rules 2, 3, 5, 6, and 10 by failing to conduct a thorough investigation of the alleged battery call between [REDACTED] and [REDACTED]. Officer Foster did not fulfill his duty to conduct a proper preliminary investigation under the relevant CPD directive, and his actions (or lack thereof) tend to undermine confidence in CPD's ability to carry out its law-enforcement mission. As an experienced police officer, Officer Foster should have recognized that some further investigative action was necessary under the circumstances he encountered. Even though Officer Foster was not the primary officer interacting with [REDACTED] during this incident, he should have recognized that further investigation was needed and suggested that he and his partner attempt to contact [REDACTED] by knocking on the door of the first-floor apartment. Based on these facts, and considering Officer Foster's complimentary and disciplinary history, COPA recommends that Officer Foster be **suspended for between one and three days**, at the discretion of the Superintendent.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

9-27-2024

Date

Appendix A**Case Details**

Date/Time/Location of Incident 1:	April 4, 2021 / 3:00 pm / [REDACTED] Chicago, IL 60615
Date/Time/Location of Incident 2:	April 7, 2021 / 9:45 am / [REDACTED] Chicago, IL 60615
Date/Time of COPA Notification:	March 27, 2023 / 12:15 pm
Involved Member #1:	Police Officer (ET) Gemera Brown, Star #13372, Employee ID # [REDACTED] DOA: January 26, 2004, Unit: 277, Female, Black
Involved Member #2:	Police Officer Jermaine Townsend, Star #19758, Employee ID # [REDACTED] DOA: February 18, 2020, Unit: 004/376, Male, Black
Involved Member #3:	Police Officer Niyell Powell, Star #13594, Employee ID# [REDACTED] DOA: February 25, 2002, Unit: 002, Male, Black
Involved Member #4:	Police Officer Donovan Foster, Star #9515, Employee ID# [REDACTED] DOA: June 24, 2016, Unit: 002, Male, Black
Involved Individual #1:	[REDACTED] Female, Black

Applicable Rules

- ☒ **Rule 1:** Violation of any law or ordinance.
- ☒ **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 10:** Inattention to duty.

Applicable Policies and Laws

- The Fourth Amendment to the United States Constitution
- General Order G02-01, Human Rights and Human Resources (effective October 5, 2017, to June 30, 2022)
- General Order G03-02, Use of Force (effective February 29, 2020, to April 15, 2021)
- General Order G04-01, Preliminary Investigations (effective December 30, 2020, to present)
- General Order G06-01-02, Restraining Arrestees (effective December 8, 2017, to present)
- Special Order S06-12-02, Non-Traffic Arrest Warrant Procedures (effective August 26, 2019, to present)

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.¹⁰³ 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.”¹⁰⁴

¹⁰³ 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.”).

¹⁰⁴ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

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