

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	July 26, 2016, 1:45 a.m., [REDACTED]
Date/Time of COPA Notification:	July 26, 2016, 3:27 p.m.
Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2001, PO, Unit [REDACTED]/[REDACTED], DOB: [REDACTED], 1974, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2013, PO, Unit [REDACTED]/[REDACTED], DOB: [REDACTED], 1988, Male, White
Involved Individual #1:	[REDACTED], DOB: [REDACTED], 1999, Male, Black
Case Type:	Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	The complainants alleged that on 26 July 2016, at approximately 0145 hours, at [REDACTED] Street, you: 1. forced entry to [REDACTED]'s residence, damaging a door and windows, 2. threw [REDACTED] to the floor, and 3. kicked [REDACTED] about the body and legs.	Exonerated Not Sustained Not Sustained
Officer [REDACTED]	The complainants alleged that on 26 July 2016, at approximately 0145 hours, at [REDACTED] Street, you: 1. forced entry to [REDACTED]'s residence, damaging a door and windows, 2. threw [REDACTED] to the floor, and 3. kicked [REDACTED] about the body and legs.	Exonerated Not Sustained Not Sustained

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.

II. SUMMARY OF EVIDENCE²

On July 26, 2106, ██████████ (“████████”) was loudly arguing with his girlfriend, ██████████ (“████████”) on the front porch of his residence, and the two, while continuing to argue, went inside the residence.³ Shortly after entering the residence, ██████████ stated he and ██████████ began to engage in sexual intercourse upstairs. ██████████ (“████████”), ██████████’s brother, stated he was asleep upstairs, and did not hear ██████████ and ██████████ arguing. At approximately 1:30 a.m., officers responded to a call over the radio that there was a male fighting a female and then ran into a house.⁴ Officer ██████████ (“Officer ██████████”) stated, upon arrival, a witness informed officers that ██████████ struck a girl, threw her to the ground, and dragged her inside the residence. Officer ██████████ and Officer ██████████ (“Officer ██████████”) stated officers knocked on both the front and back doors and announced they were police officers, but there was no answer from inside. ██████████ and his brother, ██████████ (“████████”) stated they heard two loud thuds but did not know what they were and did not investigate. Officers ██████████ and ██████████ heard a female screaming from inside the house, and in fear that ██████████ would cause her further injury or harm, Officer ██████████ made forced entry into the home through the back door. When the officers entered the home, ██████████ was mounted on top of ██████████ in the living room.⁵

████████ stated the two were engaged in sexual conduct, ██████████ on top of his girlfriend, when the officers entered and he fell to the floor blinded by light from multiple flashlights. ██████████ stated, he heard a loud boom of ██████████ falling to the ground. After further questioning, ██████████ stated, as he walked downstairs, he saw five or six officers slam ██████████ to the ground. Then, according to ██████████ and ██████████, more than five officers surrounded ██████████ and kicked him. ██████████ stated officers were telling him to stop resisting, while continuously pushing his leg down with their feet.⁶ ██████████ had scratches to his face⁷ and bruising on his leg.⁸

Officers ██████████ and ██████████ stated, upon entry, they saw ██████████ grabbing ██████████’s throat with one hand and striking her with the other hand. Officer ██████████ ran to ██████████, told him to get off of ██████████. ██████████ ignored the verbal commands and continued to strike ██████████. Officer ██████████ delivered an open hand strike to ██████████’s head to move ██████████ off ██████████ and prevent further injury.⁹ Officer ██████████ stated he pushed ██████████ to the ground as ██████████ continued to struggle. Officer ██████████ used wristlocks and arm bars to quickly place ██████████ into handcuffs.¹⁰ Officers ensured ██████████ and ██████████ were separated. ██████████ was arrested¹¹ and transported to District ██████████

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

³ Attachment 11.

⁴ Attachments 28-30, 39, 48.

⁵ Attachments 11, 39, 48.

⁶ Attachments 11, 12, 19.

⁷ ██████████ was unclear as to what caused the scratches to his face, but indicated his shoulder was scratched on a nail when officers escorted him out of the house. Attachment 11, 12.

⁸ Attachments 4, 11, 12, 19.

⁹ Attachment 39, 48. ██████████ and her guardian refused medical attention on scene. Injuries unknown. Attachment 4.

¹⁰ Attachment 7, 48.

¹¹ ██████████ and ██████████ stated they did not know why ██████████ had been arrested. Attachments 11, 12, 19.

Police Station for processing. ██████'s Arrest Report documents he did not complain of injury or pain, but he had scratches on his face and neck. He was transported to the hospital.¹²

Medical Records documented ██████ sought treatment for an assault and chest pain after he was released from police custody. ██████ received a chest x-ray, lower extremity x-ray, and was discharged with a prescription for Ibuprofen.¹³

III. 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.

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.

IV. ANALYSIS AND CONCLUSION

a. Officer ██████

COPA finds the allegation that Officer ██████ forced entry to ██████'s residence, damaging a door and windows, is **Exonerated**. An officer may enter an individual's residence without consent or a warrant under exigent circumstances, such as injury, or danger of injury, to

¹² Attachment 4. No medical records provided that documented this hospital visit.

¹³ Attachment 15.

the occupant or danger posed by the occupant to others.¹⁴ The key question is whether it was "reasonable for the police officers on the scene to believe, in light of the circumstances they faced, that there was a compelling need to act and no time to obtain a warrant."¹⁵ In this case, officers had information that a battery was in progress, a male hit and dragged a female inside the residence, no one answered the officers' knocks on the door, officers heard a female screaming inside, and believed someone may be injured inside. Officer [REDACTED] kicked the door in and the officers entered the residence. Based on the foregoing, it is clear that exigent circumstances existed, and it was reasonable for Officer [REDACTED] to force entry into [REDACTED]'s residence. Therefore, this allegation is **Exonerated**.

COPA finds the allegation that Officers [REDACTED] and [REDACTED] engaged in misconduct by throwing [REDACTED] to the floor is **Not Sustained** because there is conflicting evidence regarding how [REDACTED] got to the ground or what he was doing at the time. [REDACTED] stated that he and [REDACTED] were engaged in sexual conduct and he fell to the ground when officers entered the house. While Officers [REDACTED] and [REDACTED] stated [REDACTED] was on top of [REDACTED] choking and hitting her. Officer [REDACTED] stated he used an open hand strike to [REDACTED]'s head, then forcefully pulled [REDACTED] off [REDACTED] and pushed him to the ground. Officer [REDACTED]'s Tactical Response Report did not describe a takedown. Officer [REDACTED] believed [REDACTED] went to the ground in response to Officer [REDACTED]'s open hand strike. [REDACTED] stated five or six officers slammed [REDACTED] to the ground, but could not say what [REDACTED] was doing at the time. There are no independent witness statements or video to corroborate the incident as described by [REDACTED] or the officers. Specifically, COPA was unable to interview [REDACTED]'s girlfriend, [REDACTED]. Moreover, COPA finds [REDACTED] and [REDACTED]'s statements inconsistent and incomplete, and therefore less credible. However, there is insufficient evidence to determine, on a clear and convincing standard, whether Officers [REDACTED] and [REDACTED] violated policy and procedure by throwing [REDACTED] to the ground. Therefore, this allegation is **Not Sustained**.

COPA finds the allegation that Officers [REDACTED] and [REDACTED] kicked [REDACTED] about the body and legs is **Not Sustained**. [REDACTED] stated he was looking up at officers from the ground, while officers were yelling stop resisting. [REDACTED] and [REDACTED] stated officers kicked and/or stomped on [REDACTED]'s leg causing bruising. Officer [REDACTED] admitted he struggled with [REDACTED] on the ground, but both Officer [REDACTED] and [REDACTED] denied kicking [REDACTED] or seeing an officer kick [REDACTED]. There are no independent witness statements or video to corroborate the incident as described by [REDACTED] or the officers. Therefore, this allegation is **Not Sustained**.

Approved:

[REDACTED]

September 26, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

¹⁴ U.S. v. Williams, 79 F.Supp.3d 888, 894 (2015), quoting Sutterfield v. City of Milwaukee, 751 F.3d 542, 557 (7th Cir.2014).

¹⁵ Sutterfield v. City of Milwaukee, 751 F.3d 542, 557 (7th Cir.2014).

Appendix A

Assigned Investigative Staff

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