

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

Date/Time/Location of Incident:	March 4, 2015, at approximately 3:40p.m., at [REDACTED] [REDACTED]
Date/Time of COPA Notification:	March 18, 2015 at approximately 11:18a.m.
Involved Officer #1:	[REDACTED], star # [REDACTED], employee #1 [REDACTED], Date of Appointment: [REDACTED] 2009, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1977, Male, Caucasian
Involved Individual #1:	[REDACTED], DOB: [REDACTED], [REDACTED], Male, African-American
Case Type:	Excessive Force

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	<p>The complainant ([REDACTED]) alleged that on [REDACTED], 2015, at approximately 3:40 pm., in the vicinity of [REDACTED], Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Grabbed him around the neck</li> <li>2. Verbally abused him; and</li> <li>3. Struck him on the head several times with a radio.</li> </ol> <p>The complainant ([REDACTED]) also alleged that on March 4, 2015, at approximately 3:40 p.m., in the vicinity of [REDACTED]. Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Forcibly pulled the victim ([REDACTED]) out of the car and pushed her against the car.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

<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.

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

During the afternoon of March 4, 2015, Officer ██████ (“Officer ██████”) conducted a traffic stop on ██████ (“█████”). During that traffic stop, a verbal and physical altercation ensued between Officer ██████ and ██████ (“█████”) resulting in ██████’s arrest. At the time, ██████ had been working his route as a postal worker for the U.S. Postal Service. That verbal and physical altercation is the basis of this investigation.

According to ██████, his involvement began when he observed Officer ██████ remove ██████ from her vehicle, grab ██████’s left arm, and inform ██████ that her vehicle was going to be towed. ██████ felt that Officer ██████’s actions were inappropriate. ██████ asked ██████ if she could use his phone to which he responded yes; however, Officer ██████ asked ██████ to remain where he was at and to not interfere. In response, ██████ tossed his phone to ██████ and Officer ██████ deflected the phone, which ended up under ██████’s vehicle. ██████ retrieved his phone and returned to his postal truck. Upon see this, Officer ██████ approached ██████ and arrested him for resisting. Specifically, ██████ alleged that Officer ██████ approached him and then placed his arm(s) around his shoulders and neck. ██████ pushed the officer away and a struggle ensued. Additional officers arrived and pulled the two from each other, during which time, ██████ felt himself getting punched in the head by Officer ██████. Eventually they were separated and ██████ was arrested and transported to ██████ Hospital. ██████ also alleged the use of abusive language by Officer ██████ during the encounter.

During the course this investigation, Officer ██████<sup>3</sup>, responding Officer ██████ (“Officer ██████”)<sup>4</sup>, security guard ██████ (“█████”)<sup>5</sup>, and ██████<sup>6</sup> were all interviewed regarding the incident. We found that each witness had a materially different account from each other’s.

Specifically, ██████ told investigators that he responded after hearing a 10-1 call for assistance by Officer ██████. ██████ arrived on scene at the same time as Officer ██████ and together they separated ██████ and Officer ██████ – ██████ had Officer ██████ in a “bear hug” and his left hand on or near ██████’s firearm. Just prior to the altercation, ██████ overheard Officer ██████ instruct ██████ to leave and get back multiple times. He then saw ██████ initially walk towards his vehicle but ██████ then turned and walked back towards Officer ██████. Overall, ██████ felt that ██████ started the physical altercation with Officer ██████.

Conversely, Officer ██████ recalled ██████ walking over and speaking with him, which was when Officer ██████ approached and grabbed ██████ by the front of his jacket. ██████ attempted to back away and extended his arms. Officer ██████ interpreted ██████’s actions as defensive, but a

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<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.

<sup>3</sup> IPRA investigators interviewed Officer ██████ on March 16, 2016. Attachments 30, 34, and 45.

<sup>4</sup> IPRA investigators interviewed Officer ██████ on April 4, 2016. Attachments 32 and 46.

<sup>5</sup> IPRA investigators interviewed ██████ on April 8, 2016. Attachments 43 and 47.

<sup>6</sup> IPRA investigators interviewed ██████ on May 11, 2018. Attachment 62.

struggle ensued between Officer [REDACTED] and [REDACTED]. As Officer [REDACTED] attempted to separate the two, he noticed Officer [REDACTED] strike [REDACTED] in the head with his radio. Officer [REDACTED] did not describe [REDACTED] as aggressive and denied seeing [REDACTED] place Officer [REDACTED] in a “bear hug.” Lastly, Officer [REDACTED] did not recall the use of abusive language by Officer [REDACTED].

[REDACTED] told COPA investigators that she independently exited her vehicle and that Officer [REDACTED] aggressively grab her arm as she tried to get her stuff out of her vehicle – as if to indicate the she was taking too long. By this time, [REDACTED] had walked by and offered his phone to [REDACTED]. Officer [REDACTED] asked [REDACTED] not to get involved. Nevertheless, [REDACTED] slid his phone to [REDACTED], which appeared to upset Officer [REDACTED]. Officer [REDACTED] then approached [REDACTED] and got into [REDACTED]’s face. The officer then grabbed [REDACTED] and altercation ensued. Additional officers quickly arrived and held [REDACTED] back as Officer [REDACTED] stuck [REDACTED] in the head with a radio. [REDACTED] could not recall if [REDACTED] “bear hugged” Officer [REDACTED]. Finally, she described Officer [REDACTED] as the aggressor.

Lastly, Officer [REDACTED] stated to investigators that he asked [REDACTED] multiple times not to interfere with the traffic stop, which started almost immediately upon him stopping [REDACTED]. Officer [REDACTED] asked [REDACTED] to step out of her vehicle in order for her to sign an I-Bond, and he recalled her stepping from the vehicle unassisted. At some point, [REDACTED] tossed his cell phone, which fell to the ground, hit Officer [REDACTED]’s shoe, and slid under [REDACTED]’s vehicle. Officer [REDACTED] then asked [REDACTED] to step back. Instead, [REDACTED] retrieved his cell phone from underneath [REDACTED]’s vehicle. Officer [REDACTED] found [REDACTED]’s interference distracting, in that it took his attention away from [REDACTED] who was acting belligerent during the stop. At some point, [REDACTED] did comply and backed away; however, [REDACTED] returned which resulted in the two of them confronting each other. [REDACTED] then battered Officer [REDACTED] by shoving the officer’s right shoulder. A struggle ensued with [REDACTED] placing Officer [REDACTED] in a “bear hug” and tossing him to the ground. Partly reactionary and partly not knowing whether [REDACTED] was attempting to disarm him, Officer [REDACTED] then struck [REDACTED] in the head with his radio. During this time, assisting officers arrived and pulled the two apart.

Lastly, there is no recovered video evidence of the encounter and photographs taken of [REDACTED] following the incident show a small laceration to [REDACTED]’s head.

### 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 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

COPA has reached a finding of not sustained for all allegations against Officer ██████ for the reasons that follow.

It is unrefuted that Officer ██████ pulled ██████ over. It is further unrefuted that ██████ became involved in this traffic stop and that his level of involvement included a physical altercation with Officer ██████. However, there is considerably more uncertainty surrounding whose actions brought about this physical altercation, who was the aggressor, and generally whether Officer ██████'s use of force was proper.

During their interviews, Officer ██████ and ██████ both described ██████ as the aggressor who, despite being asked to stay back, continued to interfere Officer ██████'s traffic stop. ██████ first initiated physical contact by pushing and/or "bear hugging" Officer ██████, and ██████ even described ██████ as reaching for Officer ██████'s gun. Whereas Officer ██████ and ██████ portrayed Officer ██████ as the aggressor by describing ██████'s actions as defensive to the officer's aggression. If COPA were to adopt Officer ██████ and ██████'s view that ██████ was the initial aggressor and reached for the officer's gun, Officer ██████'s decision to strike ██████ with his radio could feasibly be reasonable under the circumstances. Conversely, if we adopted Officer ██████ and ██████'s account of the incident, Officer ██████'s use of force would arguably be improper. Faced with this dilemma, the lack of any objective video evidence, and what we find is insufficient evidence to attribute a higher degree of credibility to one individual's account over another, we are unable to determine by a preponderance of the evidence, the specifics surrounding the physical confrontation between Officer ██████ and ██████. Therefore, COPA has reached a finding of not sustained for allegations 1 and 3.

Likewise, as there were differences in the accounts among those who were interviewed, COPA also reached a finding of not sustained for allegation 2 against officer ██████.

Finally, while both [REDACTED] and Officer [REDACTED] agreed that [REDACTED] exited her vehicle on her own accord, [REDACTED] did complain that Officer [REDACTED] aggressively grabbed her arm as she removed personal items from her vehicle, which was something Officer [REDACTED] recalled differently. With no reason to weigh the credibility of [REDACTED] greater than Officer [REDACTED]'s and vice versa, we have also reached a finding of not sustained for allegation 4.

Approved:

[REDACTED]

April 30, 2019

[REDACTED]

Date

*Deputy Chief Administrator – Chief Investigator*

**Appendix A**

Assigned Investigative Staff

<b>Squad#:</b>	[REDACTED]
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	[REDACTED]
<b>Deputy Chief Administrator:</b>	[REDACTED]