

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	January 13, 2016 / 3:00 p.m. / 3857 West 111 th Street (Chicago High School for Agricultural Sciences)
Date/Time of COPA Notification:	January 14, 2016 / 9:12 a.m.
Involved Officer:	██████████ star # ██████ employee ID# ██████ Date of Appointment: ██████ 1994, rank: Police Officer, unit of assignment: ██████ DOB: ██████ 1965, male, white
Involved Individual:	██████████ DOB: ██████ 1997, male, black

I. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████	1. Grabbed ██████ without justification in violation of Rule 8, Rule 9, and General Orders G03-02 and G03-02-01	Not Sustained
	2. Pulled ██████ to the floor without justification in violation Rule 8, Rule 9, and General Orders G03-02 and G03-02-01	Exonerated
	3. Pulled ██████ shirt off his body without justification in violation of Rule 8, Rule 9, and General Orders G03-02 and G03-02-01	Exonerated
	4. Referred to ██████ in a derogatory manner, when he said to him words to the effect of, “Hey idiot! Are you special ed. or something?” in violation of Rule 8.	Not Sustained
	5. Arrested ██████ without justification in violation of General Orders G03-02 and G03-02-01	Not Sustained

¹ 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 EVIDENCE²

On January 13, 2016, Chicago Police Department (CPD) member [REDACTED] was assisting with the dismissal of students at the Chicago High School for Agricultural Sciences. Officer [REDACTED] instructed [REDACTED] to clear the hallway and leave the school. An altercation between Officer [REDACTED] and [REDACTED] ensued, and [REDACTED] was arrested and charged with aggravated assault and resisting arrest. [REDACTED] mother, reported the incident to COPA via phone on January 14, 2016.

a. Interviews

In an interview with IPRA on January 18, 2016, [REDACTED] indicated he was standing in the hallway at the Chicago High School for Agricultural Sciences talking with a friend when Officer [REDACTED] approached them. [REDACTED] alleged Officer [REDACTED] verbally abused them. Officer [REDACTED] said words to [REDACTED] to the effect of, "Hey, idiot! Are you special ed. or something?" Officer [REDACTED] asked [REDACTED] and his friend to clear the hallway, and [REDACTED] directed some profanity at Officer [REDACTED] and Officer [REDACTED] got into a physical altercation and [REDACTED] was placed under arrest, transported to the [REDACTED] District station, and charged with assault and resisting a police officer.³

During the altercation, Officer [REDACTED] grabbed [REDACTED] by his finger and slammed him to the ground. [REDACTED] tussled with Officer [REDACTED] while they were on the ground, but [REDACTED] was able to slip out of his shirt and get to his feet. [REDACTED] assumed a fighting stance and [REDACTED] a Chicago Public Schools Security Officer (and off-duty Chicago Police Officer), arrived and got between [REDACTED] and Officer [REDACTED] said he got a bruise to his forehead when he was trying to get away from Officer [REDACTED]

[REDACTED] provided IPRA copies of signed and dated, but not sworn or notarized, statements from [REDACTED] and [REDACTED] all students at the Chicago High School for Agricultural Sciences.

In an interview with IPRA on April 21, 2017, **Officer [REDACTED]** Chicago Public Schools Security Officer (and off-duty Chicago Police Officer), indicated she was not present for

² 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 5, 2019.

³ [REDACTED] appeared in court on August 11, 2016 and was found not guilty of aggravated assault. On the same date, [REDACTED] was found guilty of resisting/obstructing a police officer and placed on conditional discharge with a final court date for termination of August 10, 2017. [REDACTED] successfully completed his conditional discharge term.

the initial conversation that led to the confrontation between [REDACTED] and Officer [REDACTED] though Officer [REDACTED] saw Officer [REDACTED] and [REDACTED] interacting and she began walking towards them. [REDACTED] pointed his finger at Officer [REDACTED] and said, "Look what he's doing to me." [REDACTED] finger was directly in Officer [REDACTED] face. Officer [REDACTED] then grabbed [REDACTED] by the hand and pulled him to the floor. [REDACTED] shirt came off his body, but Officer [REDACTED] was not sure how that happened. [REDACTED] eventually got to his feet and took a fighting stance. Officer [REDACTED] stepped between Officer [REDACTED] and [REDACTED] cautioning [REDACTED] not to hit Officer [REDACTED] With the assistance of Officer [REDACTED] Officers [REDACTED] and [REDACTED] were eventually able to place [REDACTED] who resisted, in handcuffs and escort him to the school office. Officer [REDACTED] indicated that he wanted [REDACTED] arrested along the way. Though she did not observe any injuries, Officer [REDACTED] called for medical treatment for [REDACTED] after arriving at the office and then left. Officer [REDACTED] interpreted [REDACTED] conduct towards Officer [REDACTED] to be insulting, and not threatening.

In an interview with IPRA on April 28, 2017, Officer [REDACTED] an on-duty CPD School Officer, indicated that she did not observe the initial confrontation between [REDACTED] and Officer [REDACTED] When Officer [REDACTED] arrived, she observed [REDACTED] being restrained by another student and Officer [REDACTED] assisted by Officer [REDACTED] trying to handcuff [REDACTED] was threatening to fight Officer [REDACTED] twisted away from Officer [REDACTED] before and after the handcuffs were on. Officer [REDACTED] assisted in escorting [REDACTED] to the school office.

Between April and August 2017, IPRA investigators interviewed **CPD members that assisted with the transport and processing of [REDACTED] arrest** and were not present for the confrontation between [REDACTED] and Officer [REDACTED] None of the officers reported observing injury to [REDACTED]

An interview with IPRA on August 10, 2017, Officer [REDACTED] an on-duty CPD School Officer, indicated that, while clearing the hallways at the school at the end of day, he approached [REDACTED] and other students and instructed them to clear the hall. [REDACTED] said words to the effect of, "Fuck you. You don't tell me what to do." Officer [REDACTED] asked [REDACTED] what he said. [REDACTED] then pointed his finger in Officer [REDACTED] face placing him in fear of receiving a battery. [REDACTED] made an upward motion with his hand or fist and it appeared he was going to strike Officer [REDACTED]

Officer [REDACTED] told [REDACTED] that he was under arrest. Officer [REDACTED] grabbed [REDACTED] by the hand or wrist and pulled him by his shoulders and clothes to the floor. Officer [REDACTED] and [REDACTED] began struggling, but [REDACTED] was able to wrestle away from Officer [REDACTED] shirt came off as he struggled to get away. [REDACTED] got to his feet he assumed a fighting stance and told Officer [REDACTED] words to the effect of, "I am going to kick your ass. Come on." [REDACTED] also began calling for Officer [REDACTED] A student then grabbed [REDACTED] and started pulling him down the hallway. [REDACTED] continued making verbal threats. Officer [REDACTED] again informed [REDACTED] that he was under arrest. Officer [REDACTED] eventually grabbed one of [REDACTED] arms and attempted to handcuff him, though [REDACTED] resisted. With assistance, Officer [REDACTED] placed the handcuffs on [REDACTED] Officer [REDACTED]

██████████ acknowledged raising up on the handcuffs to maintain control over ██████████ as he escorted him to the school office.

Officer ██████████ denied making derogatory statements to ██████████. Officer ██████████ did not observe any injuries to ██████████ while at the school or at the District station.⁴

b. Hand-written Statements:

On January 18, 2016, ██████████ provided IPRA copies of handwritten statements signed, but not sworn or notarized, by ██████████ and ██████████ identified by ██████████ as students at the Chicago High School for Agricultural Sciences and witnesses to the incident with Officer ██████████.

██████████ statement conveyed that ██████████ did not hear Officer ██████████ instruction to clear the hallway at dismissal time. Officer ██████████ tapped ██████████ on the shoulder and asked, “Are you special ed?” ██████████ responded, “Get the fuck out of my face,” and called for Officer ██████████ assistance. ██████████ description of the physical altercation that followed is consistent with that of Officer ██████████. Officer ██████████ and Officer ██████████ though ██████████ describes ██████████ actions as defensive. ██████████ also noted that, while ██████████ was handcuffed, Officer ██████████ used unnecessary force by pushing ██████████ arms up causing pain.

██████████ statement is largely consistent with ██████████ in that Officer ██████████ instructed ██████████ to clear the hallway, prompting Officer ██████████ to ask whether ██████████ was “special ed.” The two then argued and the confrontation became physical, ██████████ resisted, but was ultimately handcuffed.

██████████ statement is largely consistent with ██████████ in that Officer ██████████ instructed ██████████ to clear the hallway, prompting Officer ██████████ to ask whether ██████████ was “special ed.” ██████████ added detail indicating that when ██████████ had his finger up to Officer ██████████, Officer ██████████ stated, “You are going to jail.” Officer ██████████ used one hand to grab ██████████ hand, and the other to grab ██████████ elbow. ██████████ resisted, and Officer ██████████ took ██████████ to the ground, causing a small cut on ██████████ forehead. ██████████ shirt came off during the altercation.

██████████ statement is largely consistent with ██████████ and ██████████ regarding the interaction between ██████████ and Officer ██████████ that led to the physical altercation. ██████████ noted that when Officer ██████████ grabbed ██████████ finger, ██████████ believed that Officer

⁴ CPD reports to include ██████████ Arrest Report, the case incident report, Officer ██████████ Tactical Response Report and Officer Battery Report contain information materially consistent with the information provided by Officer ██████████ during his interview with IPRA. Furthermore, the TRR contains a summary of ██████████ response when questioned by a Lieutenant about his interaction with Officer ██████████ “The subject [██████████] stated ... the police officer told him to leave but when he tried to explain that he had to wait for his friend the police officer got up in his face. He said the police officer asked him if he had trouble hearing and made other comments about not being able to follow directions.” ██████████ also noted that he called out to the other security guard [Officer ██████████] because he is very close to her. ██████████ continued to yell after being handcuffed because he did not want to go with Officer ██████████.

█████ was trying to break it. Officer █████ slammed █████ while attempting to handcuff him, yelled that █████ was going to jail, and then tried to “irritate” █████ as he was escorted to the school office.⁵

c. Chicago Public Schools Records

IPRA obtained a Chicago Public Schools (CPS) Incident Report dated January 14, 2016. The narrative of the report indicates Officer █████ approached █████ and asked him to leave the building. Officer █████ asked █████ if he was special ed. █████ asked CPS school security to come and get Officer █████ while █████ was pointing his finger in Officer █████ face. School security arrived and asked █████ to calm down, Officer █████ informed █████ he was going to jail and grabbed his hand. █████ was arrested and charged with assault on an officer. The report also reflects “SPED: Yes.”⁶

IPRA also obtained CPS surveillance video capturing a portion of the incident. Specifically, Officer █████ in uniform, is seen attempting to handcuff █████ who is restrained against lockers by another individual. Officer █████ is assisted by two other uniformed officers. Once in handcuffs, the officers escort █████ out of view.

I. 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

⁵ IPRA attempted to reach out to █████ via letter in August 2017 to obtain contact information for █████ and █████ to verify that the handwritten statements provided were indeed composed by them, but correspondence was returned to sender.

⁶ COPA confirmed with CPS that the incident report marked “SPED: Yes” indicates █████ was designated as a special education student at the time of incident.

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.

II. ANALYSIS AND CONCLUSION

COPA finds Allegation #1 to be **NOT SUSTAINED**.

Part I:

There are clear contradictions regarding what exactly precipitated the altercation between Officer [REDACTED] and [REDACTED]. The exact language used by Officer [REDACTED] is unclear, as well as the tone with which it was delivered. [REDACTED] contends Officer [REDACTED] insulted him, which Officer [REDACTED] denies, stating he knows better than to put himself in a "trick bag like that." Officer [REDACTED] also denies asking about or referring to [REDACTED] special education status. Though CPS records reflect that [REDACTED] was indeed a special education student at the time of the incident, it seems unlikely that Officer [REDACTED] would have made reference to [REDACTED] special education status as a legitimate inquiry when asking that [REDACTED] clear the halls.

Whether derogatory or not, there is little question that [REDACTED] did not follow Officer [REDACTED] request to clear the hallway, resulting in [REDACTED] placing his finger in close proximity to Officer [REDACTED] face. Officer [REDACTED] conveyed that the motion and location of [REDACTED] hand put him in fear of being battered. Although Officer [REDACTED] observed that [REDACTED] hand was in Officer [REDACTED] face immediately prior to the altercation, Officer [REDACTED] interpreted [REDACTED] conduct to be more insulting than threatening. Furthermore, though there is general consistency that [REDACTED] subsequent verbal response was also aggressive (even by his own admission), students raise the contention that [REDACTED] was merely defending himself. Therefore, it is not entirely clear whether the proximity of [REDACTED] hand to Officer [REDACTED] face and [REDACTED] verbal response would have objectively placed a reasonable officer in fear of a battery, necessitating Officer [REDACTED] use of force to effectuate an arrest.

Part II:

Even if Officer [REDACTED] was not objectively reasonable in his initial use of force to bring [REDACTED] into custody, in Illinois, it is illegal to resist even an unlawful arrest.⁷ Here, the evidence

⁷ See 720 ILCS 5/7-7 (West 2010)) and [] an officer may use any force that he reasonably believes necessary to effect an arrest (see 720 ILCS 5/7-5(a) (West 2010))." *People v. Jones*, 2015 IL App (2d) 130387, ¶ 23. While an individual may resist excessive force there must be evidence of excessive force for self-defense to apply. *Id.* at ¶ 23-25 (citing *People v. Sims*, 374 Ill. App. 3d 427 (3d Dist. 2007)).

supports a finding that [REDACTED] subsequently resisted after Officer [REDACTED] made contact. During [REDACTED] statement to IPRA he indicated he was combative and resistant. Additionally, witnesses observed [REDACTED] resisting and video footage from the high school reflects the same. While COPA does not have enough evidence to prove by a preponderance whether Officer [REDACTED] had sufficient justification to arrest [REDACTED] for aggravated assault, the law requires [REDACTED] not to resist once Officer [REDACTED] began attempting to effectuate an arrest. Furthermore, there is sufficient evidence to consider [REDACTED] as an active resister pursuant to Department Directives. Therefore, the initial use of force (*i.e.* Officer [REDACTED] grabbing [REDACTED]) is not sustained, but the subsequent uses of force are justified. Therefore, the overall finding is **NOT SUSTAINED**.

On the same basis as stated in the *Part II* analysis above, COPA finds Allegation #2 to be **EXONERATED**.

On the same basis as stated in the *Part II* analysis above, COPA finds Allegation #3 to be **EXONERATED**.

COPA finds Allegation #4 to be **NOT SUSTAINED**. There are clear contradictions regarding what precipitated the altercation between Officer [REDACTED] and [REDACTED] Officer [REDACTED] contends, supported by his own statement and Department reports generated relative to the incident, that he asked [REDACTED] to vacate the hallway and followed up with a comment inquiring as to whether [REDACTED] heard him, to which [REDACTED] reacted aggressively. On the other hand, [REDACTED] supported by signed and dated, but not sworn or notarized, statements from other students in the area when the incident occurred, contends that Officer [REDACTED] tone was derogatory, in that he referenced [REDACTED] as a special education student upon directing him to clear the hallway. Though there is no question that [REDACTED] responded aggressively to Officer [REDACTED] initial communications, there is simply not enough objective evidence to sufficiently determine the nature of the statements conveyed by [REDACTED] and whether those statements could clearly be interpreted as derogatory.

On the same basis as stated in the *Part I & II* analyses above, COPA finds Allegation #5 to be **NOT SUSTAINED**.

Approved:

[REDACTED]

4/21/19

Jay Westensee
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	Jay Westensee