

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

Date/Time/Location of Incident:	March 9, 2016 / 8:32 P.M. / [REDACTED]
Date/Time of COPA Notification:	March 10, 2016 / 8:52 A.M.
Involved Officer #1:	[REDACTED], star # [REDACTED], employee ID# [REDACTED], DOA [REDACTED] 2012, Police Officer, [REDACTED] District, DOB [REDACTED] [REDACTED] 1989, male, white
Involved Officer #2:	[REDACTED], star # [REDACTED], employee ID# [REDACTED], DOA [REDACTED], 2013, Detective, [REDACTED], DOB [REDACTED] [REDACTED], male, white
Involved Individual #1:	[REDACTED], DOB [REDACTED] 1962, male, black
Case Type:	Excessive Force

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	1. Unjustifiably arrested [REDACTED].	Not Sustained
	2. Struck [REDACTED] in the body with a baton.	Not Sustained
Officer [REDACTED]	1. Unjustifiably arrested [REDACTED].	Not Sustained
	2. Punched [REDACTED] in the face.	Not Sustained
	3. Struck [REDACTED] in the body with a baton.	Not Sustained

**II. SUMMARY OF EVIDENCE<sup>2</sup>**

<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>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.

On March 9, 2016, ██████████ was arrested for being in public under the influence of alcohol/drugs, two counts of resisting/obstructing, two counts of aggravated assault on a police officer, and battery. The arresting officers, Officers ██████████ and ██████████, had issued a parking citation to ██████'s mother, ██████████, earlier that day. According to ██████, he got into a verbal altercation with Officers ██████ and ██████████ regarding the citation, during which Officer ██████████ said, "I'll be back." Accounts about ██████'s arrest vary. ██████ alleged that Officer ██████████ slapped and punched him and that both he and Officer ██████████ struck ██████ with a baton. The officers reported that they observed ██████ smoking marijuana and drinking alcohol outside. When they approached him, ██████ was uncooperative and aggressive. The officers also noted that this happened in the presence of a crowd that became agitated during the encounter. ██████ grabbed Officer ██████████' arm and balled his fists. When Officer ██████████ thought that ██████ was going to punch Officer ██████████, Officer ██████████ struck ██████ on the leg with his baton. The officers then tried to handcuff ██████, but he prevented them from doing so. ██████ acknowledged to IPRA that he pushed himself off of the car while the officers were holding him there but said it was because the car was warm to the touch. Officer ██████████ said he used an open-hand strike while Officer ██████████ used his own baton on ██████'s back. Video recordings of the incident from the officer's in-car camera and a witness' cell phone show a portion of the incident but not enough to clarify what ██████ was doing at the time of the use of force.

### III. 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 reviewed complied with 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 conduct complied with Department 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. *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

Officer [REDACTED] reported he delivered an open-handed strike to [REDACTED]'s face. [REDACTED] alleged Officer [REDACTED] punched him with a closed-fist. No video evidence exists to prove or disprove this allegation. COPA attempted to contact civilian witnesses at the scene, including the individual who filmed the incident on his cell phone, but did not receive cooperation from any civilian witnesses. Six witness officers were interviewed, none of them recalled this incident or any details related to it. In the absence of any evidence to refute or deny whether PO [REDACTED] struck [REDACTED] with an open or closed-fist, this allegation is **Not Sustained**.

The officers reported that when they tried to detain [REDACTED], [REDACTED] assumed a fighting stance, balled his fists, and grabbed Officer [REDACTED]' arm when Officer [REDACTED] tried to detain him. [REDACTED] acknowledged that he moved around but said it was because the car he was leaning against was too hot. The videos do not support the claims made by officers, however, they are unclear and do not capture the entire incident. COPA is unable to prove or disprove whether [REDACTED] displayed behavior that would rise to the level of an assailant, which would permit the use of a baton by officers in effecting the arrest. Therefore, this allegation is **Not Sustained**.

Likewise, because we cannot prove what happened during this incident, there is insufficient evidence to prove or disprove whether the officers had probable cause to arrest [REDACTED]. They claimed that they observed him smoking marijuana and drinking alcohol, but [REDACTED] denied it. The video recordings are not clear about what happened during the arrest itself, so we do not know if [REDACTED] resisted or battered the officers at any point. Therefore, this allegation is **Not Sustained**.

Approved:

[REDACTED]

April 24, 2019

[REDACTED]

Date

*Deputy Chief Administrator – Chief Investigator*

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Major Case Specialist:</b>	██████████
<b>Supervising Investigator:</b>	██████████████████
<b>Deputy Chief Administrator:</b>	██████████████████