

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	September 12, 2017 / 4:30 pm / ██████████
Date/Time of COPA Notification:	September 12, 2017 / 5:08 pm
Involved Officer #1:	██████████, Star # ██████, Employee ID # ██████, DOA ██████, 2006, Police Officer, DOB ██████, 1968, Male, Black
Involved Officer #2:	██████████, Star # ██████, Employee ID # ██████, DOA ██████, 2006, Police Officer, DOB ██████, 1976, Male, Black
Involved Individual #1:	██████████, DOB ██████, 1980, Male, Black ²
Case Type:	Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	1. On September 12, 2017, at approximately 4:30 PM, at the ██████ gas station at ██████████, PO ██████ closed-fist punched victim ██████████ multiple times about the face and body in violation of Rules 6, 8, and 9.	Not Sustained
Officer ██████████	1. On September 12, 2017, at approximately 4:30 PM, at the Citgo gas station at ██████████, PO ██████ allegedly said, "I'm fixing to fuck you," to victim ██████████ in violation of Rules 6, 8, and 9. 2. On September 12, 2017, at approximately 4:30 PM, at the ██████ gas station at ██████████, PO ██████ closed-fist punched victim ██████████ multiple times about the face and body in violation of Rules 6, 8, and 9.	Not Sustained 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.

² In his interview to COPA, Mr. ██████ identified himself as Original ██████████ American.

II. SUMMARY OF EVIDENCE³

On September 12, 2017, an anonymous person called IPRA and made a complaint that officers punched an arrestee who was handcuffed and seated in the back of the officers' vehicle. CPD reports revealed that the arrestee was ██████████, who was arrested for driving on a suspended license after cutting off another vehicle in traffic. According to the reports and officers, Mr. ██████ was uncooperative with the officers and kicked at PO ██████ while he was handcuffed and in the back seat of the squad car. In response, PO ██████ used an open hand strike and PO ██████ punched him. In his statement to COPA, Mr. ██████ acknowledged that he was uncooperative and argumentative with the officers. He did not admit, nor did he deny, that he kicked at either of the officers. Mr. ██████ alleged that PO ██████ verbally abused him. Video from the gas station where the incident took place shows the interaction, but the view of the physical interaction is obstructed from the camera by gas pumps. Photographs show that Mr. ██████ sustained scratches to his neck and his shirt was torn, which PO ██████ attributed to him trying to hold Mr. ██████ still.

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

³COPA 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.

“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

It is clear that PO [REDACTED] punched Mr. [REDACTED] while Mr. [REDACTED] was handcuffed and in the backseat of the squad car. What is not visible on the video is what happened prior to that, such as Mr. [REDACTED] acting as assailant, and whether PO [REDACTED] punched Mr. [REDACTED] as well. Mr. [REDACTED] provided an account of the incident that contradicts the officers and the video evidence from the gas station did not show this portion of the incident. Due to the lack of evidence to prove or disprove what happened prior to the officers using force on Mr. [REDACTED], COPA finds these allegations to be **Not Sustained**.

Approved:

[REDACTED]

5/31/19

[REDACTED]

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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