

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

Date/Time/Location of Incident:	July 4, 2016 / 2:03 p.m. / 10259 S. Michigan Avenue
Date/Time of COPA Notification:	July 4, 2016 / 5:06 p.m.
Involved Officer #1:	██████████ star # ██████ employee ID# ██████ Date of Appointment: ██████ 2003; Police Officer; Date of Birth: ██████ 1978; Male; Black.
Involved Officer #2:	██████████ star # ██████ employee ID# ██████ Date of Appointment: ██████ 2012; Police Officer; Date of Birth: ██████ 2012; Male; White.
Involved Officer #3:	██████████ star # ██████ employee ID# ██████ Date of Appointment: ██████ 2003; Detective; Date of Birth: ██████ 1971; Male; Hispanic. <sup>2</sup>
Involved Individual #1:	██████████ ██████ 1969; Male; Black.
Case Type:	Excessive Force; Abusive Language

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer ██████	1. It is alleged that Officer ██████ punched ██████ in violation of Rule 9.	Not Sustained
	2. It is alleged that Officer ██████ directed verbal abuse at ██████ by referring to him as “crackhead” and “drunk,” in violation of Rules 8 and 9.	Not Sustained
Officer ██████	1. It is alleged that Officer ██████ bent ██████ arm behind his back, in violation of Rule 9.	Exonerated
	2. It is alleged that Officer ██████ twisted ██████ finger, in violation of Rule 9.	Exonerated

<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.

<sup>2</sup> ██████ was a Police Officer at the time of this incident. This report will refer to him by his current rank.

	<p>3. It is alleged that Officer ██████ directed verbal abuse at ██████ by referring to him as “crackhead” and “drunk,” in violation of Rules 8 and 9.</p> <p>4. It is alleged that Officer ██████ squeezed ██████ handcuffs, in violation of Rule 9.</p>	<p>Not Sustained</p> <p>Not Sustained</p>
<p>Detective ██████</p>	<p>1. It is alleged that Detective ██████ handcuffed ██████ too tightly, in violation of Rule 9.<sup>3</sup></p> <p>2. It is alleged that Detective ██████ directed verbal abuse at ██████ by referring to him as “crackhead” and “drunk,” in violation of Rules 8 and 9.</p> <p>3. It is alleged that Detective ██████ squeezed ██████ handcuffs, in violation of Rule 9.</p>	<p>Unfounded</p> <p>Not Sustained</p> <p>Not Sustained</p>

**II. SUMMARY OF EVIDENCE<sup>4</sup>**

█████ was arrested for possession of a controlled substance, soliciting unlawful business, resisting arrest and aggravated assault to an officer. In his statement to IPRA in which he made the allegations listed above, ██████ admitted to cursing at the officers and pushing Officer ██████. In a POD video recording from the scene, ██████ appears to be yelling at the officers and moving his body as he is handcuffed. Officer ██████ is then observed pushing and holding ██████ against the squad car. ██████ continues to move his body around and Officer ██████ is observed punching ██████ once on the side. According to the related Department reports and the officers’ accounts to COPA, ██████ was flailing his legs at that point; however, the camera shows that the rear passenger door is open and is blocking the view of ██████ legs. ██████ did not seek medical treatment and the Evidence Technician photographs do not depict any injuries to his wrists or side, though they do show redness to his right elbow.<sup>5</sup>

**III. LEGAL STANDARD**

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

<sup>3</sup> ██████ specifically named “Officer ██████ as the person who handcuffed him too tightly. In his interview to COPA, Detective ██████ watched the POD video and identified himself as being in the car while ██████ was handcuffed.

<sup>4</sup> COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>5</sup> ██████ did not make any allegations or statements related to his elbow.

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.

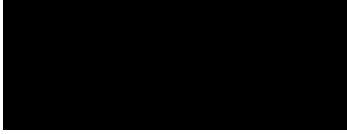
**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "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.

#### IV. ANALYSIS AND CONCLUSION

██████████ alleged that the accused officers used excessive force against him and directed verbal abuse at him. Because there is no audio recording of the alleged verbal abuse and the officers denied the allegation, COPA is unable to determine whether it occurred. Due to the lack of witnesses of other corroborating evidence, COPA was also unable to determine whether Officer ██████████ and/or Detective ██████████ squeezed ██████████ handcuffs. Additionally, if ██████████ had indeed been kicking his legs at the officers, Officer ██████████ use of a punch would be permissible under CPD policy. However, due to the lack of clarity on the video, COPA cannot determine whether ██████████ was an assailant at that point, which is the lowest level of subject on whom direct mechanical strikes are allowed.

COPA finds that Detective ██████████ did not handcuff ██████████ at all, let alone too tightly as he alleged. According to the video recording and by ██████████ own admission, he resisted the officers at the onset of their encounter. Officer ██████████ use of an escort hold, described by ██████████ as bending his arm and twisting his finger, in order to control ██████████ is permissible under General Order G03-02-02, "Force Options."

Approved:



March 21, 2019

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Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Investigator:</b>	████████████████████
<b>Supervising Investigator:</b>	████████████████████
<b>Deputy Chief Administrator:</b>	Andrea Kersten, █