

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 20, 2017
Time of Incident:	2:19 AM
Location of Incident:	[REDACTED]
Date of COPA Notification:	September 20, 2017
Time of COPA Notification:	6:43 AM

After midnight on September 20, 2017, [REDACTED] entered [REDACTED] Bar and purchased a beer from bartender [REDACTED] before proceeding to the patio area. Two off-duty Chicago Police Officers, [REDACTED] and [REDACTED] were sitting at the bar when Mr. [REDACTED] entered. A short time later when Ms. [REDACTED] tried to close the bar and retrieve Mr. [REDACTED] beer from him, he refused to surrender it, and she asked the two officers to assist her in persuading him to leave. The officers instructed Mr. [REDACTED] to leave while removing his beer from the table in front of him, after which Mr. [REDACTED] became upset and demanded that someone pay for the drink, not knowing that either man was a police officer. A verbal and physical altercation then followed between Mr. [REDACTED] and the two officers, which ultimately resulted in Mr. [REDACTED] arrest by on-duty officers from that district. Mr. [REDACTED] later alleged to COPA that while being detained by Lieutenant [REDACTED] and Detective [REDACTED] before arresting officers arrived, his personal items were stolen and he sustained injuries to his head and neck. No allegations of misconduct were made against the on-duty arresting officers.

II. INVOLVED PARTIES

Involved Officer #1 (Accused / Off Duty):	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Appointed [REDACTED], 1991; Lieutenant of Police, Unit [REDACTED] DOB [REDACTED] 1967; Hispanic Male
Involved Officer #2 (Accused / Off Duty):	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Appointed [REDACTED], 1996; Detective of Police, DOB [REDACTED], 1973; White Male
Involved Officer #3 (After the Fact / No Statement):	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Appointed [REDACTED], 1998; Police Officer, DOB [REDACTED] 1969; White Male
Involved Officer #4 (After the Fact / No Statement):	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Appointed [REDACTED], 2015; Police Officer, DOB [REDACTED], 1979; White Female
Subject #1 (Complainant):	[REDACTED] DOB [REDACTED], 1964; Black Male
Subject #2 (Witness):	[REDACTED] DOB [REDACTED], 1991; White Female

III. ALLEGATIONS<sup>1</sup>

Officer	Allegation	Finding
Lieutenant [REDACTED]	1. It was alleged that Lieutenant [REDACTED] detained and arrested [REDACTED] for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4 <sup>th</sup> Amendment.	UNFOUNDED
	2. It was alleged that Lieutenant [REDACTED] grabbed [REDACTED] cell phone from inside his shirt pocket without consent and refused to return it to him, in violation of Rules 1 and 6, S07-01-01, and the 4 <sup>th</sup> Amendment.	UNFOUNDED
	3. It was alleged that Lieutenant [REDACTED] assisted Detective [REDACTED] in bending/slammng/holding [REDACTED] body to the ground, causing his head to smack/slam into the ground and resulting in injuries to his head, in violation of Rule 6 and G03-02.	EXONERATED
Detective [REDACTED]	1. It was alleged that Detective [REDACTED] detained and arrested [REDACTED] for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4 <sup>th</sup> Amendment.	UNFOUNDED
	2. It was alleged that Detective [REDACTED] tackled [REDACTED] and bent/slammed his body to the ground, causing his head to smack/bang into the ground and resulting in injuries to his head. It is alleged that Detective [REDACTED] then put both his hands around Mr. [REDACTED] neck/throat and would not stop squeezing, resulting in injuries to his neck, in violation of Rule 6 and G03-02.	EXONERATED
	3. It was alleged Detective [REDACTED] robbed [REDACTED] by going into his pockets and taking out his scale, grinder, and marijuana without his consent, in violation of Rules 1 and 6 and the 4 <sup>th</sup> amendment.	UNFOUNDED
	4. It was alleged that Detective [REDACTED] failed to complete a Tactical Response Report for this incident, in violation of Rule 6 and G03-02-02.	UNFOUNDED

<sup>1</sup> Atts 20-21, 30, and 32.

**IV. APPLICABLE RULES AND LAWS**

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RULES

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Rule 1: Violation of any law or ordinance.

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

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GENERAL ORDERS

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G03-02, Use of Force<sup>2</sup>

G03-02-02, Tactical Response Reports<sup>3</sup>

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SPECIAL ORDERS

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S07-01-01, Inventorying Arrestees' Personal Property<sup>4</sup>

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FEDERAL LAWS

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4<sup>th</sup> Amendment of the Constitution of the United States.

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STATE LAWS

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Illinois State Statute 720 ILCS 5/16-1 (Theft)

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<sup>2</sup> Att. 37.

<sup>3</sup> Att. 22.

<sup>4</sup> Att. 36.

V. INVESTIGATION<sup>5</sup>

## a. Interviews

## Complainant [REDACTED]

In his interview with COPA on February 2, 2018, [REDACTED] explained that in the early morning hours of September 20, 2017, he visited a bar on W. [REDACTED] Road near his home after attending his brother's memorial. He walked in and asked the bartender if they had any drink specials, then heard a male voice say, "If you need specials, maybe you shouldn't be in here."<sup>7</sup> Mr. [REDACTED] purchased a Guinness and then asked the bartender if he could smoke outside, but did not mention that he was referring to marijuana and noted to COPA that it was not for medicinal purposes. He went outside to the patio seating area and chatted with two other customers.<sup>8</sup> While he was outside, the same gentleman whose voice he had heard inside appeared and told him he could not smoke out there. Mr. [REDACTED] believed this to be a customer of the bar and noted that he had seen him and one other male sitting by the door when he came in. They were not wearing uniforms and gave no indication that they were police officers.

The gentleman who spoke to him, later identified as Lieutenant [REDACTED] told Mr. [REDACTED] "You need to leave here."<sup>9</sup> He went back inside but returned some time later, saying, "Last call."<sup>10</sup> Mr. [REDACTED] did not leave; he went inside and purchased another beer before returning back outside. As he was drinking it, Lieutenant [REDACTED] came out once more and took Mr. [REDACTED] full beer off the table in front of him. Mr. [REDACTED] began to go inside to complain to the bartender, but she was gone, so he went back outside to wait for her to return. Mr. [REDACTED] stated that he felt the two male customers were looking to "mix it up" and that Lieutenant [REDACTED] told him he "had to get out of there" and that he "knew people to have him arrested."<sup>11</sup> The shorter gentleman, later identified as Detective [REDACTED] was sitting next to Lieutenant [REDACTED]

While Mr. [REDACTED] was waiting outside for the bartender, the same two men came out together and said the bar was closed. Mr. [REDACTED] bicycle was just north of the beer garden about ten feet away. He went to retrieve it and saw Ms. [REDACTED] coming out of the bar. She was quickly ushered to the side of the building by one of the men so she could not speak to him. Mr. [REDACTED] again insisted that someone pay for his beer, and Lieutenant [REDACTED] said, "I'm not paying you shit."<sup>12</sup> Mr. [REDACTED] replied, "Man, you're gonna pay me for my beer or she's gonna pay me." Detective [REDACTED] split off from Lieutenant [REDACTED] and they both approached Mr. [REDACTED] from both sides in a threatening manner as he was demanding payment for his beer. Mr. [REDACTED] had retrieved his bike lock and swung it at the two officers as they approached him. He admitted to striking Detective [REDACTED] on the hand, but stated it was an accident. Mr. [REDACTED] cell phone was

<sup>5</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>6</sup> Atts. 16-18.

<sup>7</sup> Att. 18, 03:14. This was Lt [REDACTED] who Mr. [REDACTED] referred to as the "taller" gentleman and referred to Detective [REDACTED] as the "shorter" gentleman. He described both gentleman as white males.

<sup>8</sup> Mr. [REDACTED] did not provide the contact information for these individuals to contact as witnesses.

<sup>9</sup> Att. 18, 05:05.

<sup>10</sup> Att. 18, 05:30.

<sup>11</sup> Att. 18, 07:24.

<sup>12</sup> Att. 18, 11:20.

visible from his shirt pocket,<sup>13</sup> and while he was swinging the lock, Lieutenant ██████ grabbed it. As Mr. ██████ demanded it back, Detective ██████ tackled him, slamming his head onto the ground. Detective ██████ also placed both hands around his throat and would not stop squeezing while Lieutenant ██████ held him down. Lieutenant ██████ said, "I have friends. I know people. I'll have you arrested."<sup>14</sup> Lieutenant ██████ then made a phone call, and on-duty officers arrived shortly afterward while Mr. ██████ was still on the ground. According to Mr. ██████ Detective ██████ went into his pockets and took his scale, his grinder, and marijuana from him. Mr. ██████ claimed he was still not aware that either of the gentleman were officers; he stated he found this out from his public defender later on and noted that had he known this at the time, he never would have attacked them.

Mr. ██████ was transported to the hospital later upon his request to the arresting officers because he was concerned about his head smacking against the ground when Detective ██████ had tackled him. He did not require stitches or staples, but his head was bleeding and his neck was black and blue. He stated that the criminal charges against him were ultimately dropped,<sup>15</sup> and he was instructed not to return to the bar for six months; however, he returned to the bar two days later and spoke to a different female employee who told him he was barred.<sup>16</sup> She then called the police, and the same two responding officers from the original incident answered the call.

#### Witness ██████

In her interview with COPA on June 11, 2018, Ms. ██████ noted that she had seen Mr. ██████ walking near the bar on more than one occasion prior to the evening of this incident, but that he had never come inside before. She confirmed that she was working as the only bartender on the night of this incident when Detective ██████ and Lieutenant ██████ came in and sat at the bar around 12:00 or 12:30 a.m. They drank about two beers each and did not appear intoxicated. Mr. ██████ came in around 1:00 a.m., and Ms. ██████ described him as having a bad vibe and acting sketchy. He did not appear intoxicated but smelled strongly of marijuana. Mr. ██████ ordered a drink, then went out to the seating area on ██████ Avenue. He came back in about 1:20 a.m. and ordered another drink, then went back outside. Just before 2:00 a.m., Ms. ██████ went out and asked Mr. ██████ for his glass in order to close the bar, but he became agitated and refused to give it to her. Ms. ██████ stated that she did not see a joint<sup>18</sup> but observed a silver can with what appeared to be marijuana in it.

When Mr. ██████ refused to hand over his beer, Ms. ██████ went inside and asked Detective ██████ and Lieutenant ██████ to help remove him from the premises. A few minutes

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<sup>13</sup> As he was describing the incident, Mr. ██████ referred to the cell phone as "this" cell phone and pointed to an iPhone. He later claimed to COPA that this same cell phone had been stolen by Lt ██████ however, all of the items belonging to Mr. ██████ were inventoried (Atts 11 and 29).

<sup>14</sup> Att. 18, 14:47.

<sup>15</sup> Att. 39. A search conducted for this case number, ██████ revealed that at the most recent court hearing on 7/11/18, the States Attorney's office moved to dismiss the charges with the ability to reinstate them at a later time if certain conditions are not met ('Stricken off with Leave to Reinstate').

<sup>16</sup> He identified the bartender present at the time of the incident as Heather, a white female; however, her real name was ██████

<sup>17</sup> Atts. 27 and 34.

<sup>18</sup> A "joint" is commonly recognized as the street term for a rolled marijuana cigarette.

later when the officers were outside and Ms. [REDACTED] was closing down the bar, she heard yelling.<sup>19</sup> She exited on the north side of the building to get to her car and saw the two officers confronting Mr. [REDACTED]. Mr. [REDACTED] had his bike lock and was swinging it at them, so Ms. [REDACTED] went straight to her car and called 911, temporarily losing sight of the commotion. She called over to Lieutenant [REDACTED] that she was making this call, and he mentioned he was calling 911 as well.<sup>20</sup> When she finished the call, she glanced over to the area and observed Mr. [REDACTED] laying on the ground on his stomach without handcuffs. The responding officers arrived in just a few minutes, and Ms. [REDACTED] provided her information to them before leaving. She observed that Detective [REDACTED] was bleeding from his neck, nothing that she was not sure how he sustained this injury but that it was not there when he first came in the bar.

### Accused Detective [REDACTED]

In his interview with COPA on May 14, 2018, Detective [REDACTED] explained that he and Lieutenant [REDACTED] had visited [REDACTED] several times before and had a professional, cordial relationship with Ms. [REDACTED]. He stated that he and Lieutenant [REDACTED] had arrived there after a late dinner at another location and sat at the bar to have a drink. Later on, they saw Mr. [REDACTED] come in and walk outside to the seating area on [REDACTED] Avenue, which was not open after 10 p.m. Shortly after 2 a.m., Ms. [REDACTED] approached the officers and stated that Mr. [REDACTED] would not relinquish his beer when she told him that they were closing soon. She asked the officers to help her since she was working alone, and Lieutenant [REDACTED] went outside and told Mr. [REDACTED] that it was time to go. He removed Mr. [REDACTED] glass from the table, and Mr. [REDACTED] then became irate and refused to leave. Detective [REDACTED] noted that Mr. [REDACTED] smelled of marijuana and that he saw what appeared to be marijuana and drug paraphernalia on the table, but he did not see a joint.

When Lieutenant [REDACTED] took his drink, Mr. [REDACTED] continued to get more irate, saying that someone would pay for his drink. He began waving his hands and arms and threatening Lieutenant [REDACTED] who called 911 soon afterward. While waiting on the responding officers, Mr. [REDACTED] appeared as if he was going to leave, and Lieutenant [REDACTED] took his cell phone from his front shirt pocket to prevent him from leaving. Mr. [REDACTED] then became openly violent. He removed the horseshoe lock from his bicycle and began swinging it at the officers, still unaware that they were police. Detective [REDACTED] then identified his office and simultaneously conducted a takedown of Mr. [REDACTED] tackling him from the front after placing him in a bear hug and causing him to land on his back. Lieutenant [REDACTED] assisted him in the takedown and also identified his office, after which Mr. [REDACTED] stopped resisting. The officers controlled Mr. [REDACTED] while he was still on his back until a few minutes later when police arrived. Detective [REDACTED] sustained an abrasion on his hand but did not recall how and did not report it to CPD. Detective [REDACTED] explained that he was on top of [REDACTED] holding his chest down with his hands, and he did not see or hear Mr. [REDACTED] smack his head on the ground, nor did he complain of any injuries.

Detective [REDACTED] stated that he and Lieutenant [REDACTED] were patrons of [REDACTED] and not employees. He admitted to drinking a couple of beers at the bar that evening, but that he was

<sup>19</sup> Ms. [REDACTED] did not witness the initial confrontation between the officers and Mr. [REDACTED] but noted that the officers had been behaving calmly. She did not see them strike Mr. [REDACTED] at any time and did not observe any firearms on the officers. Lastly, she did not observe any injuries to Mr. [REDACTED].

<sup>20</sup> It was confirmed by COPA that the phone number that dialed 911 in event # [REDACTED] was the cell phone of Lieutenant [REDACTED].

<sup>21</sup> Atts. 25-26.

not impaired or inhibited. He further explained that when he and Lieutenant [REDACTED] first told Mr. [REDACTED] to leave, they assumed he would depart without incident and so did not tell him that they were police. His cell phone was turned over to the responding officers and inventoried.<sup>22</sup>

### Accused Lieutenant [REDACTED]

In his interview with COPA on June 22, 2018, Lieutenant [REDACTED] stated that he and Detective [REDACTED] had stopped at [REDACTED] around 2:00 a.m. after having dinner elsewhere. They were sitting at the bar when Ms. [REDACTED] told them she was having a problem with a gentleman sitting outside on the patio. The officers had seen this gentleman come in and argue with Ms. [REDACTED] about the types of beer they offered, then went outside to the patio. He was giving her “grief” and a “hard time”<sup>24</sup> but was not acting overtly aggressive. He was not supposed to be in the outdoor seating area and would not relinquish his beer even though Ms. [REDACTED] was trying to close. The officers went outside and told Mr. [REDACTED] to leave, noticing that he had a clear plastic bag of a green leafy substance as well as a grinder on his lap. Lieutenant [REDACTED] picked up his beer and placed it inside, then heard Mr. [REDACTED] speaking loudly to Detective [REDACTED] saying, “You’re gonna pay. You shouldn’t have done that. You don’t know who I am around here.”<sup>25</sup> They told him again to leave, and he stood up and walked toward the officers. He became aggressive, and Lieutenant [REDACTED] called 911. Mr. [REDACTED] then walked over to his bike and removed a U-shaped bike lock about two feet long. He looked as if he was trying to leave, so Lieutenant [REDACTED] grabbed Mr. [REDACTED] phone from his front shirt pocket without identifying his office. Mr. [REDACTED] then became more aggressive and came at them while swinging the bike lock. They backed up and tried to take cover. When they failed to calm him down, they conducted a takedown from the front of his body and identified their office. As soon as this happened, Mr. [REDACTED] became compliant and did not struggle. His items including a cell phone and some marijuana were placed aside, and responding officers arrived within a few minutes. Lieutenant [REDACTED] did not retrieve these items; he assumed that the responding officers did.

Lieutenant [REDACTED] only recalled holding Mr. [REDACTED] hand onto the ground and otherwise was not holding any other part of his body. Detective [REDACTED] was on Mr. [REDACTED] other side, but he could not recall if or how he was holding him down. He did not see [REDACTED] holding Mr. [REDACTED] neck or chest area and did not hear Mr. [REDACTED] complain of any pain. Neither he nor Detective [REDACTED] sustained or reported any injuries, and no injuries were observed from Mr. [REDACTED]. After the arrest, Lieutenant [REDACTED] drove back to the station to complete the necessary paperwork. He was not aware that Mr. [REDACTED] went to the hospital and could not explain the injuries noted in the medical reports.

Lieutenant [REDACTED] stated that he purposely avoided telling Mr. [REDACTED] or OEMC that he was an officer because he felt it may exacerbate the situation or aggravate Mr. [REDACTED] more.

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<sup>22</sup> Inventory # [REDACTED] was not originally found by the COPA investigator with the other inventory sheets. Detective [REDACTED] provided it in his interview, which allowed this allegation to be Unfounded.

<sup>23</sup> Att. 31.

<sup>24</sup> Att. 31, 19:00.

<sup>25</sup> Att. 31, 07:26.

### b. Digital Evidence

The **In Car Camera**<sup>26</sup> of responding beat [REDACTED] captured audible footage from Officer [REDACTED] microphone when she and her partner, Officer [REDACTED] responded to the scene at approximately 2:17 a.m. A male voice believed to be Lieutenant [REDACTED] was heard explaining what happened and stated that a male subject was getting agitated and did not want to give up his beer. The subject was sitting outside mixing marijuana and started swinging his bike lock, after which 911 was called and Lieutenant [REDACTED] had to get him under control.<sup>27</sup> The subject's phone was also taken from him.<sup>28</sup> In the footage, Lieutenant [REDACTED] admitted that he never announced his office<sup>29</sup> and noted that no injuries were involved.<sup>30</sup>

### c. Physical Evidence

The Evidence Technician **Photographs**<sup>31</sup> taken of Mr. [REDACTED] while he was in lockup showed minor scraping, redness and bleeding on the back right of his head in three places. The photographs did not show a close-up view of Mr. [REDACTED] throat.

A **Canvass** of [REDACTED] Bar was conducted on May 18, 2018. The investigator observed that the bar was located on the northeast corner of [REDACTED] and [REDACTED] Avenue, and there were two small outdoor patio seating areas on each side exposed to the street. The patio area on [REDACTED] had direct access to the rear (north) side of the building.<sup>32</sup> The interior of the establishment was a small, narrow bar with some table seating. The investigator was able to speak with the bartender/manager [REDACTED] who remembered Mr. [REDACTED] and confirmed that Ms. [REDACTED] was employed as a bartender at the time. Her contact information was obtained, and it was noted from [REDACTED] that the cameras on the grounds did not capture the incident.

### d. Documentary Evidence

The **Medical Records** retrieved from Swedish Covenant Hospital reflected Mr. [REDACTED] admission at 4:47 a.m. for a head injury reportedly caused by fighting/beatings, dizziness, sharp pain to his head, and soreness in his throat. Mr. [REDACTED] was alert and coherent upon being admitted and told medical personnel that he had been assaulted and hit on the back of the head. The CT Scan of Mr. [REDACTED] head showed an abrasion to his scalp and softening of the left frontal lobe. The throat exam was normal with no lockjaw or drooling, only some minor bruising. Mr. [REDACTED] records noted that he had a previous record of taking blood thinners.

The **Initiation Report**<sup>33</sup> filed on September 20, 2017 by Lieutenant [REDACTED] of the [REDACTED] District included preliminary allegations of Unlawful Arrest and Failure to Return Property on behalf of [REDACTED] against Lieutenant [REDACTED] Mr. [REDACTED] complained to CPD of pain in the back of his head and neck after being taken down to the ground during his arrest,

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<sup>26</sup> Att. 24.

<sup>27</sup> Att. 24, 01:04.

<sup>28</sup> *Id.* 5:00.

<sup>29</sup> *Id.* 09:33.

<sup>30</sup> *Id.* 12:27.

<sup>31</sup> Att. 33.

<sup>32</sup> See Att. 28 for Google Maps printout of the exterior premises.

<sup>33</sup> Att. 5.



and also that his marijuana and drug paraphernalia had not been returned after being taken. The report also reflected his transport to Swedish Covenant Hospital and photographs taken by Beat [REDACTED]

The **Arrest Report**<sup>34</sup> and **Case Report**<sup>35</sup> documented Mr. [REDACTED] arrest at 2:25 a.m. for Aggravated Assault/Use of Deadly Weapon and Possession of Drug Paraphernalia as well as a citation for Possession of Marijuana.<sup>36</sup> The narratives explained that Mr. [REDACTED] was sitting outside of [REDACTED] when Lieutenant [REDACTED] saw him mixing marijuana and took his drink from him, handing it to the bartender, [REDACTED]. After all parties exited the bar, Mr. [REDACTED] became agitated and began swinging his bike lock in the direction of the officers, saying, "You're going to pay for this." Lieutenant [REDACTED] then called 911, and Detective [REDACTED] conducted an emergency takedown of Mr. [REDACTED] to detain him until responding officers arrived.<sup>37</sup> The reports documented that Lieutenant [REDACTED] removed Mr. [REDACTED] cell phone from his shirt pocket to delay him leaving and that he did not have time to announce his office until Mr. [REDACTED] was already in custody. Lastly, the reports documented that Mr. [REDACTED] was taken to Swedish Covenant Hospital before he was admitted to District 016 for processing. He was released on bond that same morning.

The **Event Queries**<sup>38</sup> reflected multiple 911 calls made by [REDACTED] and an unknown caller reporting an Assault in Progress, as well as an off-duty officer later confirmed to be Lieutenant [REDACTED] calling for assistance. The calls described a male black with drugs wearing a plaid shirt who was swinging a bike lock in front of [REDACTED] and threatening to fight the officers. The subject was transported by beat [REDACTED] to Swedish Covenant Hospital at approximately 4:39 a.m., and an Evidence Technician was dispatched to lockup at 3:22 a.m.

The **Tactical Response Reports**<sup>39</sup> described [REDACTED] as being armed with a blunt instrument and posing an imminent threat of Battery to the officers by approaching them in an aggressive manner and swinging his bike lock. The officers each responded with a wristlock and emergency takedown, which did not result in injuries to any party.

The **Inventory Sheets**<sup>40</sup> and **Crime Scene Processing Report**<sup>41</sup> documented the recovered property from Mr. [REDACTED] as being cannabis, a digital scale, a grinder, a cell phone, and a bike lock.

## 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;

<sup>34</sup> Atts. 6 and 15. Criminal case # [REDACTED]

<sup>35</sup> Att. 7.

<sup>36</sup> Atts. 8 and 15.

<sup>37</sup> Officers [REDACTED] and [REDACTED] -- beat [REDACTED]

<sup>38</sup> Atts. 9 and 10. The 911 calls were requested by OEMC but were not obtained.

<sup>39</sup> Atts. 13 and 35.

<sup>40</sup> Atts. 11 and 29.

<sup>41</sup> Att. 19.

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.

## VII. ANALYSIS

### Lieutenant ██████ – Allegation #1:

COPA recommends a finding of UNFOUNDED for the allegation that Lieutenant ██████ detained and arrested ██████ for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4<sup>th</sup> Amendment. Lieutenant ██████ articulable reason for detaining Mr. ██████ was that he possessed a weapon (the bike lock) and was also in possession of drugs and paraphernalia. By his own admission, Mr. ██████ reported that he swung his bicycle lock at the officers and was in possession of marijuana and paraphernalia. There is no Department Directive requiring police officers to announce their office when force is being used unless asked to do so. Lieutenant ██████ was able to articulate to COPA that he felt announcing his office may aggravate Mr. ██████ further. According to his statement, he announced his office immediately when taking police action and conducting the takedown of Mr. ██████.

### Lieutenant ██████ – Allegation #2:

COPA recommends a finding of UNFOUNDED for the allegation that Lieutenant ██████ grabbed ██████ cell phone from inside his shirt pocket without consent and refused to return it to him, in violation of Rules 1 and 6, S07-01-01, the 4<sup>th</sup> Amendment, and IL state law. According to Department reports, the cell phone was inventoried by CPD, confirming that it was turned over to police by Lieutenant ██████ and properly documented.

### Lieutenant ██████ – Allegation #3:

COPA recommends a finding of EXONERATED for the allegation that Lieutenant ██████ assisted Detective ██████ in bending/slamming/holding ██████ body to the ground, causing his head to smack/slam into the ground and resulting in injuries in violation of Rule 6 and G03-02. Mr. ██████ injuries are consistent with an emergency takedown, which was employed by the officers only after Mr. ██████ assaulted them and threatened their physical safety with the bike lock. An emergency takedown was within CPD policy as a response to Mr. ██████ admitted assault.

**Detective ██████ – Allegation #1:**

COPA recommends a finding of UNFOUNDED for the allegation that Detective ██████ detained and arrested ██████ for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4<sup>th</sup> Amendment. Detective ██████ articulable reason for detaining Mr. ██████ was that he used a bike lock as a weapon and was also in possession of drugs and paraphernalia. By his own admission, Mr. ██████ reported that he swung his bicycle lock at the officers and was in possession of marijuana and paraphernalia. There is no Department Directive requiring police officers to announce their office when force is being used unless asked to do so. According to his statement, he announced his office immediately when taking police action and conducting the takedown of Mr. ██████

**Detective ██████ – Allegation #2:**

COPA recommends a finding of EXONERATED for the allegation that Detective ██████ tackled ██████ and bent/slammed his body to the ground, causing his head to smack/bang into the ground and resulting in injuries to his head in violation of Rule 6 and G03-02. Mr. ██████ injuries are consistent with an emergency takedown, which was employed by the officers only after Mr. ██████ assaulted them and threatened their physical safety with the bike lock. An emergency takedown was within CPD policy as a response to Mr. ██████ admitted assault.

**Detective ██████ – Allegation #3:**

COPA recommends a finding of UNFOUNDED for the allegation that Detective ██████ robbed ██████ by going into his pockets and taking out his scale, grinder, and marijuana without consent, in violation of Rules 1 and 6, the 4<sup>th</sup> Amendment, S07-01-01, and IL state law. As documented in the case file, all of these items were inventoried, confirming that Detective ██████ did not rob Mr. ██████ of these items. The search of Mr. ██████ person was warranted to ensure the officers' safety, and as a search incident to arrest after the emergency takedown was employed.

**Detective ██████ – Allegation #4:**

COPA recommends a finding of UNFOUNDED for the allegation that Detective ██████ failed to complete a Tactical Response Report for this incident, in violation of Rule 6 and G03-02-02. As documented in the case file, Detective ██████ provided a copy of his completed TRR at his interview with COPA that reflected the date of the incident to confirm that he followed Department policy.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Lieutenant [REDACTED]	<p>1. It was alleged that Lieutenant [REDACTED] detained and arrested [REDACTED] for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4<sup>th</sup> Amendment.</p> <p>2. It was alleged that Lieutenant [REDACTED] grabbed [REDACTED] cell phone from inside his shirt pocket without consent and refused to return it to him, in violation of Rules 1 and 6, S07-01-01, and the 4<sup>th</sup> Amendment.</p> <p>3. It was alleged that Lieutenant [REDACTED] assisted Detective [REDACTED] in bending/slamming/holding [REDACTED] body to the ground, causing his head to smack/slam into the ground and resulting in injuries to his head, in violation of Rule 6 and G03-02.</p>	<p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>EXONERATED</p>
Detective [REDACTED]	<p>1. It was alleged that Detective [REDACTED] detained and arrested [REDACTED] for no reason and without identifying himself as a police officer at any time, in violation of Rules 1 and 8, 720 ILCS 5/16-1, and the 4<sup>th</sup> Amendment.</p> <p>2. It was alleged that Detective [REDACTED] tackled [REDACTED] and bent/slammed his body to the ground, causing his head to smack/bang into the ground and resulting in injuries to his head. It is alleged that you then put both your hands around his neck/throat and would not stop squeezing, resulting in injuries to his neck, in violation of Rule 6 and G03-02.</p> <p>3. It was alleged Detective [REDACTED] robbed [REDACTED] by going into his pockets and taking out his scale, grinder, and marijuana without his consent, in violation of Rules 1 and 6 and the 4<sup>th</sup> amendment.</p> <p>4. It was alleged that Detective [REDACTED] failed to complete a Tactical Response Report for this incident, in violation of Rule 6 and G03-02-02.</p>	<p>UNFOUNDED</p> <p>EXONERATED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p>

Approved: 



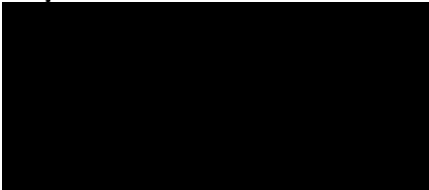
*Deputy Chief Administrator – Chief Investigator*

Date 3-21-19

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	2
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	