

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	December 11, 2016
Time of Incident:	11:30 pm
Location of Incident:	██████████
Date of COPA Notification:	December 12, 2016
Time of COPA Notification:	7:36 pm

██████████, the Reporting Party Witnesses, alleged that three male officers smacked ██████████ against a brick wall, searched his pockets without his consent, and pushed him into a squadrol.

II. INVOLVED PARTIES

Involved Officer #1:	██████████, Star # ██████, Employee# ██████, PO, DOA ██████/2016, Unit █, DOB ██████/4/1990, M, WHI
Involved Officer #2:	██████████, Star# ██████, Employee# ██████, PO, DOA ██████/2013, Unit █, DOB ██████/1986, M, WHI
Involved Officer #3:	██████████, Star# ██████, Employee # ██████, PO, DOA ██████/1998, Unit █, DOB ██████/1971, M, S
Involved Individual #1:	██████████, DOB ██████/1972, M, WHI
Involved Individual #2:	██████████, DOB ██████/1985, M, API

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officers ██████, ██████, and ██████	1. It is alleged that the accused officers smacked ██████████ against a brick wall in violation of Rule 8, 9.	Unfounded
	2. It is alleged that the accused officers searched the pockets of ██████████	Unfounded

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.

	<p>without his consent in violation of Rule 1.</p> <p>3. It is alleged that the accused officers threw ██████████ into a squadrol in violation of Rule 8, 9.</p>	<p>Unfounded</p>
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IV. APPLICABLE RULES AND LAWS

Rules

1. Violation of any law or ordinance.
2. Disrespect to or maltreatment of any person, while on or off duty.
3. Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02 Use of Force- Effective Date October 1, 2002

Federal Laws

1. United States Constitution, Amendment IV- Prohibits search and seizure without probable cause.

V. INVESTIGATION

a. Interviews

In his statement to COPA² on December 5, 2018, ██████████ explained that he was standing outside of the ██████████ when three police officers came out of the bar, holding a man by his arms. He said they walked down the street, approximately 200 feet, and into a doorway. He stated that the man seemed very passive and described his posture as very loose. Mr. ██████████ said the officers were yelling but he could not hear what they were saying and that the man responded by saying no. He explained that he thought the officers pushed the man against a brick wall. He could not see the man because they were in a doorway and the officers' bodies were blocking his view. He only saw the officers' backs and the man's feet. He thought he heard what sounded like a body being smacked against a wall and assumed the officers had thrown the man against the wall. He said the man was hand cuffed and that the officers searched his pockets. He stated that one of the officers reached behind his back, where his taser was located, with the intent to taser the man³. He said a police wagon arrived at the location and that the officers seemed forceful in their actions while moving the man into the wagon. He said the man's head was down and he did not appear to be walking on his own. He said the officers threw the man into the wagon.

² Att. 6

³ There was no TRR reflecting that Mr. ██████████ was tased nor did the witness advise that he witnessed the officer tasing him.

On December 20, 2016 IPRA contacted Mr. [REDACTED] via U.S. Mail. On November 15, 2018 COPA contacted Mr. [REDACTED] via U.S. certified mail. To date he has not contacted COPA to give a statement or file a complaint.

b. Digital Evidence

Video footage provided by the [REDACTED]⁴ captures the man, [REDACTED], inside the bar. He is seen staggering around in the bar and appears to not be in control of his faculties. It also captures him fighting a female patron, a male attempting to escort him out of the bar several times, and the accused officers entering the bar and escorting him out.

c. Documentary Evidence

The Chicago Police Department Original Case Incident Report⁵ details the incident as a criminal trespass. It relates that [REDACTED] left the bar without incident and told officers he would call an Uber. Mr. [REDACTED] appeared highly intoxicated and was not able to operate his telephone. The officers asked if he needed help and he stepped toward one of the officers in an aggressive manner and stated, "I'm not fucking going anywhere." The officer placed him in an escort hold, handcuffed him, and Mr. [REDACTED] received a mental health transport to [REDACTED] for his safety and observation.

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

⁴ Att. 9

⁵ Att. 7

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.

VII. ANALYSIS

COPA concludes the allegations against the accused officers are UNFOUNDED. Mr. [REDACTED], was unable to be located for a statement and thus was unable to corroborate Mr. [REDACTED] observations. This statement would have been a first-hand account of the alleged incident and would have been a key factor in determining whether the allegations occurred. Secondly, Mr. [REDACTED] could not state conclusively that he observed misconduct by the accused officers. Mr. [REDACTED] was standing outside of a bar, on a dark street. He was approximately 200 feet from the accused officers and Mr. [REDACTED] when he observed the incident. His view was blocked by the door way in which the officers and Mr. [REDACTED] were standing. Mr. [REDACTED] admitted that he could not see Mr. [REDACTED], because his view was blocked by the back side of the officers. Mr. [REDACTED] assumed that the accused officers smacked Mr. [REDACTED] against a wall and searched his pockets without consent. When asked if the officers lifted Mr. [REDACTED] off his feet and threw him into the squadrol, he could not answer in the affirmative. Mr. [REDACTED] never heard the communication that took place between Mr. [REDACTED] and the officers, even though he said that the officers were yelling. Mr. [REDACTED] assumed that an officer was going to taser Mr. [REDACTED] by the simple fact that he moved his hand near his taser. When questioned about this Mr. [REDACTED] said that the officer never made a comment about using his taser and never touched or removed his taser.

Additionally, the Case Incident Report states that the officers asked Mr. [REDACTED] if he needed help, to which Mr. [REDACTED] responded aggressively. The report indicates that Mr. [REDACTED] then stepped toward one of the officers in an aggressive manner. This caused the officer to place Mr. [REDACTED] in an escort hold. It is reasonable though not definitive that what Mr. [REDACTED] observed was Mr. [REDACTED] being aggressive and the officers responding to this aggression. What Mr. [REDACTED] saw and heard could - though not definitive - have been the actions of the officers attempting to deescalate the situation because Mr. [REDACTED] was inebriated and acting in an aggressive manner. Additionally, given Mr. [REDACTED] inebriated state, the officers may have had to assist Mr. [REDACTED] get into the squadrol to ensure his safety. The officers also conducted a mental health transport for Mr. [REDACTED], which is consistent with his intoxication and aggression. Video from inside the [REDACTED] also corroborates the officers account that Mr. [REDACTED] was acting in a very aggressive manner prior to police arriving.

Finally, there is no mention in the Case Incident Report of the officers searching Mr. [REDACTED] pockets. However, if the officers did in fact search his pockets, it may have been for the purpose of ensuring that there were no objects on his person that could harm Mr. [REDACTED] or the officers since they were transporting him to the hospital. For the foregoing reasons COPA is

unable to determine by the requisite degree of proof that Mr. [REDACTED] allegations were highly probable.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officers [REDACTED], [REDACTED], and [REDACTED]	1. It is alleged that the accused officers smacked [REDACTED] against a brick wall in violation of Rule 8, 9.	Unfounded
	2. It is alleged that the accused officers searched the pockets of [REDACTED] without his consent in violation of Rule 1.	Unfounded
	3. It is alleged that the accused officers threw [REDACTED] into a squadrol in violation of Rule 8, 9.	Unfounded

Approved:

[REDACTED]

March 25, 2019

 [REDACTED]
 Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

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