

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

| | |
|----------------------------|----------------------------------|
| Date of Incident: | July 19, 2016 |
| Time of Incident: | Approximately 11:30 A.M. |
| Location of Incident: | ██████████ St, Chicago, IL 60644 |
| Date of IPRA Notification: | July 19, 2016 |
| Time of IPRA Notification: | Approximately 1:31 P.M. |

On July 19, 2016 Chicago Police Department (“CPD”) Officers ██████████ (“Officer ██████████” and ██████████ (“Officer ██████████”) were assisting a tactical team with the execution of an arrest warrant for ██████████ (██████████). The officers identified ██████████ on the porch of his residence. When the officers approached to arrest ██████████ he retreated inside. Officer ██████████ attempted to follow ██████████ into the residence but was impeded by ██████████ (██████████) at the doorway. It is alleged that the accused officer used unnecessary force to remove ██████████ from his path. Officer ██████████ assisted in arresting ██████████ in the kitchen near the rear exit of the home. During the arrest ██████████ and ██████████ (██████████) verbally engaged Officer ██████████. It is alleged that the Officer ██████████ called ██████████ and ██████████ “racist,” and said the words “fuck you.” Finally, it is alleged that after executing the arrest warrant for ██████████ Officer ██████████ committed misconduct by failing to fill out a Tactical Response Report (TRR) after making contact with ██████████ during the arrest. COPA investigated these allegations and has made findings based on that investigation.

II. INVOLVED PARTIES

| | |
|----------------------|---|
| Involved Officer #1: | ██████████ Star # ██████████ Employee ID# ██████████ DOA: ██████████, 2000, Detective, DOB: ██████████, 1976, Male, Hispanic/White |
| Involved Officer #2: | ██████████ Star # ██████████ Employee ID# ██████████, DOA: ██████████, 2004 Police Officer, DOB: ██████████ 1977, Male, Hispanic/White |

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.

Involved Individual #1: [REDACTED] Female, Black
 Involved Individual #2: [REDACTED] Female, Black
 Involved Individual #3: [REDACTED] DOB: [REDACTED]/1987, Male, Black

III. ALLEGATIONS

| Officer | Allegation | Finding |
|--------------------|--|--|
| Officer [REDACTED] | <p>It is alleged that on or about 19 July 16 at approximately 1130 hours, at or near [REDACTED] Street, Chicago, Illinois, Officer [REDACTED]</p> <ol style="list-style-type: none"> 1. Entered [REDACTED] residence without justification 2. Punched [REDACTED] without justification 3. Stated words to the effect of “you are a racist” to [REDACTED] 4. Stated words to the effect of “Fuck You” to [REDACTED] 5. Failed to complete a Tactical Response Report | <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> |

IV. SUMMARY OF EVIDENCE

A. Interviews

*Officer [REDACTED]*²

On July 19, 2016 Officer [REDACTED] was working with Officer [REDACTED] in gang enforcement. They were aiding [REDACTED] district tactical team in the arrest of [REDACTED] ([REDACTED]). The tactical team informed Officers [REDACTED] and [REDACTED] that [REDACTED] had an open warrant for his arrest and pointed to [REDACTED] location. [REDACTED] had previously seen [REDACTED] and an African-American woman (now known to be [REDACTED]) on the front porch of [REDACTED] W [REDACTED] Ave. while surveying the neighborhood. Officer [REDACTED] (“Officer [REDACTED]” informed Officer [REDACTED]

² Attachment 26.

██████████ that the warrant was for delivery of cannabis. The officers did not verify the warrant because they believed Officer ██████████ knowledge of the warrant was sufficient.

Officers ██████████ and ██████████ approached ██████████ on a “ruse” so as not to frighten away ██████████³ Once the officers reached the porch stairs they informed ██████████ of the warrant. ██████████ retreated into the house. There was not a gate between the porch and the street. The officers believed they were justified in entering the residence because they were in hot pursuit of ██████████. The officers attempted to enter the residence but were blocked by ██████████ who stood in the doorway and extended her arm to block the entry. Officer ██████████ recognized ██████████ to have a catheter in her right arm.

Officer ██████████ was able to make it past ██████████ without incident. Officer ██████████ had to squeeze past ██████████ once her attention was directed inside. Officer ██████████ characterized the contact made with ██████████ a “light brush.” Once inside the officers encountered ██████████ as they arrested ██████████ and ██████████ referred to the officers as clowns and made threats to punch them in the face. ██████████ complied with the officers and attempted to calm down ██████████ and ██████████

Officer ██████████ denies ██████████ complained an injury to her arm. Officer ██████████ believes that ██████████ knew the officers were there because of an arrest warrant for ██████████ because the officers repeatedly informed her during the time of the incident. Officer ██████████ denies punching anyone, witnessing any physical altercation involving ██████████ or pushing ██████████. Officer ██████████ admits to possibly calling ██████████ a racist⁴ but does not recall saying “fuck you.”

Finally, Officer ██████████ did not fill out a Tactical Response Report because he did not believe force was used by or on the officers on scene.

*Officer ██████████*⁵

On July 19, 2016 Officer ██████████ was working with Officer ██████████ on directed mission surveying the ██████████ district. Around 11:30am Officer ██████████ observed ██████████ district tact team conducting the arrest of ██████████. Officer ██████████ did not assist with the arrest. Officer ██████████ discussed the open warrant for ██████████ and pointed to him on the porch of ██████████ W ██████████ Ave. The tactical team indicated that ██████████ had ran from the porch. Having identified ██████████. Officers ██████████ and ██████████ approached ██████████ and informed him of the active warrant. ██████████ fled inside the residence. ██████████ left the door open and the officers followed him inside, ██████████ blocked the way as officers ██████████ and ██████████ attempted to enter the residence. The officers were able to “wiggle” past her without causing injury or knocking ██████████ off her feet. Officer ██████████ would not describe the entry as a forced entry. The officers apprehended ██████████ in the kitchen near the rear door. ██████████ and ██████████ were present but not in the kitchen.

Officer ██████████ did not physically interact with ██████████. Officer ██████████ informed Officer ██████████ that ██████████ had pushed him, Officer ██████████ did not witness this contact. The officers noticed the

³ The tac team had warned the officers that ██████████ would slip into the house if they knew the officers were there to arrest him.

⁴ Officer ██████████ believed the verbal attacks from ██████████ to be racially motivated.

⁵ Attachment 19

catheter in [REDACTED] arm, but did not learn that the catheter in her arm had begun leaking, or that she required medical attention after the incident. Officer [REDACTED] did not view Officer [REDACTED] make physical contact with [REDACTED]. Officer [REDACTED] did not hear Officer [REDACTED] call [REDACTED] a racist or say “fuck you.” The reason the officers did not arrest [REDACTED] for obstruction was due to their knowledge of her health.

Officer [REDACTED] stated that he did not know that [REDACTED] lived at [REDACTED] W [REDACTED] Ave. prior to the arrest.

[REDACTED] 6

[REDACTED] states that she was standing on her front porch with her son [REDACTED] and his girlfriend [REDACTED] when the police first approached her home. Upon the police asking if they lived in the house [REDACTED] turned back and entered through the front door. Officers [REDACTED] and [REDACTED] pushed past [REDACTED] and entered the home.

The officers encountered [REDACTED] in the kitchen, toward the rear of the home. [REDACTED] alleges that [REDACTED] made intentional contact with her arm as he was attempting to handcuff [REDACTED]. Because of this contact, [REDACTED] alleges that she received a scratch on her arm and that her medical port began leaking.

[REDACTED] alleges that Officer [REDACTED] called her a racist, said fuck you to her, and told her that “the devil is a lie.”

B. Digital Evidence

Body Worn Camera (“BWC”) 7

BWC from Officer [REDACTED] shows the event immediately following the arrest after the officers exit the residence at [REDACTED] W [REDACTED] Ave. [REDACTED] and [REDACTED] are seen accusing Officer [REDACTED] of using unnecessary force on [REDACTED]. Specifically, [REDACTED] says that her arm port began leaking, and makes frequent request for a white shirt. [REDACTED] states that [REDACTED] “put [his] hands on” [REDACTED]. [REDACTED] responds by saying he will call a white shirt if [REDACTED] wants to go to jail.

BWC from Sgt. [REDACTED] shows [REDACTED] and [REDACTED] explaining the incident. [REDACTED] alleges that Officer [REDACTED] pushed by her on the way into the house, and then made separate contact with her arm in the kitchen.

[REDACTED] showed Sgt. [REDACTED] a video recording of the verbal exchange between [REDACTED] and Officer [REDACTED] in the kitchen.⁸ The cell phone video shows Officer [REDACTED] taking [REDACTED] into custody and loudly repeating the word “obstruction.” All other comments by Officer [REDACTED] in the video are inaudible. No contact between [REDACTED] and Officer [REDACTED] is shown in the cell phone video.

⁶ Attachment 6.

⁷ Attachment 21

⁸ Sargent [REDACTED] memorialized the cell phone the video via his body warn camera.

C. Documentary Evidence

Arrest Warrant for [REDACTED]⁹

The warrant issued July 12, 2019 lists [REDACTED] address as [REDACTED] W [REDACTED] Ave. The offense listed on the warrant is for Manufacture, Delivery, or possession with intent to deliver 2.5 – 10g of cannabis, a class A misdemeanor.

Arrest Report for [REDACTED]¹⁰

On July 19, 2019 Officer [REDACTED] and [REDACTED] observed [REDACTED] on the porch of [REDACTED] W [REDACTED] Ave. Officers were aware of an active warrant out for [REDACTED]. The officers approached [REDACTED] and informed him of the active warrant. [REDACTED] “fled” through the residence at [REDACTED] W [REDACTED] Ave. Officers pursued [REDACTED] but [REDACTED] attempted to block their entry and pushed Officer [REDACTED] away. Officer [REDACTED] was able to “squeeze past” [REDACTED] “without force or incident” and entered the residence. Officers placed [REDACTED] into custody at the rear inside door. [REDACTED] and [REDACTED] were combative with the officers. The report notes [REDACTED] to have a surgically implanted catheter in her arm. The officers considered [REDACTED] medical condition when making the decision not to charge her with obstruction.

Evidence Technician Photos¹¹

Multiple photos were taken of [REDACTED]. Photos capture the front side of [REDACTED] with close-ups of her arms and catheter port. No apparent injuries are visible in the photographs.

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
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.

⁹ Attachment 9.

¹⁰ Attachment 30.

¹¹ Attachment 35.

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 AND CONCLUSION

Officer ██████ entered ██████ residence with justification

The Fourth Amendment protects a person's right to be secure in their home against unlawful searches and seizures.¹² When an officer of the peace enters a person's residence the Fourth Amendment is implicated. In this case, when the officers entered ██████ W ██████ Ave. they did so while for two reasons: 1.) in hot pursuit of a fleeing individual, and 2.) to detain someone subject to an active arrest warrant.

The Supreme Court has held that for Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within.¹³ Even if it becomes known after entry that the residence is not the suspect's, the entry is justified if the police had "reasonably believed" that (1) the suspect resided at the location and (2) the suspect would be present.¹⁴

Because the warrant listed ██████ W Hubbard Ave. as ██████ address, and the tactical team informed the officers about the warrant and ██████ location, we find the officers were justified to enter the home to complete the arrest. The tac team informed Officers ██████ and ██████ that there was an active warrant, that ██████ was on the porch of the residence, and that each time they approached he would enter the residence. Officers ██████ and ██████ knew that ██████ was present at ██████ W ██████ Avenue when they entered to arrest him because the officers saw him enter the home.

Equally important, we find the officers were justified in entering the home because they were in "hot pursuit" of ██████ Hot pursuit means some sort of a chase, but not necessarily an extended chase.¹⁵ The fact that a pursuit ends almost as soon as it begins does not render it any the less a hot pursuit sufficient to justify a warrantless entry into a suspect's house.¹⁶ Additionally, a

¹² USCS Const. Amend. 4, Part 1 of 11

¹³ *Payton v. New York*, 445 U.S. 573, 603 (1980).

¹⁴ *United States v. Graham*, 553 F.3d 6, 12 (1st Cir. 2009).

¹⁵ *Santana*, 427 U.S. 38 at 43.

¹⁶ *Santana*, 427 U.S. 38 at 43.

suspect may not defeat an arrest which has been set in motion in a public place by the expedient of escaping into a private place.¹⁷

It is undisputed that [REDACTED] was in public view on his porch and fully visible to officers when they approached [REDACTED] W [REDACTED] Ave. Because he was outside, fully visible and hearable he did not have a reasonable expectation of privacy to as to prevent officers of the peace from apprehending him based on an arrest warrant. Simply entering the house did not suddenly defeat the arrest, as the officers began hot pursuit the moment he left the public space of his porch to the privacy of his home. Because the officers were in hot pursuit of [REDACTED] when they entered the residence to arrest him based on probable cause, they were justified in doing so.

Accordingly, COPA has reached a finding of exonerated for allegation 1.

Officer [REDACTED] Pushed [REDACTED]

[REDACTED] described the alleged contact multiple times. The first description appears in the BWC obtained from [REDACTED] after the arrest. The second description appears in the BWC from Sgt. [REDACTED]. The last description is in her recorded statement with COPA. Across the descriptions there is an inconsistency in the level of force used. For example, [REDACTED] alleged in her COPA statement that Officer [REDACTED] pushed her to remove her from the doorway, and that he punched her in the arm when she was in the house. In the BWC from Sgt. [REDACTED] describes the contact in the house as a shove and does not mention a punch. In the BWC from Officer [REDACTED] describes the contact as a push and does not mention a punch. Although these descriptions are not antithetical, they are inconsistent and vary in effect and severity.

The allegation as served states that Officer [REDACTED] punched [REDACTED]. We believe that a punch describes contact made with a closed fist. However, based on the varied descriptions by [REDACTED] we find that [REDACTED] loosely interchanged the terms “punch”, “shove”, and “pushed” to describe the same contact. Regardless, we do find that Officer [REDACTED] did make contact with [REDACTED] however, we find the contact was to be more properly characterized as a push or a shove and not a punch.

First, Officer [REDACTED] admitted to contacting [REDACTED] as she blocked the doorway, seemingly to impede the officer’s hot pursuit of [REDACTED]. Furthermore, a bushing, or pushing/shoving contact is more understandable in the context of the situation – pushing [REDACTED] out of the way rather than a more deliberate punch is just more understandable when considering the officers were focused on pursuing [REDACTED]. Moreover, [REDACTED] did not allege injuries that we find to be consistent with a closed hand strike. Finally, evidence technician photos taken of [REDACTED] show no apparent injury that is consistent with a punch.

In sum, we find that officer [REDACTED] pushed or shoved [REDACTED] and that this contact was reasonable when considering [REDACTED] was impeding the officers’ pursuit of [REDACTED].

Accordingly, COPA reached a finding of exonerated for allegation 2.

¹⁷ Id at 43. See also *People v Wear*, 229 Ill. 2d 545, 556 (2008).

Officer ██████ admits to likely calling ██████ a racist.

In his interview with COPA, Officer ██████ admitted that he likely called ██████ and ██████ racist. While insulting an individual by calling them a racist may amount to misconduct in some situations, we also recognize that such a statement by an officer does not amount to misconduct in every situation. In this case, Officer ██████ defended his actions by related to investigators what he believed to be racial slurs directed at him by ██████ and ██████ during the incident. Defending against racial slurs by calling out racism is not misconduct.

However, the record is insufficient to determine if ██████ directed racial slurs towards Officer ██████ Without BWC, or the recorded cell phone footage to show the incident in question, and the many differences among what the officers and ██████ alleged was said to each other, the weight of any determination falls on the credibility of each of those involved. In this case, we find that there is insufficient evidence to tilt the credibility far enough in either direction.

For these reasons, COPA has reached a finding of not sustained for allegation 3.

It cannot be determined whether Officer ██████ said “fuck you” to ██████

Just as in allegation 3 above, we find that there is insufficient evidence to tilt the credibility far enough in either direction. For these reasons, COPA has reached a finding of not sustained for allegation 4.

Officer ██████ was required to fill out a Tactical Response Report.

A tactical response report is required when there are allegations made of an injury resulting from the member's use of a force.¹⁸ In the BWC ██████ is heard accusing Officer ██████ of putting hands on ██████ and dislocating her medical entry port. This accusation is enough to require a TRR report to be filed. Accordingly, COPA has reached a finding of sustained on allegation 5.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**a. Officer ██████**

- i. Complimentary and Disciplinary History:** Emblem of Recognition – Physical Fitness, 14; Attendance Recognition Award, 4; Presidential Election Deployment Award 2008, 1; Special Commendation, 1; Honorable Mention, 87; 2004 Crime Reduction Ribbon, 1; Department Commendation, 4; Complimentary Letter, 5; Police Officer of the Month Award, 1; NATO Summit Service Award, 1; 2009 Crime Reduction Award, 1; Joint Operations Award, 1; Annual Bureau of Recognition, 1. Officer ██████ disciplinary history within the last 5 years consist of two SPARS: a one-day suspension resulting from a failure-to-perform-duty incident that accrued on April 29, 2019; and a reprimand from a back-in-service

¹⁸ General Order G03-02-02 (III)(A)(1)(A)

violation that occurred on March 20, 2019. Both violations occurred after the incident under investigation in this log.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 5:** Failed to complete a Tactical Response Report.
Penalty: Violation Noted.

VIII. CONCLUSION

| Officer | Allegation | Finding |
|--------------------|--|--|
| Officer [REDACTED] | <p>It is alleged that on or about 19 July 16 at approximately 1130 hours, at or near [REDACTED] Street, Chicago, Illinois, Officer [REDACTED]</p> <ol style="list-style-type: none"> 1. Entered [REDACTED] residence without justification 2. Punched [REDACTED] without justification 3. Stated words to the effect of “you are a racist” to [REDACTED] 4. Stated words to the effect of “Fuck You” to [REDACTED] 5. Failed to complete a Tactical Response Report | <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> |

Approved:

[REDACTED]


Deputy Chief Investigator

August 29, 2019

Date

Appendix A

Assigned Investigative Staff

| | |
|------------------------------------|--|
| Squad#: |  |
| Investigator: | |
| Supervising Investigator: | |
| Deputy Chief Administrator: | |