

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 16, 2018
Time of Incident:	1:00 p.m.
Location of Incident:	████████████████████
Date of COPA Notification:	October 23, 2018
Time of COPA Notification:	11:30 a.m.

On March 16, 2018 ██████████ (“██████████”) was arrested per active arrest warrants from Cook County and Lake County. ██████████ alleged, during transport to the police station, Officer ██████████ drove erratically causing her to hit her elbow and knee and verbally taunted her, asking her about names of individuals he stated were related to her case. ██████████, also alleged her wallet and cell phone were inventoried and improperly destroyed.

The Civilian Office of Police Accountability (“COPA”) conducted a thorough investigation of the allegations. COPA did not serve the allegation related to the destruction of ██████████ property because the property was inventoried and destroyed according to Department policy, which was outlined in the “Notice to Property Owner.”¹ A detailed analysis of COPA’s findings is discussed below. A detailed analysis of COPA’s findings is discussed below.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ star # ██████████, employee ID# ██████████, Date of Appointment: ██████████, 1998, PO, Unit ██████████, DOB: ██████████, 1970, Male, White
Involved Officer #2:	██████████, star # ██████████ employee # ██████████, Date of Appointment: ██████████, 1998, PO as Detective, Unit ██████████, DOB: ██████████, 1971, Female, White
Involved Individual #1:	██████████, DOB: ██████████, 1960, Female, White

¹ See Attachment 30.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	It is alleged that on March 16, 2018, during transport from ██████████ to the District Station, at approximately 1:00 p.m., you: <ol style="list-style-type: none"> 1. drove erratically intending to cause harm to ██████████; and 2. failed to provide Miranda warnings to ██████████. 	Not Sustained Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Disobedience of an order or directive, whether written or oral.
2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G04-03 Custodial Interrogations

V. INVESTIGATION ²

a. Interviews

In an **interview with COPA**, on October 25, 2018, ██████████ (“████████”) stated, on March 16, 2018, officers³ banged on her apartment door, kicked in the door and took her into custody. ██████████ stated the officers did not tell her why she was being arrested but she did not dispute there was a warrant for her arrest. The officers, at the time of her arrest, would not allow her to take her purse containing her wallet and \$1,000. She was transported to the station by a male⁴ and female⁵ officer.

Officer ██████████ drove the transport vehicle erratically. At one point, Officer ██████████ said, “why don’t you make a complaint about this,”⁶ then he stepped on the brake, swerved, and made a U-turn throwing her about the vehicle. ██████████ bumped her elbow and knee. Additionally, during transport, Officer ██████████ verbally taunted ██████████ with names of

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ ██████████ reported there were approximately four officers, mostly male with one or two female officers.

⁴ Now known as Officer ██████████.

⁵ Now known as Detective ██████████.

⁶ Attachment 7 at 30:30-30:33.

individuals he said were related to her case, in an attempt to illicit her response. ██████ did not recognize any of the names.

At the station, ██████ convinced officers to retrieve money from her apartment. A male officer⁷ showed ██████ her money and explained the money would follow her, and all her property would be saved until she was released. On October 2, 2018, ██████ was released from Cook County Jail and transferred to Lake County. Upon release from Lake County, ██████ received a receipt for property and learned her wallet⁸ and cell phone had been inventoried and destroyed. ██████ contacted Chicago Police Department (“CPD”) and was told property is destroyed after 30 to 60 days. However, ██████ believed her property should not have been destroyed because the clock should not have started until after her release from jail.⁹

In an **interview with COPA**, on April 12, 2019, **Officer ██████**, # ██████ (“Officer ██████”) stated on March 16, 2018, he and his partner Detective ██████ as part of a fugitive task force, assisted Detective ██████ (“Det. ██████”)¹⁰ in executing arrest warrants for ██████. Officer ██████ understood ██████ was wanted for making threats against law enforcement and school children, but he was not aware of any names of involved individuals or schools.¹¹

At ██████ residence, Officer ██████ stated he was positioned towards the back of eight officers, including a sergeant. After several minutes, an officer used a ram to breach ██████ door. When Officer ██████ saw ██████ she was wearing clothes and seemed frazzled talking to other officers. She was arrested, handcuffed and searched. Officer ██████ transported ██████ because he was possibly the only officer not driving a covert car and had a female partner. Officer ██████ denied driving erratically. Specifically, he is responsible for the safety of the individual riding in the backseat, so he would never make a U-turn during transport. ██████ did not complain about how he treated her or complain of any injury or pain.

During transport, Officer ██████ believed he spoke with ██████ because he commonly makes small talk with individuals, such as weather, sports and food, and he tried to calm ██████ down from being arrested. He acknowledged that he may have told ██████ that she had a couple of warrants, but he would not have told her the charges or any details of the case. Officer ██████ explained he did not secure the warrants or know the details of the case, so he would not interview ██████ and possibly damage another officer’s case. Since he did not interview or take a statement from ██████ he did not need to and did not provide *Miranda* warnings to ██████.

At the station, Officer ██████ escorted ██████ to a holding cell and waited until Det. ██████ arrived to take over. Officer ██████ did not inventory ██████ personal items and did not recall what items she possessed. He did not recall talking to ██████ about returning

⁷ ██████ described the officer as a bigger white male, and indicated he was not the officer who transported her to the station.

⁸ Vintage leather Harley Biker wallet with a chain and metal eagle on it.

⁹ Attachment 7.

¹⁰ Officer ██████ indicated Det. ██████ was lead on the case. ██████ arrest report confirms Det. ██████ was the first arresting officer. See Attachment 9.

¹¹ Officer ██████ stated he did not read ██████ Arrest Warrant. See Attachment 28.

to her apartment to retrieve her money. However, due to liability issues, Officer ██████ stated he would not have gone, but would have suggested she contact a family member.¹²

In an interview with COPA, on March 1, 2019, Detective ██████ # (“Det. ██████”) provided a statement consistent with what Officer ██████ stated in his interview.¹³

b. Digital Evidence

No **Body Worn Camera** or **In-Car camera** captured this incident.¹⁴

c. Physical Evidence

Medical Records from Illinois Masonic Medical Center documented, on March 16, 2018, ██████ entered the Emergency Room, in police custody, for her back with a pain intensity of zero, and the onset of was unspecified.¹⁵ Injury or pain to ██████ elbow or knee was not noted anywhere in the record.¹⁶

d. Documentary Evidence

The **Arrest Report**, under CB # ██████, documented ██████ was arrested by the US Marshal Fugitive Task Force. Det. ██████ received information from ██████ that ██████ was wanted on two arrest warrants, Warrant # ██████, Violation of an Order of Protection, and Warrant # ██████,¹⁷ threats ██████ made regarding killing police officers and shooting school students. Officers knocked on the door for several minutes while announcing their office. Officers heard movement inside the apartment and made entry. Officers placed ██████ into custody and transported her to the District ████. Warrants confirmed by ██████ # ██████. ██████ was taken to ██████ l.

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

¹² Attachment 27.

¹³ Attachment 20.

¹⁴ Attachment 18.

¹⁵ Attachment 17 at page 23.

¹⁶ Attachment 17.

¹⁷ COPA requested a copy of the Arrest Warrant from CPD. CPD submitted a negative response for the warrant, indicating Unit ████ does not maintain Cook County Arrest Warrants. *See* Attachment 31.

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

COPA finds the allegation that Officer ██████ drove erratically intending to cause harm to ██████ is **Not Sustained**. An officer is prohibited from "disrespect to or maltreatment of any person, while on or off duty."¹⁸ ██████ alleged Officer ██████ drove erratically, and at one point, intentionally, stepped on the brake, swerved, and made a U-turn causing her to bump her elbow and knee. Officer ██████ and Det. ██████ denied Officer ██████ drove erratically or made a U-turn. Neither officer remembered ██████ complaining about Officer ██████ driving or that she was injured or in pain. There were no independent witness statements or video to corroborate the incident as described by ██████ or the officers. Therefore, there is insufficient evidence to determine whether Officer ██████ drove erratically intending to cause harm to ██████, and this allegation is **Not Sustained**.

COPA finds the allegation that Officer ██████ failed to provide Miranda warning to ██████ is **Not Sustained**. An officer must warn an individual of their rights "before the commencement of any in-custody interrogation about a specific crime or offense for which the individual is in custody."¹⁹ ██████ stated Officer ██████ asked her about names of individuals he stated were related to her case, but she did not recognize any of the names. On the contrary, Officer ██████ stated he did not know any names related to ██████ case, and he did not talk to her about her charges or anything related to her case. Det. ██████ corroborated Officer ██████ account of the incident. There were no independent witness statements or video to corroborate the incident as described by ██████ or Officer ██████. Therefore, there is insufficient evidence to determine whether Officer ██████ failed to provide Miranda warning to ██████, and this allegation is **Not Sustained**.

¹⁸ Rules and Regulations of the Chicago Police Department, Rule 8.

¹⁹ General Order G04-03 II.B.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on March 16, 2018, during transport from [REDACTED] to the District Station, at approximately 1:00 p.m., you: <ol style="list-style-type: none"> 1. drove erratically intending to cause harm to [REDACTED]; and 2. failed to provide Miranda warning to [REDACTED]. 	Not Sustained Not Sustained

Approved:

[REDACTED]

June 27, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

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