

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	November 16, 2015
Time of Incident:	1:00 am
Location of Incident:	West Lake Street
Date of IPRA Notification:	November 16, 2015
Time of IPRA Notification:	3:05 am

On November 16, 2015, officers responded to a battery in progress call involving two females fighting. [REDACTED] who was present, had been left there by her friends and the accused officers agreed to drive her to the train. [REDACTED] alleges that during the transport, they pulled over and the officer who was driving ordered her out of the vehicle. Once out of the vehicle, that officer punched her in the face and then pushed her back into the vehicle. The officers continued to the train station, where [REDACTED] exited the vehicle and entered the station.

**II. INVOLVED PARTIES**

Involved Sergeant #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED]/07, Rank: Sergeant, <sup>2</sup> Unit of Assignment: [REDACTED], DOB: [REDACTED]/84, Male, Hispanic
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED]/12, Rank: Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED]/80, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 96, Female, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	It is alleged that on November 16, 2015, at approximately 1:00 am, on or near West Lake Street, Officer [REDACTED]	

<sup>1</sup> 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.

<sup>2</sup> Sergeant [REDACTED] was a Police Officer at the time of this incident and has since been promoted. He will be referred to by his current rank of Sergeant throughout this report.

	<ol style="list-style-type: none"> <li>1. Punched [REDACTED] without justification, in violation of Rules 6 and 8.</li> <li>2. Failed to complete a Tactical Response Report, in violation of Rule 6.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p>
Sergeant [REDACTED]	<p>It is alleged that on November 16, 2015, at approximately 1:00 am, on or near West Lake Street, Sergeant [REDACTED]</p> <ol style="list-style-type: none"> <li>1. Punched [REDACTED] without justification, in violation of Rules 6 and 8.</li> <li>2. Failed to complete a Tactical Response Report, in violation of Rule 6.</li> </ol>	<p>Unfounded</p> <p>Unfounded</p>

**IV. APPLICABLE RULES AND LAWS**

Rules

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

Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.

General Orders

G03-02 – Use of Force (effective October 1, 2002).

G03-02-05 – Incidents Requiring the Completion of a Tactical Response Report (effective October 29, 2014).

## V. INVESTIGATION<sup>3</sup>

### a. Interview of ██████████

On January 20, 2016, ██████████ (hereinafter, ██████████) provided an audio recorded statement to IPRA investigators and provided the following account regarding an incident that occurred on November 16, 2015, at approximately 1:00 am. ██████████ was out with some friends in the Garfield Park area. ██████████ and her friends were hanging out outside. ██████████'s ride had left without her and she and another female friend were trying to decide what to do. ██████████ described this conversation as a “big commotion,” but said there was no physical fight between her and the other woman. Someone called the police because of the commotion and multiple officers arrived. Officers approached ██████████ and inquired as to what was going on. ██████████ told the officers she needed a ride and she asked the officers to drive her to her aunt's house at ██████████ and ██████████. The officers said they could not drive her. ██████████ then asked the officers for a ride to the train. Two male officers (now known to be Sgt. ██████████ and Officer ██████████) agreed. ██████████ initially declined and said she was fine but ultimately got into the back of their police car. One of ██████████'s friends had her phone, which ██████████ indicated had a dead battery. The officer who was driving retrieved the phone from ██████████'s friend, but he did not give it to ██████████ while she was in the car.

Once the officers started driving, ██████████ asked for directions to get to her aunt's house. The driver officer laughed at her for not knowing where she was. ██████████ stated that if the officers were friendly they would have been more helpful and told her where they were taking her and offered to take her to the hospital. ██████████ then got “smart” with them and stated that they could not stop people from killing each other because they were too busy harassing her. At this point the driver officer stopped the vehicle and got out. He opened the back door and ordered ██████████ to get out of the vehicle. Once she did, the officer punched her in the face. The officer then used his “stick” to hit her in the face and arm.<sup>5</sup> ██████████ thought that the officer was going to pull out his gun and “finish me off.”<sup>6</sup> The officer pushed ██████████ back into the car and then he got back into the driver's seat. During this stop, the passenger officer had remained in the car the whole time. ██████████ lied and told the officers that she recorded the incident so that they would leave her alone. The officers then dropped ██████████ off at a train station downtown. Before the officers left, ██████████ took pictures on her phone of their police car<sup>7</sup>.

██████████ stated that once she got on the train her phone died so she used someone else's phone to call 911. Officers met her at the ██████████ train station and brought her to the ██████████ District to complete a report.

██████████ described the driver officer as a tall white male with a slender build, approximately 37 years old, approximately 6'3”, 200 pounds with blonde hair and blue eyes. ██████████ declined to provide names or contact information for anyone she was with prior to the police arriving. When asked about the injuries she sustained, ██████████ said she had a cut above

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<sup>3</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>4</sup> Att. 34.

<sup>5</sup> Att. 34, at 5:30 and 23:15.

<sup>6</sup> Att. 34, at 24:40.

<sup>7</sup> ██████████ stated she would email these photos to IPRA, but she never did.

her left eye and her arm was swollen. ██████ did not seek medical treatment because “it was just swollen.”<sup>8</sup>

Upon being asked, ██████ denied that she consumed alcohol on the date of incident. ██████ repeatedly denied that there was any physical fight on the street at any point. During her statement, ██████ changed the sequence of events. ██████ initially said that the police were called to the area because of the conversation she had with another friend after their ride left them there. Later, ██████ stated that her ride only left because police officers arrived.

#### **b. Interview of Accused Officer ██████**

In a statement to COPA on May 10, 2019, Officer ██████ identified himself as the officer who was the driver of the vehicle that transported ██████ on November 16, 2016.<sup>10</sup> His partner on this date was Sergeant ██████ who sat on the passenger side during the transport of ██████. Officer ██████ stated that he responded to a call of females fighting. When he arrived on scene, there were people verbally fighting and hair everywhere. Sergeant ██████ was present and indicated to Officer ██████ that they were trying to separate the parties. Officer ██████ learned that ██████ had come up to the west side with some friends from the south side. ██████ was loud and acting intoxicated and her friends had left her there. Officer ██████ did not recall if ██████ had any injuries at the time. Sergeant ██████ instructed Officer ██████ to drive ██████ to the train, since it was not a safe area for her to be left alone. Officer ██████ stated that ██████ had not asked for a ride herself, but she was happy to accept a ride to the train. During the transport, ██████ became upset that the officers would not drive her all the way to the south side. Officer ██████ stated that from the time they departed the scene on the west side to the time they arrived at the train station, he never stopped the vehicle, save for traffic lights and stop signs. At no point did Officer ██████, Sergeant ██████ or ██████ exit the vehicle until arriving at the ██████ Street and ██████ Street train station. Once at the station, ██████ stated that she did not have any money to get on the train, so the officers let her onto the platform for free. As the officers started to leave, ██████ ran out and took pictures on her phone of their police vehicle. Officer ██████ denied ever punching ██████ and stated that, if he had an asp, he never took it out.

#### **c. Interview of Accused Sergeant ██████**

During his statement to COPA on June 20, 2019, Sergeant ██████ viewed portions of in-car video footage from his police vehicle as he and Officer ██████ arrived at the scene of a disturbance relative to this log number. Upon viewing the footage, Sergeant ██████ identified himself as the officer shown exiting the passenger side of the police vehicle. Sergeant ██████ identified Officer ██████ as the officer shown exiting the driver side of the police vehicle.

Sergeant ██████ indicated that, upon arriving on the scene, he encountered three black females; two females were verbally arguing and “trying to get to each other, with the third female

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<sup>8</sup> Att. 34, at 25:28.

<sup>9</sup> Att. 36.

<sup>10</sup> Officer ██████ was initially brought in as a witness officer. However, due to his identification of himself as the driving officer his status changed to “accused” and he was served with allegations and administrative proceedings rights. Officer ██████ agreed to continue with the statement.

<sup>11</sup> Att. 45.

separating them.”<sup>12</sup> Sergeant ██████ noticed that one of the arguing females (now known to be ██████) had visible facial injuries. When Sergeant ██████ inquired as to how ██████ sustained these injuries, the third female who was separating the other two informed him that “the two females that were trying to go at each other had just fought inside the vehicle.”<sup>13</sup>

Once the altercation had subsided, the two other females drove off, leaving ██████ alone on the street. Sergeant ██████ stated that Sergeant ██████ asked ██████ how she had sustained the injuries to her face, but ██████ was not cooperative. ██████ denied needing any medical assistance. Sergeant ██████ offered ██████ numerous options for relocating her. Eventually ██████ agreed to accept a ride to the train station from Officer ██████ and Sergeant ██████. Sergeant ██████ stated that he could smell alcohol on ██████ breath, but he didn’t believe she was intoxicated.

Sergeant ██████ did not remember making any stops during the transport of ██████ from the scene to the train station. Sergeant ██████ did not remember ever exiting the vehicle at any point during the trip, nor did he remember Officer ██████ exiting the vehicle prior to arriving at the train station. Once at the train station, Officer ██████ and Sergeant ██████ walked ██████ in, but ██████ followed them back out and took photos of the police vehicle on her phone. Sergeant ██████ and Officer ██████ got back into the vehicle and returned to their district.

Sergeant ██████ denied using any force or witnessing Officer ██████ use any force on ██████

#### d. Additional Interviews

COPA conducted interviews of witnesses Sergeant ██████ ██████ and Officer ██████ ██████.<sup>15</sup> Neither Sergeant ██████ nor Officer ██████ had any recollection of any of the events leading up to this incident.

#### e. Digital Evidence

**Evidence Technician photographs**<sup>16</sup> taken on November 16, 2015, depict ██████ with a swollen left eye, contusion to the forehead, a large scratch from the middle of the forehead down across the bridge of the nose, and scratches or abrasions to the right cheek, under the right eye, just left of the nose and on the left cheek.

**In-Car Camera video**<sup>17</sup> from vehicle ██████ on November 16, 2016, from approximately 12:03 am to 12:35 am, depicts a police vehicle arriving to the scene of a disturbance. An officer is heard saying, “they are really going at it.” Loud female voices are heard screaming as two male officers exit the vehicle and walk toward the disturbance. No females are depicted in the video footage at any point. The recording ends in the middle of a conversation in which a female can be asking who has her phone.

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<sup>12</sup> *Id.* at 9:11.

<sup>13</sup> *Id.* at 9:56.

<sup>14</sup> Att. 41.

<sup>15</sup> Att. 33.

<sup>16</sup> Att. 24.

<sup>17</sup> Att. 49.

#### f. Documentary Evidence

An **Original Case Incident Report**<sup>18</sup> states that ██████ became involved in a verbal altercation with a girl stemming from her boyfriend showing interest in ██████. Police responded to the disturbance and ██████ asked for assistance getting back to her aunt's home since she did not want to continue travelling in the vehicle with her antagonist. ██████ went with two officers (now known to be Officer ██████ and Sergeant ██████) toward the train station. During the trip, ██████ stated that the officers stopped and took her out of the car. Once ██████ was out of the car, one of the officers punched her in the face. ██████ lost consciousness and did not regain it until she arrived at the train station. When ██████ exited the vehicle to go to the train, she took a picture of the police vehicle. ██████ stated she had no money and no attendant was present, so she let herself through the turnstile to get to the train platform. ██████ got on the train, but then got off at the ██████ stop where she again requested police assistance.

An **Initiation Report**<sup>19</sup> states that ██████ alleged that she was involved in an altercation with a woman. The accused responded after the altercation and was requested by ██████ to take her to ██████ and ██████. The accused said they would take her to the ██████ Line train. During the ride, one the accused told ██████ to exit the vehicle. When ██████ did so, the accused punched her in the face. ██████ remembers being dropped off at the ██████ and ██████ CTA station, where she rode the train to ██████ before calling the police. ██████ refused medical attention.

An **OEMC Event Query**<sup>20</sup> reveals that there was a 911 call at 12:20 am on November 16, 2015, for a battery in progress involving two females fighting at ██████.

## 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.

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<sup>18</sup> Att. 7.

<sup>19</sup> Att. 6.

<sup>20</sup> Att. 13.

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 ██████ account of the incident to lack credibility. During her interview, ██████ changed the sequence of events. COPA also found many inconsistencies in ██████ narrative, including:

- ██████ initially said that the police were called to the area because of the argument she had with a friend *after* their ride left them there. Later in the interview, ██████ said that her ride only left *because* police officers arrived.
- ██████ stated that her phone was dead, but later stated that she took photos of the police vehicle; she also says at another point that her phone died after she got on the train.
- ██████ stated that the officer would not give her her cell phone while she was in the car, but later says she lied and told the officers that she recorded the whole incident. This lie would not have held any weight if the officers were in possession of her cell phone at the time.
- ██████ insisted there was no physical altercation prior to getting in the car with the officers. However, she criticized the officers for not asking her if she wanted to go to the hospital. If there was nothing wrong with her physically prior to getting in the car, it does not make sense that the officers should have offered to take her to the hospital.
- ██████ told responding officers that she lost consciousness after being punched in the face and she did not regain consciousness until arriving at the train station. However, during her interview with IPRA, ██████ stated she did not lose consciousness at any point.
- In her statement to IPRA, ██████ described the driver officer as a tall (approximately 6'3") white male with a slender build, approximately 37 years old, approximately 200 pounds. However, neither of the involved officer descriptions ██████ provided to responding officers match this. In both the police report and the initiation report, the responding officers list the involved officer descriptions as 5'6", 130 pounds, in his 30's, and 5'7", 150 pounds, in his 20's.
- In her statement to IPRA, ██████ alleged that after she was punched by the driver officer, that same officer took out a stick and struck her in the face and arm. There is no indication that ██████ made any claim of being struck by a stick (or any similar object) when she spoke with the officers who authored the Original Case Incident Report or the Initiation Report.

In addition to these inconsistencies, ██████ refused to provide full names or contact information for anyone she was with on the night of this incident. Therefore, COPA was unable to interview any civilian witnesses to confirm ██████ account of events.

On the other hand, COPA found both officers' accounts of the incident to be credible and consistent with other evidence in the case.<sup>21</sup> COPA did identify some inconsistencies between the two officers' statements,<sup>22</sup> however, COPA finds these inconsistencies to be reasonable given both the amount of time between the incident and the officers' statements as well as the different perspectives of the two officers. Additionally, COPA noted the emotional response that Officer ██████ had during his interview and found his shock and indignation in response to the allegations to be genuine.

COPA finds that it is more likely than not that ██████ injuries resulted from her altercation with the other civilian female. ██████ repeatedly denied that there was any physical fight with the other female. However, given the 911 call describing a battery in progress involving two females fighting, along with the audio from the In-Car Camera footage where you can hear a male commenting, "they are really going at it," COPA believes it is more likely than not that ██████ injuries were a result of a physical altercation prior to the involved officers arriving on scene. The numerous scratches and abrasions to ██████ face are more indicative of her involvement in a fight, than her having been attacked with a single punch (and multiple strikes with an impact weapon) by Officer ██████ COPA additionally finds that it is more likely than not that ██████ was not struck by a stick by Officer ██████

**a. Allegations against Officer ██████**

Based on the above analysis, COPA finds both allegations against Officer ██████ to be Not Sustained. COPA determined ██████ account of events to lack credibility, and she refused to provide any contact information for witnesses who could corroborate her version of events. Both Officer ██████ and Sergeant ██████ deny using any force on ██████ Officer ██████ stated that ██████ had visible facial injuries prior to transporting her and one of the other females indicated that she sustained those injuries as a result of a fight with another female. Officer ██████ denied making any prolonged stop or exiting the vehicle at any point during the transport of ██████ from the scene to the train station. Given the lack of supporting evidence (eg. video footage or eye witness testimony) to corroborate either version of the events, COPA cannot determine by a sufficiency of the evidence whether or not Officer ██████ punched ██████ It follows, that COPA cannot determine by a sufficiency of the evidence whether Officer ██████ was required to complete a Tactical Response Report. Therefore, both allegations against Officer ██████ are **Not Sustained**.

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<sup>21</sup> E.g., the dialogue heard on the in-car camera footage supports both officers' accounts that a physical altercation occurred prior to them have any interaction with ██████ Additionally, the Event Query indicates that two females were fighting prior to any police response.

<sup>22</sup> E.g., Officer ██████ stated that ██████ was acting intoxicated, while Sergeant ██████ stated he smelled alcohol on ██████ breath but did not believe she was intoxicated. Also, Officer ██████ did not recall ██████ having any visible injuries, while Sergeant ██████ recalled ██████ having visible facial injuries.



**b. Allegations against Sergeant [REDACTED]**

[REDACTED] consistently indicated that the officer that punched her was the driver officer. Based on both involved officers' statements to COPA, it is undisputed that Officer [REDACTED] was the driver officer and Sergeant [REDACTED] was the passenger officer. As such, the evidence is clear and convincing that Sergeant [REDACTED] the passenger, did not punch [REDACTED] and allegation #1 must be **unfounded**. Since there is insufficient evidence that any Department member used excessive (or any) force, and no allegations were made against the passenger officer, COPA finds the evidence is clear and convincing that the allegations against Sergeant [REDACTED] are **Unfounded**.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on November 16, 2015 at approximately 1:00am, on or near West Lake Street, Officer [REDACTED]	Not Sustained
	1. Punched [REDACTED] without justification, in violation of Rules 6 and 8.	
Sergeant [REDACTED]	2. Failed to complete a Tactical Response Report, in violation of Rule 6.	Not Sustained
	It is alleged that on November 16, 2015 at approximately 1:00am, on or near West Lake Street, Sergeant [REDACTED]	Unfounded
1. Punched [REDACTED] without justification, in violation of Rules 6 and 8.		
2. Failed to complete a Tactical Response Report, in violation of Rule 6.	Unfounded	

Approved:

[REDACTED]

August 28, 2019


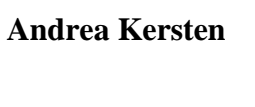
\_\_\_\_\_  
 Andrea Kersten  
 Deputy Chief Administrator – Chief Investigator

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	<b>5</b>
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	<b>Andrea Kersten</b>