



Log # 2023-1705

IFINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 19, 2023, the Civilian Office of Police Accountability (COPA) received notification from the Chicago Police Department's (CPD) Bureau of Internal Affairs (BIA) alleging misconduct by a CPD member. BIA alleged that on August 25, 2022, Officer Thomas O'Brien was verbally abusive and referred to someone as a "Nigger."² Upon review of the evidence, additional allegations were served that Officer O'Brien grabbed ██████████ ██████████ by her throat and choked ██████████. Following its investigation, COPA reached a sustained finding regarding the verbal abuse and not sustained findings for the remaining allegations.

II. SUMMARY OF EVIDENCE³

On August 25, 2022, at approximately 9:00 pm, Off-duty Officer Thomas O'Brien and his brother, ██████████ arrived at Officer O'Brien's residence, in the vicinity of ██████████ ██████████ and noticed that there was a vehicle blocking Officer O'Brien's driveway. Officer O'Brien added that he observed several individuals standing in and near his driveway. ██████████ lowered his driver's side window and asked if someone could move the vehicle. ██████████ apologized and informed ██████████ that she would move her vehicle away from the entrance of the driveway. Officer O'Brien related that someone stated words to the effect of, "Fuck you. We're not moving."⁴

Officer O'Brien exited the vehicle, observed ██████████ standing in the immediate area and stated words to the effect of, "Oh, you're the idiot that's been running around here with a pistol in the neighborhood, right?"⁵ Officer O'Brien walked in the direction his residence, near where ██████████ was standing, ██████████ exited her vehicle and stood between Officer O'Brien and ██████████. ██████████ related that Officer O'Brien grabbed her by her neck and choked her. ██████████ added that ██████████ yelled out, ██████████ "What the fuck are you doing?"⁶ ██████████ stated that

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 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.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including police reports, evidence technician photos, 3rd Party video, medical records, and Officer O'Brien's statement to COPA. As of the date of report ██████████ ██████████ (witness), ██████████ (witness) and ██████████ ██████████ (witness) have not provided a statement to COPA.

⁴ Att. 32, Page 9, line 2

⁵ Att. 32, Page 9, line 13 – 15

⁶ Att. 17, Page 2

████████ punched Officer O'Brien on his face and Officer O'Brien released his grip on ██████████ neck.

After ██████████ punched Officer O'Brien on his face, Officer O'Brien stated, "I'm the police motherfucker" and went inside his residence. ██████████ related that she sustained bruising and reopened sutures as a result of this incident. ██████████ submitted photographs to Detective Nerina Binetti via email on January 23, 2023, and related that the photographs depicted her injuries (surgery scars re-opened sutures). ██████████ added that the photographs were taken on or about August 26, 2022.⁷

According to the Chicago Fire Department (CFD) Patient Care Report dated August 28, 2022, ██████████ complained of back pain. ██████████ related left side pain post battery in that she was grabbed by her neck and thrown causing her to strike her son who was standing behind her. ██████████ was concerned for the surgical site relating that some of her sutures were torn free during the course of the battery. The reporting EMS did not observe any obvious recent signs of injury outside of ██████████ complaint of pain.

According to the medical progress notes from Rush Pain Center, dated January 30, 2023, ██████████ informed the medical staff that she had a fall secondary to an altercation with off-duty police officer in the immediate post-operative period. The injury to her surgical site likely propagated seroma/ hematoma which lead to wound dehiscence, which required ██████████ to undergo a surgical revision of her implantable generator site. ██████████ was diagnosed with complex regional pain syndrome type 1 of the left upper extremity.

████████ identified ██████████ as a witness to the incident. ██████████ related that she did not witness the incident but heard commotion outside of her residence. ██████████ stated that ██████████ informed her that Officer O'Brien grabbed her neck and choked her. ██████████ related that she did not observe reopened sutures on ██████████ neck after the alleged incident.

In his statement to COPA, Officer O'Brien stated that when ██████████ requested that the vehicle blocking his driveway be moved, someone stated "Fuck you. We're not moving."⁸ Officer O'Brien related that he exited ██████████'s vehicle and recognized ██████████ standing in the vicinity of Officer O'Brien's residence. Officer O'Brien walked in the direction of his residence, near where ██████████ was standing, and stated words to the effect of, "Oh, you're, you're the idiot that's been running around here with a pistol in the neighborhood, right?"⁹

████████ exited her vehicle and stood between Officer O'Brien and ██████████. Officer O'Brien added that ██████████ placed both hands on Officer O'Brien's chest. Officer O'Brien responded by pushing ██████████ hands down and away from him, while stating words to the effect of, "Don't put your hands on me."¹⁰ ██████████ then reached over ██████████ shoulder and struck Officer O'Brien on his left eye. Officer O'Brien stated words to the effect of, "I'm the fucking police, motherfucker."¹¹ Officer O'Brien realized that he was bleeding and walked inside his

⁷ Att. 14

⁸ Att. 32, Page 9, Line 2

⁹ Att. 32, Page 9, Lines 13 – 15

¹⁰ Att. 32, Page 9 Line 19

¹¹ Att. 32, Page 34, Lines 1 – 2

house. Officer O'Brien did not have any additional interaction with [REDACTED] or [REDACTED]. Officer O'Brien sustained a cut to his left eye as a result of this incident but did not receive any medical treatment. Upon inquiry, Officer O'Brien explained that he did not report the incident initially because he did not want to get the police involved.

Officer O'Brien denied grabbing [REDACTED] by her throat and choking her. Officer O'Brien also denied referring to anyone as a "Nigger." Officer O'Brien stated that he stated words to the effect of, "I'm the fucking police, motherfucker," because [REDACTED] struck him, and he was in shock that [REDACTED] would strike a police officer.

The evidence technician photographs of Officer O'Brien depicted a mark near his left eye.¹²

III. ALLEGATIONS

Officer Thomas O'Brien:

1. Grabbing [REDACTED] by her throat.
 - Not Sustained.
2. Choking [REDACTED]
 - Not Sustained.
3. Referring to someone as a "Nigger."
 - Not Sustained.
4. Stating words to the effect of, "I'm the fucking police motherfucker."
 - Sustained, Violation of Rules 2, 6, 8 and 9.

IV. CREDIBILITY ASSESSMENT

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.

V. ANALYSIS¹³

COPA finds that Allegations #1 – 3 against Officer O'Brien, that he grabbed [REDACTED] by her throat, choked [REDACTED] and referred to someone as a "Nigger," is **not sustained**. Officer O'Brien denied committing the acts alleged against him. [REDACTED] related that she did not witness the incident. [REDACTED] and [REDACTED] failed to provide a statement to COPA regarding the incident. According to the CFD Patient Care Report, EMS did not observe any obvious recent signs of injury outside of [REDACTED] complaint of pain. Based on the available evidence, there is insufficient evidence to prove or disprove the allegations.

COPA finds that Allegation #4 against Officer O'Brien, that he stated words to the effect of, "I'm the fucking police motherfucker," is **sustained**. Under CPD policy, in addition to respect for those human rights prescribed by law, in all contacts and interactions with the public, Department members, both sworn and civilian, will: not exhibit a condescending attitude or direct

¹² Att. 12

¹³ For a definition of COPA's findings and standards of proof, see Appendix B.

derogatory terms toward any person in any manner and will not use language or take action intended to taunt or denigrate an individual, including using racist or derogatory language.¹⁴ Members act, speak, and conduct themselves in a courteous, respectful, and professional manner, recognizing their obligation to safeguard life and property and maintain a courteous professional attitude.¹⁵ Officer O'Brien related that he made the statement immediately after [REDACTED] punched him on his face because he was in shock that [REDACTED] would strike a police officer. COPA finds the preponderance of the evidence shows that Officer O'Brien's actions violated CPD policy and Rules 2, 6, 8 and 9.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Thomas O'Brien

i. Complimentary and Disciplinary History

Officer O'Brien has received 180 various awards and accommodations, of which he received 147 Honorable Mentions, and has not had a reported disciplinary or SPAR history in the past five years.

ii. Recommended Discipline

COPA has found that Officer O'Brien violated Rules 2,6,8 and 9 when he stated words to the effect of "I'm the fucking police motherfucker" after he was punched in the face by [REDACTED]. In the statement to COPA, Officer O'Brien stated that he was shocked that [REDACTED] whom is a teenage punched him, an adult and knowing that he (O'Brien) in a police officer and in essence spontaneously uttered that he was police officer, with no intent to be malicious or as a threat. Based on the obtained evidence, the statement of the involved parties and Officer O'Brien's lack of disciplinary history, COPA recommends a **reprimand**.

Approved:

[REDACTED]

6/21/2024

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

¹⁴ G02-01 (III)(B)(4), Protection of Human Rights (effective June 30, 2022 – Present)

¹⁵ G02-01 (III) (B) (3).

Appendix ACase Details

Date/Time/Location of Incident:	August 25, 2022/ 9:00 pm / ██████████, Chicago, IL 60655.
Date/Time of COPA Notification:	April 19, 2023/ 2:01 pm.
Involved Officer #1:	Officer Thomas O'Brien/ Star #12964/ Employee ID #████████ DOA: December 2, 2002/ Unit: 005/ 169 DTL/ Male/ White.
Involved Individual #1:	██████████ Female/ White.
Involved Individual #2:	██████████ 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

- G02-01; Protection of Human Rights (Effective June 30, 2022 – 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.¹⁶ 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.”¹⁷

¹⁶ 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).

¹⁷ *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 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