

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	May 3, 2015
Time of Incident:	10:30 PM
Location of Incident:	5555 W. Grand Ave (25 <sup>th</sup> District Lock-Up)
Date of COPA Notification:	May 4, 2015
Time of COPA Notification:	12:01 PM

On May 3, 2015 [REDACTED] and several of his friends were involved in a car crash and subsequent altercation with a Cook County sheriff. After the incident, Mr. [REDACTED] was arrested by Chicago Police officers. During the arrest, Mr. [REDACTED] resisted and was taken down. Before being taken to the 25<sup>th</sup> District, Mr. [REDACTED] was taken to West Suburban Medical Center and released at 12:13 AM on May 4, 2015. He was then taken to the 25<sup>th</sup> District for processing. During processing, Mr. [REDACTED] was allegedly uncooperative and resisted having his photo taken. During a struggle with Officer Peter McNally and Detention Aides Henry Willaby and Michael Santiago, Mr. [REDACTED] was taken down and suffered serious injury to his right orbital socket due to knee strikes administered by Detention Aide Willaby. After the incident, Mr. [REDACTED] was placed in a cell and not given medical attention until he was processed and released the next morning. He immediately went to Community First Healthcare for treatment of his injuries. At the hospital he spoke with IPRA investigators and made a complaint.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer Peter McNally, Star #21068, Employee ID# [REDACTED], Date of Appointment 11/30/12, PO, Unit of Assignment 610, DOB: [REDACTED]85, Male, White
Involved Officer #2:	Detention Aide Henry Willaby, Employee ID# [REDACTED], Date of Appointment 12/5/05, Detention Aide, Unit of Assignment 25 <sup>th</sup> District, DOB [REDACTED]67, Male, Black
Involved Officer #3:	Detention Aide Michael Santiago, Employee ID# [REDACTED], Date of Appointment 7/1/14, Detention Aide, Unit of Assignment 25 <sup>th</sup> District, DOB [REDACTED]/65, Male, Hispanic

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Involved Officer #4: Lieutenant David Zahn, Star #791, Employee ID# [REDACTED] Date of Appointment 8/4/97, Lieutenant of Police, Unit of Assignment, Central Investigations, DOB [REDACTED]/1970, Male, White

Involved Officer #5: Officer Jeffrey Loquercio, Star#18782, Employee ID# [REDACTED] Date of Appointment, 7/10/95, Police Officer, Unit of Assignment, 25<sup>th</sup> District, DOB [REDACTED]68, Male, White

Involved Officer #6: Officer Alma Rodriguez, Star# 8974, Employee ID# [REDACTED] Date of Appointment 9/26/05, Police Officer, Unit of Assignment 25<sup>th</sup> District, DOB, [REDACTED]/66, Female, Hispanic

Involved Officer #7: Detention Aide Antoinette Thompson, Employee ID# [REDACTED] Date of Appointment, 7/1/14, Detention Aide, Unit of Assignment 25<sup>th</sup> District, DOB, [REDACTED]/69, Female, Black

Involved Individual #1: [REDACTED] male, DOB, [REDACTED]/87, White Hispanic

**III. ALLEGATIONS**

Officer	Allegation	Finding/Recommendation
Lieutenant David Zahn	1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you observed misconduct and failed to report it when Detention Aide Henry Willaby kned [REDACTED] on the eye.	Not Sustained
	2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to intervene when Detention Aide Henry Willaby kned [REDACTED] on the eye.	Not Sustained
	3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to ensure that [REDACTED] received medical attention for injuries he received while in police custody.	Exonerated
	4. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to follow the provisions	Not Sustained

	<p>of Special Order 03-03-004 II. B. 7. by not “monitoring behavior and performance of subordinates and their adherence to department policies and procedures and taking appropriate action when deficiencies in performance, uniform, and or/ equipment are observed.”</p>	
<p>Officer Peter McNally</p>	<ol style="list-style-type: none"> <li>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally threw ██████████ to the floor.</li> <li>2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally refused to provide ██████████ with medical attention.</li> <li>3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally provided a false report regarding this incident.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
<p>Detention Aide Henry Willaby</p>	<ol style="list-style-type: none"> <li>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby threw ██████████ to the floor.</li> <li>2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby kned ██████████ to on the eye multiple times.</li> <li>3. It is alleged that on 04 May 2015, at approximately 0050 hours at 5555 W Grand Ave, Detention Aide Williaby refused to provide ██████████ with medical attention.</li> <li>4. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby provided a false report regarding this incident.</li> </ol>	<p>Exonerated</p> <p>Sustained</p> <p>Exonerated</p> <p>Not Sustained</p>
<p>Detention Aide Michael Santiago</p>	<ol style="list-style-type: none"> <li>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand</li> </ol>	<p>Exonerated</p>

	<p>Ave, Detention Aide Santiago threw ██████ to the floor.</p> <p>2. It is alleged that on 04 May 2015, at approximately 0050 hours at 5555 W Grand Ave, Detention Aide Santiago refused to provide ██████ with medical attention.</p> <p>3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Santiago provided a false report regarding this incident.</p>	<p>Exonerated</p> <p>Unfounded</p>
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**IV. APPLICABLE RULES AND LAWS**

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Rules

1. Rule 2: Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department
2. Rule 6: Prohibits disobedience of any order or directive
3. Rule 8: Disrespect to or maltreatment of any person while on or off duty
4. Rule 14: Prohibits making a false report, written or oral
5. Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department

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General Orders

1. G03-02 Use of Force Guidelines (eff. 10/1/2002)
2. G03-02-01 The Use of Force Model (eff. 5/16/12)
3. G03-02-03 Deadly Force (eff. 2/10/2015)
4. G06-01-02 Restraining Arrestees (eff. 2/22/2012)

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Special Orders

1. Special Order 03-03-004: District Field and Tactical Lieutenants

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State Laws

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1. 720 ILCS 5/12-3: Battery
2. Illinois Constitution Article 1 Section 6: Searches, Seizures, Privacy and Interceptions

## V. INVESTIGATION<sup>2</sup>

### a. Interviews

On May 4, 2015 at 2:02 PM, ██████ gave a statement<sup>3</sup> to IPRA at Community First Medical Center, located at 5645 West Addison St. in Chicago, Illinois. Mr. ██████ stated that he was arrested on May 3, 2015 at around 6:00 PM. He does not recall the details of the arrest because, by his own admission, he was highly intoxicated at the time. He said that after the celebration, he and his friends were in a car traveling south on Oak Park toward Grand Ave., when they got into an accident. Mr. ██████ was uncomfortable using any of his friends' names in an official statement. Mr. ██████ and his friends hit the vehicle of an off-duty sheriff. Mr. ██████ and the sheriff then had an argument about the accident and the sheriff accused Mr. ██████ of threatening his life. The sheriff called the police. Mr. ██████ claims he does not remember any of interactions with the police or his arrest.

His first clear memory of that evening was waking up at a hospital, strapped to a bed.<sup>4</sup> Once hospital staff cleared him, he was taken to the district station at Grand and Central. At the station, he was taken to processing and told to stand for pictures. Mr. ██████ described three individuals with him in lock-up as two detention aides (one white, one black) and a white police officer. The white detention aide (whom Mr. ██████ refers to as a "turnkey") took pictures of his face and the sides of his head. He then told Mr. ██████ to remove his shirt so he could take pictures of Mr. ██████ tattoos. At this point, Mr. ██████ admitted he said "something slick" to the detention aide.<sup>5</sup> Mr. ██████ stated he was then told by the aide, who was taking pictures, that he would be the last person to get processed and that he wasn't going home until tomorrow.<sup>6</sup> That same aide told Mr. ██████ to return to his cell. Mr. ██████ began to walk toward him and asked to use the phone.<sup>7</sup> He was told he could not use the phone and to go into the cell. Mr. ██████ stated he then "bumped" into the detention aide<sup>8</sup> and the two detention aides and the officer then grabbed him and threw him on the floor. Mr. ██████ stated he was thrown forward and landed on his stomach. Mr. ██████ told the officer and aides that he was not resisting arrest. He stated that a large older white man put a knee in Mr. ██████ back and began to handcuff him. While Mr. ██████ was handcuffed, the black detention aide grabbed Mr. ██████ head and started striking him with his

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment 9 & 10

<sup>4</sup> Attachment 10 at p. 5

<sup>5</sup> Id. at p.14

<sup>6</sup> Id. at p.15

<sup>7</sup> Id. at p.16

<sup>8</sup> Id. at p.17

knee in Mr. ██████ right eye. Mr. ██████ believed he was struck in his right eye five to eight times. After Mr. ██████ was subdued, the officer and aides put him in a cell. Mr. ██████ stated they did not remove the handcuffs until approximately 20-40 minutes later. He remained in the cell until after shift change. A few hours later, he talked to a woman he described as a "female sergeant" who informed him he was being charged with striking an officer. Mr. ██████ stated that during the hours following this incident, he repeatedly asked for medical care and did not receive any. Mr. ██████ said that there was another individual being processed at the same time as he was that witnessed the whole incident. Mr. ██████ described him as male and Hispanic.

On August 27, 2015 at 6:07 AM, **Officer Jeffrey Loquercio**<sup>9</sup> gave a statement to IPRA. On May 4, 2015 Officer Loquercio was assigned to the desk at District 25. Officer Loquercio stated that he does not see prisoners as they are brought into the lock-up and did not directly witness this incident. However, he did take the statements of the individuals involved and wrote the case report (RD# HY246134). The information in the report was given to Officer Loquercio by Officer McNally and Detention Aides Santiago and Willaby after the incident occurred. His recollection of their statement is reflected in the case report, and he had no additional details to report other than what was contained in the report. Officer Loquercio had no contact with ██████ and did not go into the lock-up area after the incident.

On March 3, 2016 at 6:22 AM, **Accused Detention Aide Michael Santiago**<sup>10</sup> gave a statement to IPRA. Detention Aide Santiago stated that on May 4<sup>th</sup>, 2015 at approximately 0050 hours, he was assigned to the 25<sup>th</sup> District lock up along with Detention Aide Henry Willaby. That night, Detention Aide Santiago was assigned to the computer workstation and was responsible for conducting the intake questionnaire and inputting the data. Detention Aide Santiago recalled ██████ arrival in lock up that day but could not remember a specific time. He did not recall any noticeable injury on Mr. ██████ at the time of arrival. When Mr. ██████ initially arrived, he refused to cooperate with the intake process. He refused to answer questions and refused to submit to a search. Detention Aide Santiago warned Mr. ██████ that his refusal to cooperate would result in him being put in a cell and not processed until he complied. Mr. ██████ then became more cooperative. Officer McNally was responsible for searching Mr. ██████ while Detention Aide Willaby was responsible for photographing and fingerprinting him. Detention Aide Santiago then heard Detention Aide Willaby instruct Mr. ██████ to remove his shirt so they could photograph Mr. ██████ tattoos.

Detention Aide Santiago stated that once again, Mr. ██████ refused to cooperate and was warned about the delay in processing. Mr. ██████ continued to refuse, so Detention Aide Willaby attempted to walk him toward a cell. Detention Aide Santiago stated he was not watching Mr. ██████ at this time because he had started processing another prisoner. He only saw Detention Aide Willaby with Mr. ██████ when they moved into his peripheral vision on their way to cell block three. Detention Aide Santiago related that before Detention Aide Willaby and Mr. ██████ reached the cell, Mr. ██████ began to pull away and demanded to use the phone. He was told he could use the phone after he cooperated with processing. Detention Aide Santiago stated Detention Aide Willaby grabbed him by the arm again to escort him to the cell and Mr. ██████ once again pulled away. At this point Lieutenant Zahn walked in and gave Detention Aide Santiago permission to

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<sup>9</sup> Attachment 78 & 79

<sup>10</sup> Attachment 89 and 90

leave the desk and assist Detention Aide Willaby and Officer McNally. Detention Aide Santiago stated he believed Mr. ██████ was trying to make it to the exit of the lock-up area and Detention Aide Willaby was trying to grab him. Detention Aide Santiago later learned that the reason it looked like Mr. ██████ was heading toward the door was that he tripped on the carpet. Detention Aide Santiago stated all three men converged on Mr. ██████ trying to get him down to the ground, while wrestling with him. Detention Aide Santiago related Mr. ██████ ended up against the wall, but he was not sure how. Detention Aide Santiago stated that Mr. ██████ hit the wall hard enough to make an audible sound. When they finally got Mr. ██████ to the ground, Detention Aide Santiago was on his left, Officer McNally was on his right side, and Detention Aide Willaby was in front near his head. Detention Aide Santiago stated Lieutenant Zahn was also present during this encounter and attempted to call for back up, but the phone did not work. Detention Aide Santiago stated Lieutenant Zahn screamed for help and called the female officer and detention aide over to help. While Mr. ██████ was on the ground Detention Aide Santiago was trying to get Mr. ██████ left arm out from under him so that Officer McNally could put handcuffs on him. Officer McNally was trying to get his right arm out from under him as well. They managed to get control of his arms, but had some trouble placing handcuffs on him because of his size. Detention Aide Santiago stated that while he and Officer McNally were pulling Mr. ██████ arms from under him, Detention Aide Willaby was controlling Mr. ██████ head using his hands and knees. Detention Aide Santiago could not see what Detention Aide Willaby was doing with his hands, but he did see him strike Mr. ██████ in his head with knee strikes.<sup>11</sup>

Detention Aide Santiago and Officer McNally were eventually able to get handcuffs on Mr. ██████ and gain control of him long enough to get him into a cell. Afterward, Detention Aide Santiago learned Mr. ██████ had gotten hold of a pen during the struggle. Detention Aide Santiago stated he learned this when one of the female aides who had come to assist found the pen on the ground after Mr. ██████ was secured. After the struggle, the officer and detention aides leaned against a nearby wall to catch their breath. The first thing Detention Aide Santiago stated he noticed was a pool of blood on the ground. He did not know whose blood it was, but he looked around at his fellow officers and aides and did not see any visible injuries, so he concluded it was Mr. ██████ blood.

From the cell, Mr. ██████ continued to be belligerent, so they left the handcuffs on Mr. ██████ while he was in the cell. Detention Aide Santiago stated Mr. ██████ was told that when he calmed down, they would take the handcuffs off. Mr. ██████ complained that he had blood on his face. Detention Aide Santiago stated that approximately a half an hour later Mr. ██████ calmed down enough to let them take the handcuffs off. Detention Aide Santiago then proceeded to process the other prisoner that was recently brought in. Lieutenant Zahn then notified Lieutenant Platt of the incident. Officer Loquercio came back from the front desk to take their statements regarding the incident, and Detention Aide Santiago filled out a Tactical Response Report after being directed to do so by Lieutenant Platt.

Detention Aide Santiago admitted that while Mr. ██████ was in his cell, he was visibly bleeding. He stated that any time there is a medical issue, it is the Detention Aide's responsibility to notify the DSS, who was Lieutenant Platt. He stated he did tell Lieutenant Platt that Mr. ██████ had requested medical attention. Lieutenant Platt replied that there were no cars available.

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<sup>11</sup> Attachment 90 at p. 27

Detention Aide Santiago believes Lieutenant Platt went and spoke with Mr. [REDACTED] but he did not witness the interaction because he was giving his statement to Officer Loquercio at the time.

On March 8, 2016 at 6:14 AM, **Accused Detention Aide Henry Willaby** gave a statement to IPRA.<sup>12</sup> Detention Aide Willaby stated that on May 4, 2015, he was assigned to the lock-up in the 25th District. He was working with Officer McNally and Detention Aide Mike Santiago. That night Detention Aide Willaby was assigned to fingerprint and photograph prisoners. Officer McNally was searching the people brought in and Detention Aide Santiago was entering data into the computer. Detention Aide Willaby confirms that [REDACTED] came into the lock up that night around midnight. Detention Aide Willaby stated Mr. [REDACTED] was initially hostile with Detention Aide Santiago but could not recall exactly what was said. Mr. [REDACTED] initially was not answering the intake questions. Eventually, they were able to get him to answer and Mr. [REDACTED] apologized for being difficult. When it came time to take Mr. [REDACTED] picture for processing, Mr. [REDACTED] allowed them to take a few pictures but refused to remove his shirt so they could photograph his tattoos and again asked to use the phone. Mr. [REDACTED] was advised that if he refused to cooperate it would delay his processing.

Detention Aide Willaby stated Mr. [REDACTED] continued to refuse to be photographed, so he and Officer McNally attempted to take him to a cell. Detention Aide Willaby stated Mr. [REDACTED] began to resist, flailed his arms and tripped, hitting his back on the wall. Detention Aide Willaby believed he tripped on the carpet. After this, Officer McNally and Detention Aide Willaby grabbed Mr. [REDACTED] by the arm to continue escorting him to his cell. Detention Aide Willaby stated Mr. [REDACTED] pulled away again. This time he stumbled and fell forward, hitting the door, but was still on his feet. After this, Officer McNally, Detention Aide Santiago, and Detention Aide Willaby all grabbed him and took him down to the ground.<sup>13</sup> Detention Aide Willaby stated Mr. [REDACTED] went down with his stomach on the ground and his arms under his body. Detention Aide Willaby was positioned up near his head on the right side, Detention Aide Santiago was on the left side near the upper torso, while Officer McNally was on the left further down Mr. [REDACTED] body. They were all struggling with Mr. [REDACTED] to get control of his arms to apply handcuffs. Detention Aide Willaby stated that during this struggle, a pen fell out of Detention Aide Willaby's pocket. Detention Aide Willaby stated Mr. [REDACTED] removed his hands from underneath his body and grabbed the pen. Detention Aide Willaby stated he was able to grab Mr. [REDACTED] and remove the pen from his hand. Detention Aide Willaby stated he continued to struggle to handcuff Mr. [REDACTED] but eventually they were then able to gain control of his arms to handcuff him. Detention Aide Willaby stated that during the struggle to handcuff Mr. [REDACTED] he noticed Lieutenant Zahn's presence. Detention Aide Willaby was not sure when Lieutenant Zahn arrived or what he saw.

After the incident, Mr. [REDACTED] was bleeding visibly from his mouth.<sup>14</sup> When Mr. [REDACTED] was taken to his cell, he was irate and yelling. Someone, Detention Aide Willaby was not sure who, called for Lieutenant Platt to come to the lockup. When she did, Detention Aide Willaby reported the incident to her. Detention Aide Willaby stated he advised Lieutenant Platt that Mr. [REDACTED] was injured and that he needed to be taken to the hospital, but he never was. Detention Aide Willaby stated that Mr. [REDACTED] was not taken to the hospital because he never calmed down enough

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<sup>12</sup> Attachment 94, 95, & 96

<sup>13</sup> Id at 16

<sup>14</sup> Id at 20



to be transported.<sup>15</sup> Detention Aide Willaby denies applying knee strikes to Mr. [REDACTED] head. He stated that Mr. [REDACTED] may have come into contact with his knee accidentally as he was taken to floor. Detention Aide Willaby stated he did not add the knee contact to his Tactical Response Report because he only realized there may have been knee contact after he wrote it.<sup>16</sup>

On August 17th, 2015 at 6:16 AM, **Officer Peter McNally**<sup>17</sup> gave a statement to IPRA at the offices of the Independent Police Review Authority located at 1615 West Chicago Ave. Officer McNally stated that on May 4, 2015, at 0050 hours, he was on duty and assigned to the 25th District male lock-up facility. That night he was working with two detention aides, Michael Santiago and Henry Willaby. [REDACTED] was brought to the lock-up at approximately 0040 hours. Officer McNally stated he was the officer assigned to pat down and process incoming arrestees. Officer McNally stated that when he began to pat down Mr. [REDACTED] Mr. [REDACTED] began to resist. Mr. [REDACTED] was getting too close to the processing desk for Officer McNally to finish a full pat down. At Officer McNally's instruction, Mr. [REDACTED] stepped back, and Officer McNally completed the pat down. Officer McNally stated he instructed Mr. [REDACTED] to remove his shoes, and he refused. Officer McNally stated Mr. [REDACTED] was told he would be put in a cell and not processed if he did not comply. Mr. [REDACTED] removed his shoes. After his shoes were checked and Mr. [REDACTED] was given his property receipts, he moved to the photographing station.

Officer McNally stated that at the photographing station, Detention Aide Willaby instructed Mr. [REDACTED] to remove his shirt so that his tattoos could be photographed. Mr. [REDACTED] refused. Officer McNally stated Mr. [REDACTED] was further instructed to let Detention Aide Willaby photograph his tattoos, but he continued to refuse. Officer McNally stated he then demanded to use the phone to make a call. Mr. [REDACTED] started to walk towards the phone. Officer McNally related that Detention Aide Willaby grabbed Mr. [REDACTED] right arm as he started to pull away. Officer McNally then saw Mr. [REDACTED] ball up his left fist. Officer McNally took that as an indication that Mr. [REDACTED] was going to attack Detention Aide Willaby. Officer McNally stated he then grabbed Mr. [REDACTED] left arm. At that time Detention Aide Santiago was behind a computer workstation twenty feet away. Officer McNally attempted to take Mr. [REDACTED] toward a cell. Mr. [REDACTED] tensed up and broke free using his body weight.

Officer McNally stated that once free, Mr. [REDACTED] bolted forward and began to run towards the door near the lawyer conference rooms. Officer McNally estimated that he got about 20 feet away from them before he tripped and fell. As he got back up, Officer McNally and Detention Aide Willaby caught up with him. Officer McNally was unsure whether Detention Aide Santiago got to them by that point. Officer McNally and Detention Aide Willaby put Mr. [REDACTED] in an "escort hold"<sup>18</sup> and attempted to put him in a cell that was approximately 15 feet away. Officer McNally stated Mr. [REDACTED] was resisting by jerking and throwing his body weight back and forth. Officer McNally stated Mr. [REDACTED] then jerked forward, fell, and hit the concrete just outside of cell block three. From the floor, Mr. [REDACTED] tucked his arms under his body. Officer McNally was on top of Mr. [REDACTED] on the left side of his body. Detention Aide Santiago was on the right side. Detention Aide Willaby was also on the right side, holding Mr. [REDACTED] down by his shoulders. Officer

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<sup>15</sup> Id. At 26

<sup>16</sup> Id at 38

<sup>17</sup> Attachment 77

<sup>18</sup> Id at p. 19

McNally stated that Detention Aide Willaby had positioned himself by Mr. ██████ right shoulder and was holding him down with his knee in Mr. ██████ shoulder near his head. Officer McNally related that during the struggle, Mr. ██████ grabbed a pen and held it in his closed fist with the sharp side down. Officer McNally and the Detention Aides struggled with him to get the pen away. Once they retrieved the pen, Detention Aide Santiago and Officer McNally succeeded in placing handcuffs on Mr. ██████ and got him into a cell. After being placed in the cell, Mr. ██████ yelled, cursed and kicked the gate. Officer McNally stated that he did notice swelling on Mr. ██████ face and blood on the floor.

After the altercation, Officer McNally and the Detention Aides had to catch their breath. Officer McNally stated that at that point, Lieutenant Zahn appeared on scene. Officer McNally and the Detention Aides told him about the incident. Lieutenant Zahn asked about the condition of Officer McNally and the detention aides. Officer McNally stated that soon after, while yelling from his cell and threatening to sue, Mr. ██████ asked to be taken to a hospital. Officer McNally asked Mr. ██████ to let him remove the handcuffs as a sign of good faith. Mr. ██████ threatened him and positioned himself in a way that Officer McNally could not easily enter the cell and take the cuffs off. Officer McNally was able to get the handcuffs off about half an hour later.

After the incident, Officer McNally gave a statement to Officer Loquercio about the incident so that Officer Loquercio could write a case report. Officer McNally stated he then reported the events of the incident to Lieutenant Platt. Lieutenant Platt was the district station supervisor on duty. Officer McNally related that she spoke with Mr. ██████ but elected to not send him to the hospital. Mr. ██████ was not taken for medical treatment while Officer McNally was on duty.

On March 23, 2016 at 3:05 PM, **Lieutenant David Zahn<sup>19</sup>** gave a statement to IPRA at the offices of the Independent Police Review Authority located at 1615 W. Chicago Ave. Lieutenant Zahn stated that on May 4, 2015 at 0050 hours he was on duty as a Field Lieutenant for the 25<sup>th</sup> District. The Field Lieutenant is responsible for supervising officers and supervisors on the street. Lieutenant Zahn claimed he did not recall the specific incident in this case. He stated he relied on reports to refresh his recollection. When shown photos of Mr. ██████ he did not recognize him. He did not recall being in the station with Detention Aides Santiago and Willaby and Officer McNally when Mr. ██████ was an arrestee. He did not recall either the detention aides or the officer making a report of an incident to him on the night of May 4, 2015. Lieutenant Zahn did state that it was common practice in his district for the Field Lieutenant to sometimes perform the inspection duties of lock-up that were usually assigned to the Watch Lieutenant. Specifically, he would routinely do these checks for Lieutenant Platt, including sending arrestees for medical treatment. Lieutenant Zahn claimed he never saw any kind of altercation in lockup that night. He did not recall calling for additional CPD personnel to come into lockup. Lieutenant Zahn admitted he signed in as doing a lockup check five minutes before the incident. Lieutenant Zahn claimed he could not have gotten back into lockup if there was an altercation because someone would have had to let him in as he does not have his own key to the lockup area.

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<sup>19</sup> Attachment 104 & 105

On April 28, 2016 at 6:12 AM **Officer Alma Rodriguez**<sup>20</sup> gave a statement to IPRA at the offices of the Independent Police Review Authority, located at 1615 W. Chicago Ave. On May 4, 2015, at 0050 hours Officer Rodriguez was assigned to the female lockup in District 25. Officer Rodriguez stated that at about 12:50 AM, Detention Aide Thompson told Officer Rodriguez to follow her. Officer Rodriguez stated that they walked to male lockup, and when she arrived, there was a large male arrestee at the intake desk, waiting to be processed. Officer Rodriguez stated no other detention aides or officers were supervising the arrestee when she arrived. Officer Rodriguez believed Detention Aides Willaby and Santiago were working the male lockup that evening, along with Officer McNally, but she did not specifically recall seeing them. Officer Rodriguez states that she did not see any part of the incident nor did she recall any physical altercation even occurring. Officer Rodriguez repeatedly stated she could not recall the events of this day. Officer Rodriguez stated she was in the male lockup area for approximately ten minutes and then returned to the female side but could not recall what prompted herself and Detention Aide Thompson to leave and could not recall who they left the prisoner with.

On April 6, 2016 at 6:29 AM **Detention Aide Antoinette Thompson**<sup>21</sup> gave a statement to IPRA at the offices of the Independent Police Review Authority, located at 1615 W. Chicago Ave. On May 4, 2015 at 0050 hours Detention Aide Antoinette Thompson was assigned to the female lockup in District 25. Around 0050 hours that night, Detention Aide Thompson moved to the male lockup area to provide assistance. She and Officer Alma Rodriguez were called to assist by Lieutenant Zahn. They entered through the front entrance which was unlocked. When they arrived, there was an arrestee at the intake desk. Detention Aide Thompson stated she recognized Lieutenant Zahn, Detention Aide Willaby and Detention Aide Santiago, but there was also an officer Detention Aide Thompson did not know. Detention Aide Thompson stated that Lieutenant Zahn was behind the prisoner that she was there to secure when she arrived. Detention Aide Thompson was responsible for supervising the prisoner that had yet to be processed. She commanded the prisoner to place his hands on the counter and he complied. Detention Aide Thompson stated she did not recall what Lieutenant Zahn was doing as she was watching the prisoner, because she was focused on the prisoner. She stated that when she initially entered the area she observed the struggle but could not recall the details of that physical contact. She heard them command him to stop resisting but did not see any further details as she was primarily focused on her prisoner, who was very large. She stated she did not witness Detention Aide Willaby knee strike Mr. ██████ in the eye. After Mr. ██████ was taken to a cell, Lieutenant Zahn said, "Thank you, ladies," and Detention Aide Thompson and Officer Rodriguez returned to their assigned post in the female lock up. Detention Aide Thompson never ended up giving a report of the incident and did not speak to anyone about it until she was contacted by a city attorney.

#### **b. Digital Evidence**

**CB Photos of ██████ ██████** were taken at the 25<sup>th</sup> District. The first picture shows Mr. ██████ face in a straight view. He appears to have significant bruising all over his face, especially around the right eye, which is swollen shut. There also appears to be dried blood on his face. The second photo is in profile on his right side. It shows further evidence of swelling around the right

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<sup>20</sup> Attachment 108 & 109

<sup>21</sup> Attachment 106 & 107

<sup>22</sup> Attachment 16

eye. There appear to be abrasions on his neck as well. The third picture appears to be the inside of Mr. [REDACTED] right arm. On his forearm is a tattoo with stylistic text that says [REDACTED] and underneath [REDACTED]

Nine **ET Photos** of [REDACTED] [REDACTED] were taken on May 4, 2015 by ET Kawasaki #15723, recorded under RD HY246491.

Photo 1: Caption with date and time of photos.

Photo 2: Full body picture of [REDACTED] There are multiple abrasions and bruises on his face. His right eye appears swollen shut.

Photos 3-5: Closer heads shot of Mr. [REDACTED] from a right angle. Apparent abrasions all over the face. Bruising under the left eye and the left eye appears very bloodshot. Right eye is swollen closed with significant bruising. Possible dried blood around the chin and nose.

Photo 6-8: Head shots from the left side. Swelling of right eye is clear with additional bruising up around the cheekbones. Clear bruising around the left eye with less swelling than the right. Dried blood around the chin and some abrasions on the neck. Abrasions and dried blood on the nose.

Photo 9: Straight on head shot. Swelling of right eye is clear with additional bruising up around the cheekbones. Clear bruising around the left eye with less swelling than the right. Dried blood around the chin and some abrasions on the neck. Abrasions above the left eye. Abrasions and dried blood on the nose. Pictured below.

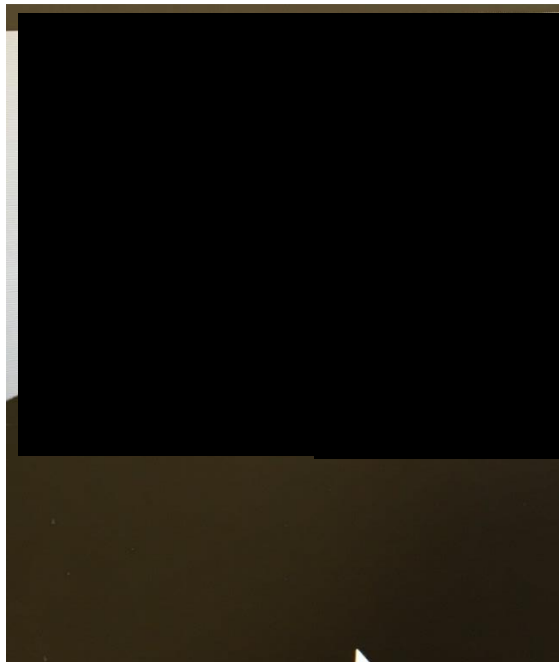


Figure 1 Photo#9

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<sup>23</sup> Attachment 51

### c. Physical Evidence

**Medical Records from West Urban Medical Center**<sup>24</sup> confirm that Mr. ██████ was admitted on May 3, 2015 at 7:50 PM. The records report that Mr. ██████ was yelling obscenities at triage staff upon entry. Notes indicate Mr. ██████ was involved in a motor vehicle accident before he came in. Mr. ██████ presented as intoxicated and combative. Hospital staff had to restrain him to a bed. The physician's examination indicated that Mr. ██████ had some minor contusions and abrasions on his chin but no major injuries. Mr. ██████ was discharged as stable on May 4, 2015 at 12:03 AM.

**Medical Records from Community First Medical Center**<sup>25</sup> show that Mr. ██████ was admitted on May 4, 2015 at 8:55 AM. Mr. ██████ was diagnosed with a closed orbital wall fracture in his face, a skull fracture and a contusion of the chest wall and was discharged on May 4, 2015 at 4:35 PM.

### d. Documentary Evidence

The **Tactical Response Report of Kenneth Golden**<sup>26</sup> is regarding Officer Golden's arrested Mr. ██████. It reports that Mr. ██████ resisted by failure to follow verbal direction, stiffening, pulling away and using bodyweight to knock officers down. He was subdued with Member presence, verbal commands, wristlock, arm bar, emergency take down and closed handed strikes. The report notes that Mr. ██████ was taken to West Suburban Hospital after arrest.

The individual **Tactical Response Reports of Henry Willaby and Officer Peter McNally**<sup>27</sup> state that Detention Aide Willaby and Officer McNally used member presence, verbal commands, wristlock, escort holds, armbar, emergency take down and handcuffing in response to ██████ failing to follow directions, stiffening, pulling away and fleeing. The narrative notes that Mr. ██████ was screaming for a phone call.

The **Tactical Response Report of Michael Santiago**<sup>28</sup> states that Detention Aide Santiago used member presence, escort holds, armbar, emergency take down and handcuffing in response to ██████ failing to follow directions, stiffening, pulling away and fleeing. The narrative notes that Mr. ██████ was screaming for a phone call.

The **General Case Offense Report**<sup>29</sup> (RD# HY246134) indicates that ██████ is charged with Interference with a Public Officer. Incident occurred on May 4, 2015 at approximately 12:50 AM at the District 25 lock up facility. The victims are listed as Officer McNally, Detention Aide Santiago and Detention Aide Willaby. The suspect is listed as ██████. Narrative states that during processing for a previous arrest, Mr. ██████ refused to have his tattoos photographed, so Mr. ██████ was being taken to his cell. Mr. ██████ requested use of the

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<sup>24</sup> Attachment 65

<sup>25</sup> Attachment 66

<sup>26</sup> Attachments 17

<sup>27</sup> Attachment 19 &20

<sup>28</sup> Attachment 18

<sup>29</sup> Attachment 27

phone and was told he would be allowed to use it if he cooperated. Mr. █████ continued to refuse and while Detention Aide Willaby attempted to escort him to the cell, Mr. █████ pulled away multiple times and broke free from the escort hold of Detention Aide Willaby and Officer McNally. He then stumbled forward and struck his face against the wall. Officer McNally and Detention Aides Willaby and Santiago were then able to place emergency handcuffs on Mr. █████ and take him to a cell.

The **Watch Commander's Log**<sup>30</sup> kept by Lt. Mary Platt for District 25 notes three TRR's completed for Interference with a Police Officer. The narrative states that an unruly arrestee refused to have his tattoos photographed, pulled away from lockup keepers and ran. Arrestee ran into the wall and fell, and emergency handcuffing was utilized. No note of injury or medical attention is made.

#### e. Additional Evidence

The **PAR for Lieutenant Mary Platt**<sup>31</sup> is a human resources document indicating that Lt. Mary Platt retired from the Chicago Police Department effective November 16, 2015.

## VI. LEGAL STANDARD

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 the conduct occurred and violated Department policy. 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 has found to be more probably true than not). 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. See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be

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<sup>30</sup> Attachment 48

<sup>31</sup> Attachment 97

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.” Id. at ¶ 28

## VII. ANALYSIS

COPA finds that **Allegations 1 & 2** against **Lieutenant Zahn** that he failed to report Detention Aide Willaby’s misconduct in kneeling Mr. ██████ repeatedly in the eye and failed to intervene when Detention Aide Willaby kned Mr. ██████ repeatedly in the eye are **NOT SUSTAINED**. Rule 22 of the Chicago Police Department Directives requires that if an officer is a witness to misconduct, they must report that misconduct. If Lieutenant Zahn witnessed Detention Aide Willaby deliver knee strikes to ██████ in violation of the Use of Force policy, he would have been obligated to report it. However, it is not clear that Lieutenant Zahn witnessed the knee strikes.

According to Detention Aide Santiago’s statement, the knee strikes occurred while Mr. ██████ was on the ground but before he was handcuffed. None of the officers or detention aides involved state that Lieutenant Zahn was in a position to witness this incident. Based on the statements of Detention Aide Thompson and Officer Rodriguez, Lieutenant Zahn was aware of the altercation and was the officer who requested they come over from the female lockup to assist, but he was positioned behind the intake desk when they arrived, making it unclear if he was able to observe this incident. Lieutenant Zahn says in his statement that he does not recall witnessing knee strikes. Given the fast and chaotic nature of the altercation its possible he did not see the strikes. Officer McNally was much closer to Mr. ██████ when the knee strikes occurred than Lieutenant Zahn was, and he did not report seeing them. Additionally, no one reports telling Lieutenant Zahn that the knee strikes occurred. Based on a preponderance of the evidence it is unclear whether Lieutenant Zahn witnessed the strikes. Therefore, this allegation is **NOT SUSTAINED**.

COPA finds that **Allegation 3** against **Lieutenant Zahn** that he failed to ensure that Mr. ██████ received medical attention for injuries he received while in police custody is **EXONERATED**. While COPA has determined that Lieutenant Zahn was present at some point in the altercation and its aftermath, it is not known how much contact Lieutenant Zahn had with Mr. ██████. Lieutenant Zahn was assigned as a field lieutenant for that shift. While he did have a higher rank than the detention aides and Officer McNally, final responsibility for operations at the district fell under Lieutenant Platt’s responsibility. From previous statements, Lieutenant Platt came down soon after the incident to speak with Mr. ██████ and observed his injuries. According to the statements of Detention Aide Willaby and Detention Aide Santiago, Lt. Platt was aware of Mr. ██████ condition and refused to take him to the hospital because of his behavior and the lack of available personnel for transport. As Lieutenant Platt was responsible for ensuring that Mr. ██████ received medical attention and denied Mr. ██████ medical attention, Lieutenant Zahn is not responsible for Mr. ██████ not getting medical attention. This allegation is therefore **EXONERATED**.

COPA finds that **Allegation 4** against **Lieutenant Zahn** that he failed to monitor the behavior and performance of his subordinates in accordance with Special Order 03-03-04 II.B.7.

is **NOT SUSTAINED**. Special Order 03-03-04 II.B.7. states that Lieutenants have a responsibility to guide and direct their subordinates to ensure “the achievement of basic and directed patrol on matters affecting their duties and responsibilities.” As stated above, Lieutenant Zahn did have a supervisory role on the night of the incident, but there is insufficient evidence to show that he observed any conduct that did not ensure the achievement of the detention aides or officer’s duties and responsibilities on the date of this incident. The knee strikes were the only actions outside of department policy that he may have observed, but it is not clear he did observe these actions. Mr. ██████ was an uncooperative and combative arrestee who resisted the efforts of the Detention Aides and Officer McNally to properly process him. When Mr. ██████ would not cooperate with processing, the staff attempted to take him to a cell. When Mr. ██████ tried to break away, they took him down. All of this was reasonable and allowed by existing Chicago Police Department policy at the time of the incident. As stated above, there is insufficient evidence to determine if Lieutenant Zahn observed the knee strikes. Therefore, this allegation is **NOT SUSTAINED**.

COPA finds that **Allegation 1** against **Officer McNally** that he threw Mr. ██████ to the floor is **EXONERATED**. Mr. ██████ was pulling away and physically resisting efforts to bring him to a cell, which classifies him as an active resister. Therefore, an emergency takedown was within the allowed level of force for the encounter. Based on the Tactical Response Report of Officer McNally, Mr. ██████ was an active resister and Officer McNally administered an emergency takedown and handcuffing.<sup>32</sup> This investigation finds that Mr. ██████ was taken to the ground by Officer McNally, however that takedown was within policy. Therefore, Officer McNally is **EXONERATED** for this allegation.

COPA finds that **Allegation 2** against **Officer McNally** that he refused to provide Mr. ██████ with medical attention is **EXONERATED**. Mr. ██████ was noticeably injured from this incident, and Mr. ██████ stated he repeatedly asked for medical attention. Department policy mandates that an individual in Mr. ██████ state should have been taken to the hospital. In this case, while Officer McNally may not have known about Mr. ██████ fracture around his eye, his bleeding and pain would have been obvious. Officer McNally stated that he reported Mr. ██████ request for medical attention to the District Station Supervisor, Lt. Mary Platt. According to the statements of Detention Aide Willaby and Detention Aide Santiago, Lt. Platt was aware of Mr. ██████ condition and refused to take him to the hospital because of his behavior and lack of available personnel for transport. Mr. ██████ states that he did speak with a “white shirt” woman, who was likely Lt. Platt. As Officer McNally reported Mr. ██████ condition to the station supervisor and it was the supervisor who denied Mr. ██████ medical attention, Officer McNally is not responsible for Mr. ██████ not getting medical attention. This allegation is therefore **EXONERATED**.

COPA finds that **Allegation 3** against **Officer McNally** that he provided a false report about this incident is **UNFOUNDED**. After the altercation with Mr. ██████ Detention Aide Santiago, Officer McNally and Detention Aide Santiago each filled out a Tactical Response Report. None of those reports indicate that any of the detention aides or officers involved used deadly force or even non-lethal strikes to subdue Mr. ██████ Detention Aide Willaby used multiple, intentional strikes to Mr. ██████ face with his knee. While Detention Aide Santiago admitted that he witnessed the knee strikes by Detention Aide Willaby, he did not witness any such strikes by

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<sup>32</sup> Attachment 19



Officer McNally. It appears that Officer McNally limited his physical actions against Mr. ██████ to those listed in the Tactical Response Report. Therefore, there was no omission of fact on Officer McNally's Tactical Response Report. Therefore, this allegation is **UNFOUNDED**.

COPA finds that **Allegation 1** against **Detention Aide Willaby** that he threw Mr. ██████ to the floor is **EXONERATED**. It is alleged that at the 5555 W. Grand Ave lockup facility, Detention Aide Willaby, along with Detention Aide Santiago and Officer Peter McNally, got into a physical altercation with ██████ and in the process, threw him to the floor. In Mr. ██████ statement, he admitted that after arguing with the detention aides he "bumped into them."<sup>33</sup> Based on the statements of the two Detention Aides and Officer McNally, Mr. ██████ pulled away from them and used his weight to break away. He then appeared to head for the exit. The accounts of the Detention Aides and Officer are consistent with respect to Mr. ██████ using his weight to pull away and pulling away. Based on the Tactical Response Report of Detention Aide Willaby, Mr. ██████ was an active resister and Detention Aide Willaby administered an emergency takedown and handcuffing.<sup>34</sup> As Mr. ██████ was pulling away and physically resisting efforts to bring him to a cell, he would be classified as an active resister. Therefore, an emergency takedown was within the allowed level of force for the encounter. This investigation finds that Mr. ██████ was taken to the ground by Detention Aide Willaby, however that takedown was within policy. Therefore, Detention Aide Willaby is **EXONERATED** for this allegation.

COPA finds that **Allegation 2** against **Detention Aide Willaby** that he kned Mr. ██████ on the eye multiple times is **SUSTAINED**. It is alleged that Detention Aide Willaby delivered multiple knee strikes to ██████ eye during the altercation at the 25<sup>th</sup> District Lockup. In this case, Mr. ██████ was taken to the hospital before being brought to the 25<sup>th</sup> District Lockup. He also went to the hospital immediately after being released from lockup. Medical records from his initial visit show only minor injuries, including a few bruises and abrasions on his chin. Records from his visit after being released from lockup show major injuries including fractures in the orbital socket around his right eye. While Detention Aide Willaby in his statement does not admit to repeated knee strikes to Mr. ██████ head or eye,<sup>35</sup> he claims Mr. ██████ may have struck his knee on the way to ground. However, Detention Aide Santiago admits he saw Willaby deliver multiple knee strikes to Mr. ██████ head while Mr. ██████ was on the ground.<sup>36</sup> Based on the evidence available, this investigation finds that Detention Aide Willaby did deliver repeated knee strikes to Mr. ██████ while he was on the ground. Further, these strikes were intentional and done with enough force to cause a fracture in Mr. ██████ orbital socket on his right eye. The investigation concluded that the fracture around Mr. ██████ eye came from the knee strikes based on the fact that there were no prior injuries to that area when Mr. ██████ arrived in lockup, and no other information has been presented to explain where such a serious injury may have come from.

Force directed at the head, is force that is likely to cause death or great bodily harm and is governed by General Order G03-02-03. The version of this order in effect at the time of the incident states that such force is only within policy if necessary to prevent death or great bodily harm to a sworn member or another person, or to prevent an arrest from being defeated by resistance or

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<sup>33</sup> Att. 10. At p.17

<sup>34</sup> Attachment 19

<sup>35</sup> Attachment 96 p.31

<sup>36</sup> Attachment 90 p. 27

escape when the sworn member reasonably believes the person to be arrested has committed or has attempted to commit a forcible felony which involves the threat or use of force to cause death or great bodily harm, or is attempting to escape by use of a deadly weapon or otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

In this case, Mr. [REDACTED] actions of pulling away and attempting to move towards the exit would lead a reasonable sworn member to believe he was attempting to flee. However, none of the statements by the detention aides or Officer McNally indicate that Mr. [REDACTED] ever took action that would classify him as an assailant. An assailant, in this case, an individual taking aggressive action toward a sworn officer that would put a reasonable sworn officer in fear of bodily harm. While he pulled away from the officers and resisted being taken to a cell, he never struck or attempted to strike any of them.

Based on Detention Aide Willaby and Santiago's statements, there was a time near the end of the struggle where Mr. [REDACTED] grabbed a pen. Detention Aide Santiago did not see the pen during the incident, he only became aware of it afterward. Detention Aide Willaby stated that it was his own pen that fell out of his pocket. In this situation, a pen could be considered a deadly weapon. However, based on Detention Aide Santiago's statement the knee strikes occurred before Mr. [REDACTED] was handcuffed. Mr. [REDACTED] was handcuffed immediately after he grabbed for the pen. In fact, it was his grabbing of the pen that allowed the aides and officer to finally get control of Mr. [REDACTED] arms and end the incident. Also, at no time during his statement did Detention Aide Willaby suggest that the knee strikes were an attempt to control the pen.

In delivering multiple knee strikes to Mr. [REDACTED] face, Detention Aide Willaby exceeded the amount of force allowed in this situation. Therefore, the second allegation is **SUSTAINED**.

COPA finds that **Allegation 3** against **Detention Aide Willaby** that refused to provide Mr. [REDACTED] with medical attention is **EXONERATED**. After the altercation, Mr. [REDACTED] was noticeably injured. According to Mr. [REDACTED] his face was covered in blood. Photos taken of Mr. [REDACTED] the next morning show visible swelling, especially around his right eye. Mr. [REDACTED] stated in his interview that he repeatedly asked for medical attention. He did not get it until the next morning when he was released and took himself to the hospital. Under the CPD Guidelines for Arrestee Screening and Monitoring, if an arrestee shows fractures, serious pain or significant bleeding, the required action is to notify the District Station Supervisor and send the arrestee to the nearest hospital. In this case, while Detention Aide Willaby may not have known about Mr. [REDACTED] fracture around his eye, his bleeding and pain would have been obvious. Detention Aide Willaby stated that he reported Mr. [REDACTED] request for medical attention to the District Station Supervisor, Lt. Mary Platt. According to the statements of Detention Aide Willaby and Detention Aide Santiago, Lt. Platt was aware of Mr. [REDACTED] condition and refused to take him to the hospital because he did not calm down and the lack of available personnel for transport. Mr. [REDACTED] himself states that he did speak with a "white shirt" woman, whom he thought was a sergeant. It is likely that this was Lt. Platt. As Detention Aide Willaby reported Mr. [REDACTED] condition to the station supervisor and it was the supervisor who denied Mr. [REDACTED] medical attention, Detention Aide Willaby is not responsible for Mr. [REDACTED] not getting medical attention. This allegation is therefore **EXONERATED**.

COPA finds that **Allegation 4** against **Detention Aide Willaby** that he provided a false report about the incident is **NOT SUSTAINED**. After the altercation with Mr. [REDACTED] Detention Aide Willaby, Officer McNally and Detention Aide Santiago each filled out a Tactical Response Report. None of those reports indicate that any of the detention aides or officers involved used deadly force or even non-lethal strikes to subdue Mr. [REDACTED] Detention Aide Willaby used multiple, intentional strikes to Mr. [REDACTED] face with his knee. As stated above, this represents lethal force. The strikes described by Detention Aide Santiago were intentional strikes. Detention Aide Willaby did not document them in his Tactical Response Report. In order to sustain an allegation for a Rule 14 violation, the falsehood in question must be willful and material. The knee strikes represent an entirely different level of force from the takedown described in the report, so their omission is certainly material. However, Detention Aide Willaby stated in his statement that he forgot about the knee strikes until after the report was filed. COPA questions the veracity of this statement, but the altercation with Mr. [REDACTED] was a sudden, violent encounter. It is possible that Detention Aide Willaby's recollection of events were imperfect in the immediate aftermath of the incident. Therefore, COPA cannot find by a preponderance of the evidence that the omission of the knee strikes from the Tactical Response Report was willful. Therefore, this allegation is **NOT SUSTAINED**.

COPA finds that **Allegation 1** against **Detention Aide Santiago** that he threw Mr. [REDACTED] to the floor is **EXONERATED**. As previously discussed, Mr. [REDACTED] was pulling away and physically resisting efforts to bring him to a cell, which classifies him as an active resister. Therefore, an emergency takedown was within the allowed level of force for the encounter. Based on the Tactical Response Report of Detention Aide Santiago, Mr. [REDACTED] was an active resister and Detention Aide Santiago administered an emergency takedown and cuffing.<sup>37</sup> This investigation finds that Mr. [REDACTED] was taken to the ground by Detention Aide Santiago, but that takedown was within policy. Therefore, Detention Aide Santiago is **EXONERATED** for this allegation.

COPA finds that **Allegation 2** against **Detention Aide Santiago** that he refused to provide Mr. [REDACTED] with medical attention is **EXONERATED**. As was previously discussed, Mr. [REDACTED] was noticeably injured from this incident and Mr. [REDACTED] stated he repeatedly asked for medical attention. Again, Department policy mandates that an individual in Mr. [REDACTED] state should have been taken to the hospital. In this case, while Detention Aide Santiago may not have known about Mr. [REDACTED] fracture around his eye, his bleeding and pain would have been obvious. Detention Aide Santiago, like Detention Aide Willaby, stated that he reported Mr. [REDACTED] request for medical attention to the District Station Supervisor, Lt. Mary Platt. According to the statements of Detention Aide Willaby and Detention Aide Santiago, Lt. Platt was aware of Mr. [REDACTED] condition and refused to take him to the hospital because of his behavior and lack of available personnel for transport. Again, Mr. [REDACTED] states that he did speak with a "white shirt" woman, who was likely Lt. Platt. As Detention Aide Santiago reported Mr. [REDACTED] condition to the station supervisor and it was the supervisor who denied Mr. [REDACTED] medical attention, Detention Aide Santiago is not responsible for Mr. [REDACTED] not getting medical attention. This allegation is therefore **EXONERATED**.

COPA finds that **Allegation 3** against **Detention Aide Santiago** that he provided a false report about this incident is **UNFOUNDED**. After the altercation with Mr. [REDACTED] Detention Aide

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<sup>37</sup> Attachment 19

Santiago, Officer McNally and Detention Aide Santiago each filled out a Tactical Response Report. None of those reports indicate that any of the detention aides or officers involved used deadly force or even non-lethal strikes to subdue Mr. [REDACTED]. Detention Aide Willaby used multiple, intentional strikes to Mr. [REDACTED] face with his knee. While Detention Aide Santiago admitted that he witnessed the knee strikes by Detention Aide Willaby, he did not deliver any strikes himself. Therefore, there was not omission of fact on Detention Aide Santiago’s Tactical Response Report. Therefore, this allegation is **UNFOUNDED**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONST**

**a. Detention Aide Henry Willaby**

**i. Complimentary and Disciplinary History**

1. 1 Presidential Election Deployment Award 2008, 4 Complimentary Letters, 1 NATO Summit Service Award, 1 2009 Crime Reduction Award
2. No disciplinary history.

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 2**

Detention Aide Henry Willaby used lethal force without justification when he delivered knee strikes to [REDACTED] face while he was in custody. While Mr. [REDACTED] was resisting efforts to get him into a cell, however, Mr. [REDACTED] action posed no threat of death or great bodily harm to the involved Department members. Therefore, the knee strikes by Detention Aide Willaby were outside the acceptable use of force according to Department policy at the time of the incident. Detention Aide Willaby was also not forthcoming in his statement about his actions and did not offer any mitigating circumstances when asked about the incident. COPA recognizes the delay in issuing this report. Therefore, we recommend a 28-day suspension.

**IX. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

<b>Officer</b>	<b>Allegation</b>	<b>Finding/Recommendation</b>
Lieutenant David Zahn	1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you observed misconduct and failed	Not Sustained

	<p>to report it when Detention Aide Henry Willaby kneed [REDACTED] on the eye.</p> <p>2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to intervene when Detention Aide Henry Willaby kneed [REDACTED] on the eye.</p> <p>3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to ensure that [REDACTED] received medical attention for injuries he received while in police custody.</p> <p>4. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Avenue, you failed to follow the provisions of Special Order 03-03-004 II. B. 7. by not “monitoring behavior and performance of subordinates and their adherence to department policies and procedures and taking appropriate action when deficiencies in performance, uniform, and or/ equipment are observed.”</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Not Sustained</p>
<p>Officer Peter McNally</p>	<p>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally threw [REDACTED] to the floor.</p> <p>2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally refused to provide [REDACTED] with medical attention.</p> <p>3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Officer McNally provided a false report regarding this incident.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
<p>Detention Aide Henry Willaby</p>	<p>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby threw [REDACTED] to the floor.</p>	<p>Exonerated</p>

	<p>2. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby kneed [REDACTED] to on the eye multiple times.</p> <p>3. It is alleged that on 04 May 2015, at approximately 0050 hours at 5555 W Grand Ave, Detention Aide Williaby refused to provide [REDACTED] with medical attention.</p> <p>4. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Willaby provided a false report regarding this incident.</p>	<p>Sustained</p> <p>Exonerated</p> <p>Not Sustained</p>
<p>Detention Aide Michael Santiago</p>	<p>1. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Santiago threw [REDACTED] to the floor.</p> <p>2. It is alleged that on 04 May 2015, at approximately 0050 hours at 5555 W Grand Ave, Detention Aide Santiago refused to provide [REDACTED] with medical attention.</p> <p>3. It is alleged that on 04 May 2015, at approximately 0050 hours, at 5555 W. Grand Ave, Detention Aide Santiago provided a false report regarding this incident.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>

Approved:

[REDACTED]

June 27, 2019

\_\_\_\_\_  
 Andrea Kersten  
 Deputy Chief Administrator – Chief Investigator

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	9
<b>Investigator:</b>	Ryan McPhail
<b>Supervising Investigator:</b>	Sharday Jackson
<b>Deputy Chief Administrator:</b>	Andrea Kersten