

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

Date/Time/Location of Incident:	July 29, 2016 / 4:30pm / [REDACTED]
Date/Time of COPA Notification:	July 29, 2016 / 9:17pm
Involved Officer #1:	[REDACTED] # [REDACTED], Police Officer, employee ID # [REDACTED], Date of Appointment: [REDACTED] 2007, Unit of Assignment: [REDACTED], DOB: [REDACTED]/1983, Male, Hispanic
Involved Officer #2:	[REDACTED] # [REDACTED], Police Officer, employee ID # [REDACTED] Date of Appointment: [REDACTED]/2006, Unit of Assignment: [REDACTED], DOB: [REDACTED]/1973, Female, Hispanic
Involved Officer #3:	[REDACTED] # [REDACTED], Police Officer, employee ID # [REDACTED] Date of Appointment: [REDACTED]/1994, Unit of Assignment: [REDACTED], DOB: [REDACTED]/1966, Female, Hispanic
Involved Officer #4:	[REDACTED] # [REDACTED], Police Officer, employee ID # [REDACTED], Date of Appointment: [REDACTED] 2001, Unit of Assignment: [REDACTED], DOB: [REDACTED]/1979, Male, White
Involved Officer #5:	[REDACTED] # [REDACTED], Police Officer, employee ID # [REDACTED], Date of Appointment: [REDACTED]/1999, Unit of Assignment: [REDACTED], DOB: [REDACTED]/1972, Male, White
Involved Individual #1:	[REDACTED], DOB: [REDACTED]/1998, Female, White
Case Type:	Excessive Force

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED], Officer [REDACTED]: 1. Forcefully took down [REDACTED] without justification. 2. Failed to identify himself as a police officer without justification.	Unfounded Unfounded

<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.

	<p>3. Detained [REDACTED] without justification.</p> <p>4. It is alleged that Officer [REDACTED] failed to complete a Tactical Response Report after taking down [REDACTED] on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED].</p>	<p>Unfounded Exonerated</p>
Officer [REDACTED]	<p>It is alleged that on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED], Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Took down [REDACTED] without justification.</li> <li>2. Failed to identify herself as a police officer without justification.</li> <li>3. Detained [REDACTED] without justification.</li> <li>4. Searched [REDACTED] without justification.</li> </ol>	<p>Not Sustained Not Sustained  Exonerated Not Sustained</p>
Officer [REDACTED]	<p>It is alleged that on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED], Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Took down [REDACTED] without justification.</li> <li>2. Failed to identify herself as a police officer without justification.</li> <li>3. Detained [REDACTED] without justification.</li> <li>4. Searched [REDACTED] without justification.</li> </ol>	<p>Not Sustained Not Sustained  Exonerated Not Sustained</p>
Officer [REDACTED]	<p>It is alleged that on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED], Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Forcefully took down [REDACTED] without justification.</li> <li>2. Failed to identify himself as a police officer without justification.</li> <li>3. Detained [REDACTED] without justification.</li> <li>4. It is alleged that Officer [REDACTED] failed to complete a Tactical Response Report after taking down [REDACTED] on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED].</li> </ol>	<p>Unfounded  Unfounded  Unfounded Exonerated</p>
Officer [REDACTED]	<p>It is alleged that on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED], Officer [REDACTED]:</p> <ol style="list-style-type: none"> <li>1. Forcefully took down [REDACTED] without justification.</li> <li>2. Failed to identify himself as a police officer without justification.</li> <li>3. Detained [REDACTED] without justification.</li> <li>4. It is alleged that Officer [REDACTED] failed to complete a Tactical Response Report after taking down [REDACTED] on or about July 29, 2016 at approximately 4:55pm, at or near [REDACTED].</li> </ol>	<p>Not Sustained  Not Sustained  Exonerated Not Sustained</p>

## II. SUMMARY OF EVIDENCE<sup>2</sup>

On July 29, 2016, while attending [REDACTED] music festival, [REDACTED] was detained, along with her friend ([REDACTED]) and boyfriend ([REDACTED]), as part of a narcotics investigation. According to [REDACTED] several officers, specifically two Hispanic females, two Caucasian males and one Hispanic male in plain clothes approached her and her friends. The officers did not initially identify themselves as police officers before forcefully taking her down to the ground. According to [REDACTED], despite numerous requests from the participating officers, only one officer displayed his badge after she and her two friends were handcuffed. [REDACTED] stated she was taken to a police trailer for questioning, where she was searched under her bra and spandex before being released and kicked out of the festival. [REDACTED] immediately sought medical treatment for a laceration on her back, back pain and injuries to her head and eye from the take down. No additional witnesses were identified and [REDACTED] and [REDACTED] refused to provide statements.

COPA reviewed all department reports including Arrest Report, Original Case Incident Report, Investigative Stop Reports, and Evidence Technician photos.<sup>3</sup> According to department reports, while acting in an undercover capacity Officer [REDACTED] observed [REDACTED] engage in what he believed to be a hand to hand transaction with two females. Officer [REDACTED] approached and identified himself as an officer to [REDACTED]. [REDACTED] pushed Officer [REDACTED] and attempted to flee. Officer [REDACTED] eventually performed a takedown and placed [REDACTED] in handcuffs. Officer [REDACTED] completed a Tactical Response Report (TRR) for the takedown and cuffing of [REDACTED]. Investigatory stop reports were completed for [REDACTED] and [REDACTED].

## III. ANALYSIS AND CONCLUSION

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

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<sup>2</sup>COPA 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.

<sup>3</sup> No body worn camera footage was available to COPA as the officers were not assigned body worn cameras at the time of incident. POD footage was reviewed but did not capture the incident.

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 proven 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.

Officers [REDACTED] and [REDACTED]

COPA finds Allegation 1-3 are **Unfounded**. Allegation 4 is **Exonerated**. [REDACTED] gave specific descriptions of the officers involved in the incident. COPA, through department reports, confirmed the involved officers matched [REDACTED] descriptions. Based on both [REDACTED] version of the event and the officers' statements and reports, COPA finds that Officers [REDACTED] and [REDACTED] never had direct contact with [REDACTED] herself and only had contact with [REDACTED]. With respect to their contact with [REDACTED], Officer [REDACTED] wrote in department reports and stated during his interview that he announced his office prior to detaining [REDACTED] based on his belief [REDACTED] engaged in a hand to hand narcotics transaction. Officer [REDACTED] drafted a TRR documenting his use of the emergency take down. All indications from [REDACTED] were that he resisted before knowing the officers were department members. These statements give credibility to [REDACTED] statements that department members failed to identify themselves, however all the department members denied they did so. More importantly, Officers [REDACTED] and [REDACTED] did not have contact with [REDACTED] and therefore did not perform a take down on her, detain her, or have the opportunity to identify themselves to her. As such, allegation 1-3 are unfounded. Since Officer [REDACTED] and [REDACTED] did not use any force on [REDACTED], they were not required to complete a TRR, therefore allegation 4 is exonerated.

Officers [REDACTED], [REDACTED] and [REDACTED]

COPA finds Allegation 1 that Officer [REDACTED], [REDACTED] or [REDACTED] forcefully performed a takedown on [REDACTED] without justification is **Not Sustained**. [REDACTED] alleges that two female Hispanic officers and one Caucasian male officer took her to the ground without warning or provocation. During their statements to COPA, Officer [REDACTED] and Officer [REDACTED] did not know how [REDACTED] went to the ground. Officer [REDACTED] stated that after [REDACTED] was taken down, she saw [REDACTED] start to run away and fall to the ground. Officer [REDACTED] was unsure what specifically caused [REDACTED] to fall and each officer denied taking [REDACTED] down or seeing any of their teammates take [REDACTED] down. Additionally, none of the police reports mention [REDACTED] being taken down. In contrast, [REDACTED] did receive medical treatment for back pain and lacerations she claimed were caused by the take

down; and she reported the cause of her injuries to medical staff and IPRA immediately. However, both parties offered credible statements that were not impeached by the available evidence. COPA does not have the benefit of independent witness, audio or video evidence to corroborate either version of the events. As such, COPA was unable to determine by a preponderance of the evidence whether [REDACTED] was taken down by any officer and therefore COPA finds the allegation Not Sustained.

COPA finds Allegation 2 that Officers [REDACTED], [REDACTED], and [REDACTED] failed to identify themselves as a police officers is **Not Sustained**. [REDACTED] alleges that none of the officers identified themselves as police officers until she was placed in handcuffs and, even at that point, they refused to provide identification until she asked over twenty times. During their statements to COPA, all of the officers asserted that they did verbally identify themselves as police officers upon approaching [REDACTED] and her friends. The police reports<sup>4</sup> all state that the officers identified themselves. As no independent civilian witnesses provided a statement to COPA and no audio or video evidence exists, COPA was unable determine by a preponderance of the evidence whether these officers did identify themselves.

COPA finds Allegation 3 of improper detention to be **Exonerated** as to Officers [REDACTED], [REDACTED], and [REDACTED]. All three officers admit to taking part in [REDACTED] detention. An investigative stop must be supported by a reasonable, articulable suspicion of criminal activity. These three officers stated they detained [REDACTED] temporarily as part of a narcotics investigation. Specifically, [REDACTED] was detained based on their partner, Officer [REDACTED] observation that [REDACTED] engaged in a narcotics transaction with [REDACTED] and [REDACTED]. Officers are allowed to rely on the probable cause relayed to them from a partner officer<sup>5</sup>; therefore, when Officer [REDACTED] communicated his observations, Officers [REDACTED], [REDACTED], and [REDACTED] had sufficient justification to detain [REDACTED] and investigate further. Thus, the detention of [REDACTED] was within policy.

COPA finds Allegation 4 that Officer [REDACTED] failed to complete a Tactical Response Report is **Not Sustained**. As previously discussed, COPA was unable to determine by a preponderance of the evidence whether [REDACTED] was taken down by any of the officers. It follows that COPA is unable to determine by a preponderance of the evidence whether any of the officers were required to complete a Tactical Response Report.

COPA finds Allegation 4 that Officers [REDACTED] and [REDACTED] improperly searched [REDACTED] is **Not Sustained**. [REDACTED] provided a credible statement that after she was detained and handcuffed the two female officers searched underneath her bra and spandex as well as inside her purse. The Investigatory Stop Report indicates that officers conducted a protective pat down because “persons suspected in the dealing or purchasing of narcotics are known to carry weapons to protect themselves”. The Fourth Amendment permits an officer to conduct a pat down of a person’s outer clothing during an investigatory stop when the officer reasonably believes the person may be armed or possess contraband. COPA questions how tenable the officers’ actions were, but

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<sup>4</sup> See Arrest Report for [REDACTED] (att. 9); Original Case Incident Report RD# [REDACTED] (att. 10); Investigative Stop Report for [REDACTED] (att. 14).

<sup>5</sup> When officers are working in concert, reasonable suspicion or probable cause can be established from all the information collectively received by the officers even if that information is not specifically known to the officer who makes the arrest. *People v. Fenner*, 191 Ill. App. 3d 801, 806, 548 N.E.2d 147, 138 Ill. Dec. 917 (1989).

ultimately COPA finds that the officers were, limited to, but justified in, performing a pat down. The question then becomes whether this pat down was so invasive as to constitute a search, as alleged by [REDACTED]. In their statements to COPA, Officer [REDACTED] denied conducting a search or pat down of [REDACTED] and Officer [REDACTED] did not recall conducting a search or pat down of [REDACTED]. The officer clearly performed at least a pat down, however fails to remember exactly how it happened. In contrast, [REDACTED] provided an accounting of the search with great detail including expressing the impact this incident had on her. We are inclined to believe her. However, COPA must be able to determine by a preponderance of the evidence that the search exceeded a justifiable pat down. In the instant case, despite credible evidence of a search, the officers have not been impeached in any meaningful way to prove the search exceeded that which they described in the department reports. With no additional witnesses, video or other type of corroborating evidence, COPA finds the allegations are **Not Sustained**.

Approved:



September 17, 2019

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Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

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