

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date / Time of Incident:	April 29, 2014, approximately 8:30 p.m.
Location of Incident:	██████████ ██████████
Date / Time of COPA Notification:	August 21, 2014, approximately 11:38 a.m.

After on-duty Chicago Police Department (“CPD”) officers, Detective ██████████ (“Det. ██████████”) and Sergeant ██████████ (“Sgt. ██████████”), pulled up to a curb, an individual, ██████████ (“██████████”), ran from them. The officers pursued ██████████. During the pursuit, ██████████ tossed away a bag containing a small amount of suspect cannabis. Detective ██████████ (“Det. ██████████”), caught up to ██████████ and arrested ██████████ through the use of force, striking him about the head and face. As a result, ██████████ sustained scalp lacerations that required medical care. Notwithstanding ██████████ head wounds, the officers did not call for an ambulance, nor did they transport ██████████ to a hospital from the arrest scene. Instead, both officers spent time at the scene searching for (and eventually recovering) the bag that the ██████████ had discarded, and the members then transported the ██████████ to a district station for processing.

After investigating this incident, COPA has determined by a preponderance of the evidence that Det. ██████████ used excessive force in apprehending ██████████. COPA has further determined that Det. ██████████ and Sgt. ██████████ committed misconduct by failing to obtain immediate medical attention for ██████████.

II. INVOLVED PARTIES

Involved Officer #1:	██████████; Star # ██████████, Employee ID # ██████████ Date of Appointment: ██████████, 1999; Rank: Police Officer as Detective ² ; Unit of Assignment: ██████████; DOB: ██████████, 1970; M/W
Involved Officer #2:	██████████, Star # ██████████, Employee ID # ██████████; Date of Appointment: ██████████, 1999, Rank: Sergeant ³ ; Unit of Assignment: ██████████; DOB: ██████████, 1976; M/S
Individual #1:	██████████; DOB: ██████████, 1992; M/B

¹On 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. Though IPRA conducted this investigation, the analysis, findings and recommendation(s) set forth herein are COPA’s.

²Detective ██████████ was promoted to the rank of detective from the rank of police officer in February of 2015.

³Sergeant ██████████ was promoted to the rank of sergeant from the rank of police officer on February 1, 2016.

III. ALLEGATIONS⁴

CPD Member	Allegation	Finding / Recommendation
██████████	<p>It is alleged that on 29 April 2014, at approximately 2030 hours, in the vicinity of ██████████ ██████, in the alley, you:</p> <ol style="list-style-type: none"> 1.) Struck ██████████ on the head with a gun; and 2.) Failed to obtain immediate medical attention for ██████████. <p>It is alleged that on or about 13/14 August, in the vicinity of ██████████, at approximately 1100 hours, you:</p> <ol style="list-style-type: none"> 3.) Verbally abused Mr. ██████ in that you called him, “pussy, faggot, and bitch,” and asked him if he was gay. <p>It is also alleged on or about 20 August 2014, in the vicinity of ██████ ██████████, between 1800 and 1900 hours, you:</p> <ol style="list-style-type: none"> 4.) Harassed Mr. ██████ in that you handcuffed him, searched him, and asked him if he was gay for no reason. 	<p>Sustained / 15-Day Suspension</p> <p>Sustained / 1-Day Suspension</p> <p>Unfounded</p> <p>Unfounded</p>
██████████	<p>It is alleged that on 29 April 2014, at approximately 2030 hours, in the vicinity of ██████████ ██████, in the alley, you:</p> <ol style="list-style-type: none"> 1.) Failed to obtain immediate medical attention for ██████████. 2.) Failed to transport ██████████ from the scene to the hospital prior to Mr. ██████ transport to the police district. 	<p>Sustained / 1-Day Suspension</p> <p>Sustained / 1-Day Suspension</p>

⁴ These allegations were drafted and served by IPRA investigators.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, CPD Rules of Conduct (prohibiting the violation of any law)
2. Rule 5, CPD Rules of Conduct (prohibiting the failure to perform a duty)
3. Rule 6, CPD Rules of Conduct (prohibiting the disobedience of an order or directive)
4. Rule 8, CPD Rules of Conduct (prohibiting maltreatment)

General Orders

1. G03-02 *Use of Force Guidelines* (Effective Date: October 1, 2002)
2. G03-02-02 *Force Options* (Effective Date: May 16, 2012)
3. G06-01-01 *Field Arrest Procedures* (Effective Date: December 19, 2012)

Federal Laws

1. United States Constitution, Fourth Amendment

V. INVESTIGATION⁵

A. Interviews,⁶ Depositions,⁷ and Statements

██████████

Cook County Medical Examiner ██████████ (“Dr. ██████”) gave an interview to IPRA on April 2, 2015.⁸ During the interview, ██████████ was asked to opine concerning the cause of ██████████ head injuries.⁹ ██████████ then viewed an enlarged mugshot photo of ██████████ that depicted those injuries. ██████████ then opined that the injuries were “probably not [caused by] a fist, not a kick-unless the kick was with a steel toe boot, and not with a baseball bat.”¹⁰ ██████████ further opined that the injuries could have been caused by “a gun, a baton, or a 2x4 piece of wood.”¹¹

⁵The following is a summary of the material evidence relied upon COPA in our analysis.

⁶IPRA interviewed ██████████ on August 22, 2014. Attachment 14 is an audio recording of that statement; Attachment 15 is a transcript. COPA has not relied on any part of that interview in our analysis.

⁷██████████ commenced a civil action arising out of his arrest on August 14, 2015, entitled ██████████ v. City of Chicago, et al., Case No. :15-cv-██████████ (U.S. District Court, Northern District of Illinois). That action is pending as of the date hereof. COPA has reviewed depositions given in the action by Detective ██████████ (Attachment 62), Sgt. ██████████ (Attachment 63), ██████████ (Attachment 64), CPD Sgt. ██████████ (Attachment 65), and CPD Lt. ██████████ (Attachment 66). Except for the depositions of Detective ██████████ and Sgt. ██████████, COPA has determined that the depositions do not contain information that is material to this investigation.

⁸Attachment 22 is a memorandum of that interview, which IPRA did not audio record.

⁹See *id.*

¹⁰See *id.*

¹¹See *id.*

Detective ██████████

Det. ██████ gave an audio recorded statement to IPRA on June 3, 2015¹² and he subsequently supplied IPRA with a written statement dated February 11, 2016.¹³ He later gave a deposition in a civil action on October 17, 2017.¹⁴ The following is a summary of the material information provided by Det. ██████ in those statements and in that deposition:

On April 29, 2014, Det. ██████ was on patrol and working with Sgt. ██████ when they drove up towards ██████, who was standing with two other individuals by a residence near ████████████████████. Det. ██████ had not any previous dealings with ██████ and did not recognize him. Det. ██████ believed the two other persons to be gang members. ██████ fled on foot as the officers approached; Det. ██████ then pursued him on foot and Sgt. ██████ pursued by vehicle. As ██████ fled, he discarded an unknown object by throwing it over a fence.¹⁵ ██████ fell to the ground after attempting to scale the fence. Det. ██████ then came upon ██████, who was lying on his back. At the time, Det. ██████ stood approximately six feet tall and weighed approximately 225 pounds. Det. ██████ then ordered ██████ to flip over on to his stomach, but ██████ failed to comply. Det. ██████ attempted to gain control of ██████ hands, but ██████ prevented this by flailing his arms. As Det. ██████ was attempting to gain control of ██████ hands, ██████ kicked Det. ██████ in the leg. Det. ██████ then struck ██████ about his *head and face five times using a closed right hand*. Det. ██████ was then able to gain control over ██████ and flip ██████ on to his stomach. Sgt. ██████ then arrived on the scene. Det. ██████ incurred no injuries as a result of the incident.

Det. ██████ admitted that he failed to provide immediate medical care to ██████. Det. ██████ stated that he was on RDO (regular day off) status on August 13, 14, and 20, 2014.

Sergeant ██████████

On October 17, 2017, Sgt. ██████ gave a deposition in a civil action.¹⁶ In material summary, Sgt. ██████ stated that (1) he pursued ██████ by vehicle and lost sight of both ██████ and Det. ██████; (2) he eventually caught up to ██████ and Det. ██████ as Det. ██████ was handcuffing ██████, who was on his stomach.

Sgt. ██████ admitted that he failed to provide immediate medical care to ██████.

B. Documentary Evidence***Arrest Report***

The applicable Arrest Report¹⁷ demonstrates that ██████ arrest took place on April 29, 2014 at approximately 8:31 p.m. The report describes ██████ as then standing approximately five feet, eight

¹²Attachment 34 is an audio recording of that statement; Attachment 35 is a transcript.

¹³Attachment 40.

¹⁴Attachment 62 is a transcript.

¹⁵That item was subsequently recovered by the CPD. It was a clear bag containing 2.5 – 10 grams of suspect cannabis. See Attachment 4, at p. 2.

¹⁶Attachment 63.

¹⁷Attachment 4.

inches tall and weighing approximately 140 pounds. In the report's narrative portion, Det. [REDACTED] wrote, among other things, that he "attempted to place [REDACTED] in custody as he lay on his back, at which time, [REDACTED] began to flail his arms and kick his legs at [arresting officer] not allowing [arresting officer] to gain control of him and pace him on his stomach as repeatedly ordered by [arresting officer]. [Arresting officer] subsequently utilized several closed hand strikes to [REDACTED] head who was now an assailant. [REDACTED] was subsequently rolled onto his stomach and placed in custody without further incident as [Sgt. [REDACTED]] arrived on the scene to assist." The report shows that [REDACTED] was mirandized, interviewed, fingerprinted, and photographed at the CPD's [REDACTED] District Station prior to being transported to [REDACTED] for treatment.

Medical Records

Records of [REDACTED]¹⁸ show that [REDACTED] was presented at that facility's emergency department with three separate scalp lacerations on April 29, 2014 at approximately 11:21 p.m., that he informed hospital staff that he had been hit in back of his head with a gun after running from police, and that hospital staff repaired [REDACTED] wounds utilizing nine staples.

CPD Attendance Records

CPD Attendance and Assignment Records¹⁹ document Det. [REDACTED] as being absent from work on each of August 13, 14, and 20, 2014.

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 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.

¹⁸Attachment 16.

¹⁹Attachment 19.

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

A. Allegation #1 against Detective [REDACTED]: His Use of Force in Effecting [REDACTED] Arrest

A law enforcement officer violates a person's Fourth Amendment constitutional rights when the officer uses force that is not objectively reasonable in effecting that person's arrest.²⁰ A CPD officer who does so also violates Rules 1, 6, and 8 of the CPD Rules of Conduct, which respectively prohibit the violation of a law, the disobedience of a directive, and maltreatment of any person. Whether an officer's use of force in effecting an arrest was objectively reasonable and therefore lawful and proper depends upon a number of factors, including the severity of the crime that the arrested person was suspected of committing, whether that person posed an immediate threat to the officer's safety or to the safety of others, and whether he was actively resisting arrest or attempting to evade arrest by flight.²¹

We find that there is ample evidence demonstrating that Det. [REDACTED] use of force in effecting [REDACTED] arrest was not objectively reasonable and not in accord with CPD policy. [REDACTED] was on the ground when Det. [REDACTED] came upon him. [REDACTED] was unarmed. Det. [REDACTED] then outweighed [REDACTED] by eighty-five pounds. No evidence suggests that Det. [REDACTED] then had any reason to suspect that [REDACTED] had committed a violent or particularly serious crime or that he posed an immediate safety threat to anyone, thereby possibly justifying significant force to prevent his escape. Nevertheless, and by his own admission, Det [REDACTED] then struck [REDACTED] about the head and face five times. Det. [REDACTED] sustained no injuries as a result of the incident. That Det. [REDACTED] hands were uninjured is of particular significance in that we believe this lack of injury is suggestive that Det. [REDACTED] used an instrument in striking [REDACTED] head. Furthermore, [REDACTED] opinion that [REDACTED] head injuries were probably not caused by a fist and that those injuries could have been caused by a gun further supports the suggestion that Det. [REDACTED] struck [REDACTED] head with more than just a fist.

Det. [REDACTED] claimed that he struck [REDACTED] only after [REDACTED] had kicked him in the leg during Det. [REDACTED] struggle to gain control over [REDACTED]. Accepting that claim as true, COPA cannot at the same time find that such a measure of resistance would have led a reasonable officer at the scene to conclude that repeated blows to [REDACTED] head and face (whether with a fist or a blunt instrument) were necessary for defensive purposes or for purposes of compelling [REDACTED] to submit to handcuffing.²² And though it is true that an applicable CPD directive authorized the use of direct mechanical techniques such as punching in order to effect the arrest of a resistor who is using force

²⁰*Graham v. Connor*, 490 U.S. 386, 388 (1989).

²¹*Id.*, 490 U.S. at 396.

²²See *Graham v. Connor*, 490 U.S. at 386 (the reasonableness of a particular use of force "must be judged from the perspective of a reasonable officer on the scene").

or threatening the imminent use of force,²³ a separate applicable directive only permits officers to use force that is *reasonably believed to be necessary* to effect such an arrest.²⁴

For the above reasons, COPA finds that Allegation 1 against Det. [REDACTED] is supported by a preponderance of the evidence. The allegation is therefore sustained.

B. Allegations Involving the Officers' Failure to Get [REDACTED] Immediate Medical Treatment

Det [REDACTED] and Sgt. [REDACTED] each admitted that he failed to obtain immediate medical treatment for [REDACTED]. Their conduct therefore violated a CPD directive applicable at the time of the incident, which provided that “[i]n the event that an arrestee requires immediate medical care, the arrestee will be transported to the nearest approved emergency room ... prior to any further arrest processing.”²⁵ Their conduct therefore violated Rules 5, 6, and 8 of the CPD Rules of Conduct, which respectively prohibit the failure to perform a duty, the disobedience of a directive, and maltreatment of any person.

For the above reasons, COPA finds that Allegation 2 against Detective [REDACTED] and Allegations 1 and 2 against Sgt. [REDACTED] are sustained.

C. Allegations Involving Detective [REDACTED] Alleged Verbal Abuse

COPA finds that there is a lack of evidence to support the allegations of verbal abuse. Specifically, CPD documentation shows that Det. [REDACTED] was absent from work on the dates that his misconduct allegedly occurred. Accordingly, Allegations 3 and 4 against Det. [REDACTED] are therefore unfounded.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Detective [REDACTED]

i. **Complimentary and Disciplinary History:** Deployment Operations Center Award, 1; Problem Solving Award, 2; Emblem of Recognition – Physical Fitness, 11; Attendance Recognition Award, 4; Presidential Election Deployment Award 2008, 1; Special Commendation, 2; 2004 Crime Reduction Ribbon, 1; Department Commendation, 12; Honorable Mention, 233; Police Officer Of The Month Award, 1; Complimentary Letter, 11; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; Top Gun Arrest Award, 1; Joint Operations Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 1. Det. [REDACTED] had no prior sustained findings of misconduct within the past 5 years.

ii. Recommended Penalty, by Allegation

²³ See CPD General Order G03-02-02 *Force Options* (Effective Date: May 16, 2012) at Part III.C.

²⁴ See CPD General Order G03-02 *Use of Force Guidelines* (Effective Date: October 1, 2002) at Part II.A (“excessive force or unwarranted physical force ... will not be tolerated”).

²⁵ CPD General Order G06-01-01 *Field Arrest Procedures* (Effective Date: December 19, 2012), Part X.A.

Allegation 1: Struck ██████████ on the head with a gun. **Recommended Penalty:** 15-Day Suspension.

Allegation 2: Failed to obtain immediate medical attention for ██████████. **Recommended penalty:** 1-Day Suspension.

b. Sergeant ██████████²⁶

i. Complimentary and Disciplinary History: Deployment Operations Center Award, 1; Problem Solving Award, 1; Emblem of Recognition – Physical Fitness, 15; Attendance Recognition Award, 3; Presidential Election Deployment Award 2008, 1; 2004 Crime Reduction Ribbon, 1; Department Commendation, 8; Honorable Mention, 224; Police Officer Of The Month Award, 1; Complimentary Letter, 7; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; Top Gun Arrest Award, 1; Joint Operations Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 1. Sgt. ██████████ had no prior sustained findings of misconduct within the past 5 years.

ii. Recommended Penalty, by Allegation

Allegation 1: Struck ██████████ on the head with a gun. **Recommended Penalty:** 15-Day Suspension.

Allegation 2: Failed to obtain immediate medical attention for ██████████. **Recommended penalty:** 1-Day Suspension.

IX. CONCLUSION

Based on the analysis set forth above, COPA finds and recommends:

CPD Member	Allegation	Finding / Recommendation
██████████	<p>It is alleged that on 29 April 2014, at approximately 2030 hours, in the vicinity of ██████████ ██████████, in the alley, you:</p> <ol style="list-style-type: none"> 1.) Struck ██████████ on the head with a gun; and 2.) Failed to obtain immediate medical attention for ██████████. 	<p>Sustained / 15-Day Suspension</p> <p>Sustained / 1-Day Suspension</p>

²⁶ On September 15, 2015, Sgt. ██████████ entered in a mediation agreement with IRPA regarding log# 1071109. In that agreement, Sgt. ██████████ agreed to not contest the following: 1) the allegations of misconduct made against him in log 1071109; (2) any finding of “Sustained” for the allegations of misconduct made against him under log 1071109, and; (3) a 1-day suspension for any finding of sustained under log 1071109.

	<p>It is alleged that on or about 13/14 August, in the vicinity of [REDACTED], at approximately 1100 hours, you:</p> <p>3.) Verbally abused Mr. [REDACTED] in that you called him, "pussy, faggot, and bitch," and asked him if he was gay.</p> <p>It is also alleged on or about 20 August 2014, in the vicinity of [REDACTED], between 1800 and 1900 hours, you:</p> <p>4.) Harassed Mr. [REDACTED] in that you handcuffed him, searched him, and asked him if he was gay for no reason.</p>	<p>Unfounded</p> <p>Unfounded</p>
<p>[REDACTED]</p>	<p>It is alleged that on 29 April 2014, at approximately 2030 hours, in the vicinity of [REDACTED], in the alley, you:</p> <p>1.) Failed to obtain immediate medical attention for [REDACTED].</p> <p>2.) Failed to transport [REDACTED] from the scene to the hospital prior to Mr. [REDACTED] transport to the police district.</p>	<p>Sustained / 1-Day Suspension</p> <p>Sustained / 1-Day Suspension</p>

Approved:

[REDACTED]

July 22, 2019

Andrea Kersten
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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