

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	April 14, 2015
Time of Incident:	Approximately 5:15pm
Location of Incident:	3900 S. King Drive
Date of COPA Notification:	November 5, 2015
Time of COPA Notification:	12:45pm

On April 14, 2015, at approximately 5:15pm, at or near 3900 S. King Drive, Chicago Police Department (“CPD”) Officer ██████████ (“Officer ██████████” stopped ██████████ (██████████) for a traffic violation. During the traffic stop, ██████████ took objection with Officer ██████████ grounds for the stop and suspected Officer ██████████ of stopping him for race-based reasons and/or because ██████████ drove a flashy car – a newer, yellow Dodge Charger. Because Officer ██████████ perceived ██████████ as verbally hostile, and therefore the officer was in fear for his safety, Officer ██████████ removed ██████████ from the vehicle and placed ██████████ into the back of his police vehicle for the duration of the traffic stop, approximately 15 to 25 minutes. In doing so, Officer ██████████ used force to place ██████████ into the vehicle, causing injury to ██████████

After a preliminary investigation, Independent Police Review Authority (“IPRA”) investigators bought allegations Officer ██████████ alleging excessive force, unreasonable detainment, refusal of medical treatment, and a failure to properly document his use of force. The Civilian Office of Police Accountability (“COPA”) investigated IPRA’s allegations and reached a finding of exonerated regarding the excessive force and detainment allegations, not sustained regarding the denial of medical treatment allegation, and sustained the allegation for a failure to properly document a use of force.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer ██████████ Star# ██████████ Employee# ██████████ DOA: ██████████ 2013, DOB: ██████████ 1975, Unit ██████████ Detailed to Unit ██████████ Male/Hispanic
Involved Individual #1:	██████████ DOB: ██████████ 1971, Male/Black

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.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Per Civil Suit 15-CV-[REDACTED] it is alleged that on 14 APR 15, at approximately 1715 hours, at 3900 S. King Drive, on the street, PO [REDACTED] # [REDACTED] Unit [REDACTED] caused [REDACTED] face to make contact with a police vehicle, resulting in serious injury;	Exonerated
	2. detained [REDACTED] inside a police vehicle for an unreasonable amount of time; and	Exonerated
	3. failed to take any action to ensure [REDACTED] was provided medical treatment following his request for medical treatment.	Not Sustained
	4. It is also alleged that on 14 APR 15, at 3900 S. King Drive, the accused, PO [REDACTED] # [REDACTED] Unit [REDACTED] failed to document his physical contact with [REDACTED] in a Tactical Response Report (TRR).	Sustained/ Reprimand

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 8, Prohibits disrespect to or maltreatment of any person, while on or off duty.
2. Rule 6, Disobedience of an order or directive, whether written or oral.

General Orders

1. G03-02, Force Options (Effective 2002)
2. G06-01, Processing Persons Under Dept. Control (Effective June 7, 2002)
3. G03-02-02, Incidents Requiring the Completion of a Tactical Response Report (Effective October 30, 2014)
4. G06-01-01, Field Arrest Procedures (Effective December 19, 2012)

INVESTIGATION²

a. Interviews

██████████ ██████████

During a deposition taken on March 2, 2016, ██████████ stated that on April 14, 2015 he was driving alone in his vehicle to meet ██████████ (██████████) at a barbershop located near 3900 south King Drive. Near the intersection of 38th Street and King Drive, ██████████ noticed the flashing lights from Officer ██████████ vehicle behind him and pulled his vehicle over in front of a convenience store located near the intersection of 39th Street and King Drive.

Officer ██████████ approached ██████████ vehicle. ██████████ asked Officer ██████████ why he stopped him. Officer ██████████ told ██████████ that he had committed several traffic violations and proceeded to ask ██████████ for his driver's license and registration. ██████████ accused Officer ██████████ of racially profiling him and directed profanity at Officer ██████████. Officer ██████████ ordered ██████████ from the vehicle, immediately opened ██████████ door, grabbed ██████████ by the left shoulder, pulled ██████████ from the vehicle, pushed ██████████ against the vehicle, and handcuffed ██████████. Officer ██████████ then escorted ██████████ to his CPD vehicle where Officer ██████████ pushed ██████████ into the vehicle, causing ██████████ to strike the bridge of his nose against the vehicle's roof/doorframe. ██████████ landed inside the vehicle on his stomach in a "hog-tied" position and immediately felt dizziness and pain and requested medical attention multiple times. In response, Officer ██████████ told ██████████ that he was okay and that his license was suspended. ██████████ requested medical attention again but Officer ██████████ ignored him. At this point, ██████████ stopped telling Officer ██████████ that he needed medical attention because it was obvious to ██████████ that Officer ██████████ was ignoring him.

After sitting silently inside Officer ██████████ SUV for approximately 25 minutes, Officer ██████████ issued ██████████ a citation(s). Officer ██████████ then released ██████████ and left. ██████████ then drove himself to St. Bernard Hospital for medical treatment.

Officer ██████████ Deposition⁴

During a deposition taken on March 7, 2016, Officer ██████████ stated that he was working alone on April 14, 2015 when he encountered ██████████ around 3900 south King Drive. ██████████ made an illegal turn from King Drive onto westbound 39th Street, after which, Officer ██████████ activated his emergency lights and siren and radioed to OEMC that he was making a traffic stop.⁵ Officer ██████████ approached ██████████ at his vehicle, greeted him, and informed ██████████ that he had committed a traffic violation. Officer ██████████ described ██████████ as aggressive in his tone of voice and began talking with his hands as he accused Officer ██████████ of being a racist. Officer ██████████ felt threatened and ordered ██████████ from his vehicle. ██████████ complied. But when Officer

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 Attachments 11, 18, 23, and 34.

⁴ Attachment 35.

⁵ Officer ██████████ stated that prior to stopping ██████████ he had never issued anyone a speeding ticket before.

█████ instructed █████ to turn and face the vehicle, █████ refused. Officer █████ then grabbed █████ by the arm, pushed █████ against his vehicle, and handcuffed █████. █████ stiffened his body in response. Officer █████ then walked █████ to the rear of his police vehicle and ordered █████ to get in the vehicle. █████ again refused by stiffening his body. Officer █████ then pushed █████ body down and towards the police vehicle. █████ resisted entering the vehicle and Officer █████ continued to push █████ body with more pressure until █████ entered the vehicle. Upon █████ entering the vehicle, Officer █████ observed █████ right shoulder contact the metal-cage divider between the front and rear seats of the vehicle.

█████ complained to Officer █████ of facial pain and accused Officer █████ of causing his face to strike the door/frame area. Officer █████ stated that he did not push █████ face against the vehicle or observe █████ head or face strike any part of the vehicle. In response, Officer █████ looked at █████ face and did not observe any visible injury.

Finally, Officer █████ denied that █████ requested medical attention. Because there was a lack of visible injury, Officer █████ determined that █████ did not need medical attention and there was no need to document the encounter in the form of a Tactical Response Report.⁶ Lastly, Officer █████ confirmed that █████ was detained in the rear of his police SUV for approximately 15-20 minutes.⁷

b. Documentary Evidence

Medical Records

Medical records from St. Bernard Hospital document that on the evening of April 14, 2015, █████ entered the emergency room and complained of a head injury that occurred after he was pulled over by the police, handcuffed and slammed against a vehicle. █████ stated that he was experiencing a headache, nausea, dizziness, and swelling to his head. █████ was diagnosed with a left nasal bone fracture with soft tissue swelling.⁸

V. 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

⁶ Officer █████ stated that he thought █████ was untruthful about the pain to his face.

⁷ Officer █████ Statement provided to IPRA and COPA on July 20, 2016 and November 27, 2017 respectfully were generally consistent with his deposition.

⁸ Attachment 14.

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.

VI. ANALYSIS

Allegation 1

Irrespective of Officer ██████'s decision to detain ██████ in the rear of his police vehicle, the pertinent CPD General Order in effect at the time of the incident, GO03-02 – 02, would have permitted Officer ██████ to use some force against ██████. Specifically, section B1 of that General Order defines a "passive resister" as someone who defies an officer's verbal direction without active physical resistance, i.e., fleeing, pushing the officer away, and generally someone who tries to create distance between themselves and the detaining officer. In the current case, we find ██████'s resistance akin to this definition. Accordingly, Officer ██████ was free to employ force in the way of holding techniques (wrist locks, frim grips, and come-along holds), pain compliance techniques (armbars and amplified wristlocks).

We find that ██████ firmly gripped ██████ and escorted him (a "come-along" technique) to the rear of the officer's vehicle. He then contained this manner of force by firmly gripping and pushing ██████ into the rear of the vehicle, an act of force we find to be an extension of his "come-along" technique.

As Officer ██████ placed ██████ into the vehicle, ██████'s face/nose struck to the vehicle's doorframe, causing injury to ██████. Upon our review of Officer ██████'s statements and deposition, we do believe that this act was inadvertent, and that Officer ██████ did not intentionally apply additional force against ██████ with the aim to push ██████ and/or ██████'s face into the side of the vehicle.

For these reasons above, we find that [REDACTED] injury was the unintended side effect of allowable force. Therefore, COPA has reached a finding of exonerated for allegation 1 against officer [REDACTED].

Allegations 2

COPA reached a finding of exonerated for allegation 2 against [REDACTED]. Collectively, Officer [REDACTED] and [REDACTED] estimated that [REDACTED] sat in the rear of Officer [REDACTED] vehicle for 15 to 25 minutes, which was substantially the duration of the entire traffic stop. We simply do not find that these estimated timeframes approached an unreasonable amount of time for an officer to perform a typical traffic stop.

Allegation 3

General Order GO02-08, titled *Use of force Guidelines*, in effect at the time of incident requires officers to seek medical assistance for an arrestee who has injuries or illness and directs the officers to follow the procedures outlined in the General Order G06-01, titled *Processing Persons Under Department Control*, which is silent regarding how to address an injured arrestee or detainee. Additionally, General Order GO06-01-01, titled *Field Arrest Procedures*, requires officers to transport an individual who requires immediate medical care to the nearest approved emergency room.

While these policies lack exacting clarity on what an officer is required to do if a detainee is injured, we do find that these policies, along with the human decency, require an officer to act if someone within their control/custody is suffering from an injury. Therefore, we find the germane question in the current case is: to what extent did Officer [REDACTED] know that [REDACTED] was injured?

Above, we found that Officer [REDACTED] did not intentionally push [REDACTED] into the side of the vehicle and that the resulting injury was incidental. Following this finding, we do believe that Officer [REDACTED] was initially unaware of [REDACTED] injury. The officer only learned of the injury upon [REDACTED] telling him. Furthermore, it's unclear exactly how [REDACTED] described the injury to Officer [REDACTED] and whether [REDACTED] expressly requested medical attention – something that [REDACTED] unequivocally claims he did and Officer [REDACTED] denies – which if determined would have been a meaningful fact in this analysis. Additionally, Officer [REDACTED] did not recall seeing any apparent injury to [REDACTED] face, namely, bleeding, bruising, or an abrasion, nor does [REDACTED] claim there was.

In sum, without knowing exactly what was communicated between the two following the injury, or to what extent [REDACTED] face revealed injury, we find it difficult to determine whether the situation required Officer [REDACTED] to seek medical treatment for [REDACTED]. Therefore, we reached a finding of not sustained for allegation 3 against Officer [REDACTED].

⁹ While Officer [REDACTED] was perhaps negligent and inattentive in his handling of [REDACTED] IPRA investigators did not allege such actions.

Allegation 4

Controlling policy in effect at the time of the incident required Officer ██████ to complete a Tactical Response Report for any “incident involving a subject fitting the definition of a passive resister when the subject is injured or alleges injury resulting from the [officer’s] use of force [. . .].”¹⁰ Through his own admission, Officer ██████ clearly indicated when interviewed that ██████ expressed to him that he was injured when Officer ██████ placed him into the vehicle. When considering this admission combined with our finding above that ██████ was a passive resister, we reached a finding of sustained for allegation 4 against Officer ██████

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

- a. Officer ██████
 - i. Complimentary and Disciplinary History
 - ii. Recommended Penalty, by Allegation
 - 1. Allegation No. Reprimand

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████	1.Per Civil Suit 15-CV-█████ it is alleged that on 14 APR 15, at approximately 1715 hours, at 3900 S. King Drive, on the street, PO ██████ #█████ Unit ██████ caused ██████ face to make contact with a police vehicle, resulting in serious injury;	Exonerated
	2. detained ██████ inside a police vehicle for an unreasonable amount of time; and	Exonerated
	3. failed to take any action to ensure ██████ was provided medical treatment following his request for medical treatment.	Not Sustained
	4. It is also alleged that on 14 APR 15, at 3900 S. King Drive, the accused, PO ██████ #█████ Unit ██████ failed to document his	Sustained / Reprimand

¹⁰ General Order GO03-02-05, effective October 30, 2014.

physical contact with [REDACTED] in a
Tactical Response Report (TRR).

Approved:

[REDACTED]

5/30/19

Andrea Kersten
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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