

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 27, 2018
Time of Incident:	12:00 PM
Location of Incident:	██████████ ██████████
Date of COPA Notification:	July 27, 2018
Time of COPA Notification:	6:29 PM

On July 27, 2018, Officer ██████████ was driving opposite the direction of traffic on ██████████ when he nearly collided with ██████████. ██████████ noticed that ██████████ was on her cell phone and curbed her vehicle with the intent of issuing her a traffic citation. During the course of the traffic stop, ██████████ ██████████ boyfriend, walked to the scene of the traffic stop and began arguing with Officer ██████████ over the traffic stop. Officer ██████████ ordered ██████████ to move away from the stop and ██████████ refused. Officer ██████████ attempted to take ██████████ into custody with the assistance of Officer ██████████ and Officer ██████████ and a brief struggle ensued, which resulted in ██████████ being Tasered and arrested. ██████████ alleged that after his arrest, Officer ██████████ used excessive force on him while he was already in custody.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star#: ██████████; Employee ID#: ██████████; Date of Appointment: ██████████ 2007 Rank: ██████████ Unit: ██████████ DOB: ██████████ 1969 Gender: Male Race: Black
Involved Officer #2:	██████████ Star #: ██████████ Employee #: ██████████ Date of Appointment: ██████████ 2017 Rank: ██████████ Unit: ██████████ DOB: ██████████ 1994 Gender: Male Race: Hispanic
Involved Individual #1:	██████████; DOB: ██████████ 1992 Gender: Female Race: Black
Involved Individual #2:	██████████; DOB: ██████████ 1985 Gender: Male Race: Black

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer [REDACTED]	1. It is alleged that on July 27, 2018, Officer [REDACTED] drove westbound on [REDACTED], a one-way road going the opposite direction, nearly causing an accident with [REDACTED] while not engaged in a pursuit or other emergency situation.	SUSTAINED
	2. It is alleged that on July 27, 2018, Officer [REDACTED] unlawfully arrested [REDACTED] for Disorderly Conduct.	EXONERATED
	3. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by tightening the cuffs to the extent that they caused injury and unnecessarily twisting his arm.	NOT SUSTAINED
	4. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by pushing his face against a wall after he was in custody.	NOT SUSTAINED
	5. It is alleged that on July 27, 2018, you removed the Taser barb from [REDACTED].	UNFOUNDED
	6. It is alleged that on July 27, 2018, you were verbally abusive to [REDACTED] by using language such as "motherfucker, you're going to jail now," "I got your ass now," "Bitch, your ass is going to jail now," and "your bitch ass is finna sit here for some hours."	UNFOUNDED
	7. It is alleged that on July 27, 2018, you behaved unprofessionally by mocking [REDACTED] and imitating him being tasered.	NOT SUSTAINED

1. 720 ILCS 5/31-1 Obstructing a Police Officer ¹
2. 720 ILCS 5.0/12-3.05 D-4, Aggravated Battery
3. City of Chicago Municipal Code 8-4-010(E), Disorderly Conduct

V. INVESTIGATION ²

a. Interviews

██████████ ³ gave a statement to the Civilian Office of Police Accountability (COPA) on July 31, 2018. ██████████ told investigators that she was turning onto ██████████ when she encountered Officer ██████████ driving the wrong way on a one-way street, nearly causing a collision. ██████████ noted to investigators that the street was confusing because it was a one-way from ██████████ to ██████████ but was a one-way in the opposite direction elsewhere on the same street. ██████████ indicated that Officer ██████████ was not operating any emergency lights or sirens at the time. According to ██████████ she swerved to the side, allowing Officer ██████████ to pass. Officer ██████████ yelled an apology out of his window, as he drove frantically to return to driving with the flow of traffic. As they passed each other, Officer ██████████ noticed that ██████████ was on her cell phone. Officer ██████████ then turned around and curbed her vehicle.

Officer ██████████ inquired about ██████████ being on her cell phone. ██████████ tried to explain that she was dealing with a family emergency. Officer ██████████ told her that she could not be on the phone and asked for her license and insurance. ██████████ gave her license but could not find the insurance. She called ██████████, her boyfriend, to ask where the proof of insurance was in the car. ██████████ told her that the insurance information was in the car door. ██████████ attempted to open the door to access the insurance card. Officer ██████████ told ██████████ to close the door. ██████████ located the insurance card and held it out the window.

██████████ walked to where ██████████ was stopped. ██████████ approached the vehicle and asked to know what was happening, saying that it was his car, too, and he had a right to know. ██████████ initially stood on the curb, immediately adjacent to the vehicle. According to ██████████, Officer ██████████ told ██████████ to step back away from the car and ██████████ complied. ██████████ stepped back to the sidewalk. After ██████████ stepped away from the vehicle, Officer ██████████ kept telling ██████████ to go farther away from the vehicle. ██████████ asked for the ticket and to be released.

According to ██████████, Officer ██████████ told ██████████ that if she did not sign the ticket, she could be arrested. ██████████ refused to sign the ticket, believing it to be an admission of guilt. Officer ██████████ then threatened her with arrest. ██████████ continued to refuse to sign the ticket. Officer ██████████ then turned his attention back to ██████████, again asking him to step away from the car. Officer ██████████ approached the passenger side of the vehicle where ██████████ stood and again told him to step back from the vehicle. At this time, ██████████ was standing near a white fence.

¹ Originally cited as 520 ILCS 5.0/1.22, which does not apply to the Chicago Police Department.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachment 22

Officer █████ told █████ that he was “interfering with an arrest,” then clarified that he misspoke and meant to say that █████ was interfering with his investigation. There was some additional conversation, then Officer █████ told █████ he was under arrest. █████ verbally protested the arrest. Officer █████ took out his handcuffs. █████ requested a sergeant. Officer █████ radioed for assistance. Shortly after, another squad car arrived with two officers.⁴ Officer █████ began approaching with his hand on his Taser. Officer █████ assisted Officer █████ in trying to arrest █████

█████ continued protesting the arrest, asking why he was being arrested. █████ described it as a “conversation.” █████ told █████ to stop doing anything to escalate things further, so she could get on her way. █████ said that █████ stopped doing anything and put his hands over his wrists in front of his body. Officer █████ then signaled Officer █████ with a head nod to deploy his Taser to subdue █████. Officer █████ deployed the Taser and █████ then fell to the ground, where he was handcuffed.

A sergeant arrived at the scene and spoke with █████. █████ was transported away prior to the sergeant speaking with █████. The sergeant told █████ where █████ was going to be taken and the procedure for getting him out. █████ showed her cell phone video to the Sergeant at the district. The sergeant viewed the video and wrote down █████ statement. █████ was informed that █████ was at the █████. Another officer had to get █████ identification back from Officer █████, who did not give it back after the initial stop. Melton did not sign the ticket. She was given alternate copies of the ticket at the district.

After the arrest, █████ noticed that █████ had a scar on the left side of his temple, bruises and scrapes on his wrists from the handcuffs, and a scratch on his leg.

█████⁵ gave a statement to the COPA on July 31st, 2018. █████ told investigators that on July 27th, he woke up to a phone call from his girlfriend, █████, telling him that she had been pulled over by a police officer that nearly hit her while going the wrong direction on a one-way. █████ told investigators that he could hear the officer being belligerent to █████ over the phone and decided to go check it out for himself. █████ walked to the scene of the traffic stop. There, █████ said that Officer █████ was trying to force █████ to sign the traffic citation and would not allow her to leave.

█████ stood on the sidewalk and attempted to engage Officer █████, who was standing in the street on the opposite side of the car, in dialogue about the nature of the stop, but Officer █████ told him to back away from the vehicle. █████ protested, saying both that he was not near the vehicle and that it was his vehicle, so he had a right to know what was happening. █████ maintained that he was at least five feet away from the vehicle. According to █████, Officer █████ then threatened to arrest █████. Officer █████ then called for backup. Shortly after, a vehicle with Officer █████ and Officer █████ arrived to assist.

According to █████, Officer █████ then disengaged with █████ and focused his efforts on █████. Officer █████ told █████ that he was going to jail. Then Officer █████ and Officer █████

⁴ Now known as Officer █████ and Officer █████

⁵ Attachment 23

Officer ██████ told ██████ that he was “interfering with an arrest,” then clarified that he misspoke and meant to say that ██████ was interfering with his investigation. There was some additional conversation, then Officer ██████ told ██████ he was under arrest. ██████ verbally protested the arrest. Officer ██████ took out his handcuffs. ██████ requested a sergeant. Officer ██████ radioed for assistance. Shortly after, another squad car arrived with two officers.⁴ Officer ██████ began approaching with his hand on his Taser. Officer ██████ assisted Officer ██████ in trying to arrest ██████.

██████ continued protesting the arrest, asking why he was being arrested. ██████ described it as a “conversation.” ██████ told ██████ to stop doing anything to escalate things further, so she could get on her way. ██████ said that ██████ stopped doing anything and put his hands over his wrists in front of his body. Officer ██████ then signaled Officer ██████ with a head nod to deploy his Taser to subdue ██████. Officer ██████ deployed the Taser and ██████ then fell to the ground, where he was handcuffed.

A sergeant arrived at the scene and spoke with ██████. ██████ was transported away prior to the sergeant speaking with ██████. The sergeant told ██████ where ██████ was going to be taken and the procedure for getting him out. ██████ showed her cell phone video to the Sergeant at the district. The sergeant viewed the video and wrote down ██████ statement. ██████ was informed that ██████ was at the ██████. Another officer had to get ██████ identification back from Officer ██████ who did not give it back after the initial stop. ██████ did not sign the ticket. She was given alternate copies of the ticket at the district.

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██████ stood on the sidewalk and attempted to engage Officer ██████ who was standing in the street on the opposite side of the car, in dialogue about the nature of the stop, but Officer ██████ told him to back away from the vehicle. ██████ protested, saying both that he was not near the vehicle and that it was his vehicle, so he had a right to know what was happening. ██████ maintained that he was at least five feet away from the vehicle. According to ██████, Officer ██████ then threatened to arrest ██████. Officer ██████ then called for backup. Shortly after, a vehicle with Officer ██████ and Officer ██████ arrived to assist.

According to ██████, Officer ██████ then disengaged with ██████ and focused his efforts on ██████. Officer ██████ told ██████ that he was going to jail. Then Officer ██████ and Officer ██████

⁴ Now known as Officer ██████ and Officer ██████

⁵ Attachment 23

began “attacking” him and trying to rough him up. At that time, Officer ██████ stood back with his Taser drawn. Officer ██████ and Officer ██████ tried to get ██████ into handcuffs, but ██████ protested that he had not done anything wrong and had not been read his rights. ██████ told ██████ to “stop,” and he stopped engaging with the officers. He then stood there with his arms crossed in front of him, hand over wrist. ██████ said he calmed down. Officer ██████ and Officer ██████ then backed away from him. Officer ██████ then gave Officer ██████ a signal to deploy his Taser.

██████ was hit by the Taser and fell down. The Officers pounced on him and continued roughing him up. Officer ██████ whispered in ██████ ear things like, “I got yo ass now” and “you going to jail motherfucker.” According to ██████, he was still being shocked at this time. Officer ██████ then made ██████ standup on his own and threw him into the squad car. Officer ██████ then yanked the Taser barb out of ██████ body, causing him to bleed. Officer ██████ threw ██████ shoes at him into the car, while another officer threw the rest of his belongings to ██████.

██████ was transported by Officer ██████. Officer ██████ taunted ██████ and repeatedly accused ██████ of pushing him. ██████ denied it. As they stood at the door of the District, Officer ██████ turned his camera off. Officer ██████ continued using profanity at ██████, saying things like, “you’re going to jail now, bitch.” Officer ██████ then opened the door to the District, then twisted ██████ arms upward behind his back as high as possible, then pushed ██████ against the wall. Officer ██████ then re-tightened the handcuffs and twisted those as well, causing injury to his wrists. Officer ██████ gave ██████ to another Officer while he disarmed himself to go into the lockup area. Once inside of the lock-up area, Officer ██████ mocked and imitated ██████ by screaming in response to being tasered.

Sergeant ██████ came in and spoke to ██████ and asked if he was injured. They noticed that a Taser barb was still lodged in ██████ leg. ██████ was transported to ██████ for the barb to be removed. Eventually, ██████ was returned to the District. A second sergeant gave Miranda warnings to ██████ and took ██████ statement. Sergeant ██████ came back to the room and let ██████ know that he was not going to be prosecuted and was free to go.

██████ was never photographed by the officers. ██████ said that he had abrasions to his wrist and soreness, as well as other abrasions on various parts of his body, including his head.

Officer ██████⁶ gave a statement to COPA on October 25, 2018, and gave the following account. Officer ██████ admitted that he went the wrong way on a one-way street, saying that he had only recently returned to the area and simply made a mistake. Officer ██████ did not have his emergency lights or siren activated. While traveling the wrong way, he observed ██████ on her cell phone and decided to curb her vehicle. According to Officer ██████ ██████ became argumentative, so he decided to write her a traffic citation. ██████ produced her license but did not produce her insurance at the time.

⁶ Attachment 28

Officer ██████ wrote citations for ██████ being on her cell phone and for not having insurance. Officer ██████ threatened to arrest ██████ for refusing to sign.⁷ Officer ██████ did not take her license. While Officer ██████ and ██████ were arguing over the tickets, ██████ approached the vehicle. Officer ██████ told ██████ to back away from the vehicle for officer safety, because he was alone and did not know anything about ██████ at the time or why he was there. Officer ██████ repeatedly told ██████ to back away from the vehicle. ██████ refused.

Officer ██████ felt that ██████ presence there created a distraction, then made the decision to arrest ██████ for interfering. Officer ██████ said that eight feet would have been a comfortable distance for ██████ to move away from the vehicle. Officer ██████ felt that ██████ was within inches of the vehicle and was not fully visible because of his close proximity to the car, including his waistline. Officer ██████ explained that he frequently dealt with people standing around his traffic stops and generally felt comfortable with people being present as long as they maintained a reasonable distance away.

Officer ██████ felt ██████ was being confrontational and aggressive, which prompted him to draw his Taser. Officer ██████ called for backup. When the assisting unit arrived, Officer ██████ put away his Taser and asked the assisting unit to take out theirs. Officer ██████ and the assisting unit attempted to take ██████ into custody, but ██████ resisted by flailing his arms and shoving Officer ██████. Officer ██████ then instructed Officer ██████ to deploy his Taser, rather than continue fighting with ██████.

Officer ██████ and Officer ██████ then moved away from ██████ to allow Officer ██████ to deploy his Taser safely. ██████ then crossed his arms in front of his body in a defensive posture. Officer ██████ then deployed his Taser, striking ██████ and causing him to fall to the ground. Officer ██████ told investigators that he believed ██████ would have resumed fighting if the taser had not been deployed. Officer ██████ explained that he felt using the Taser at that moment was the better strategic choice.

██████ was taken into custody. Officer ██████ re-activated his body worn camera while transporting ██████ the police station. Officer ██████ deactivated his body worn camera after entering the police station. He denied turning off his body worn camera to rough up ██████ at the police station by twisting his arm or shoving him into a wall. ██████ was ultimately released without being charged.

Officer ██████ gave a **second statement**⁸ on June 13, 2019. Officer ██████ was interviewed regarding his alleged use of profanity and failure to follow proper procedures regarding the taser removal. Officer ██████ was shown his body worn camera to refresh his memory. Officer ██████ was also shown a portion of Officer ██████ body worn camera.

Officer ██████ was not aware of where the taser struck ██████ at the time of the incident. Officer ██████ also pointed out that ██████ was wearing loose-fitting shorts. Officer ██████ did not

⁷ Special Order S04-14-02 instructs officers to advise drivers of the option to either sign a written promise to comply, post a valid driver's license for non-petty offense, or to execute a bond at a district station. If the traffic violator refuses to sign, then normal bonding procedures will apply, pursuant to Special Order S06-13.

⁸ Attachment 37

recall removing the taser probes. When shown the portion of Officer ██████ body worn camera that showed him pulling the taser wires, Officer ██████ stated his belief was that he only removed the wires connected to the taser probe, which Department policy allows. Officer ██████ stated his understanding of Department policy to be that an officer should never remove a taser barb and did not believe he would have removed the taser barb based on that knowledge, even if it was loose. Officer ██████ told investigators that the wires separate easily and do not require much force to break. Officer ██████ did not recall how the taser was connected to ██████ – in his shorts versus in his flesh. Officer ██████ noted that ██████ did not react in any pained manner that would indicate that he was harmed by his actions.

Officer ██████ denied using any verbally abusive language, including language such as “I got your ass now.” Officer ██████ denied imitating ██████ being tasered, though he admitted to speaking about the incident with the other involved officers.

b. Digital Evidence

The **In-Car Camera for Beat ██████^{9 10}**, Officer ██████ vehicle, captured various parts of the incident consistent with his interview with COPA and body-worn camera.

Summary of Body Worn Camera^{11 12 13} captured nearly the entire incident. Similar to the in-car camera, the body worn camera captured the traffic stop. Notably, Officer ██████ asked for ██████ insurance and she responded that she did not have it with her, then she clarified that she could not find it. Officer ██████ returned to his vehicle and began preparing to issue traffic citations. Officer ██████ could also be heard telling ██████ to remain in the vehicle for officer safety.

Officer ██████ addressed ██████ about opening the door and warned that she could be arrested for failing to follow instructions. ██████ explained that she had an emergency with her daughter and that was why she was on her phone. Officer ██████ told her that she was being issued citations for being on her phone. ██████ refused to sign the tickets. Officer ██████ told ██████ for refusing to sign and explained to ██████ that signing the ticket was not an admission of guilt.

As ██████ and Officer ██████ argued about the tickets, ██████ appeared on camera on the passenger side of the vehicle. Officer ██████ warned ██████ to get away from the vehicle. ██████ responded that it was his vehicle. ██████ told ██████ to go away. Again, ██████ refused. Officer ██████ requested backup. ██████ and ██████ engaged in a conversation through the window and Officer ██████ again ordered ██████ away from the vehicle. Again, ██████ and ██████ conversed through the window. Officer ██████ told ██████ to place his hands on the vehicle because he was under arrest. ██████ did not comply and began looking on his phone. Officer ██████ told ██████ to place his hands on the hood and again ██████ refused.

⁹ See Attachment 47.

¹⁰ The audio of the video did not function properly, so there was no recorded sound.

¹¹ See Attachment 47. Officer ██████ Body Worn Camera

¹² See Attachment 47. Officer ██████ Body Worn Camera

¹³ See Attachment 47. Officer ██████ Body Worn Camera

█████ moved a short distance away from the passenger side of the vehicle and remained there. Officer █████ told █████ that he was interfering with his arrest, then corrected himself to say that █████ was interfering with his stop. █████ stated to █████ that he needed to leave so that she could finish with the traffic stop and get to her daughter. █████ refused to leave and leaned toward the window. █████ and █████ argued as Officer █████ waited for backup. When backup arrived, Officer █████ informed them that he was taking █████ into custody.

Officer █████ instructed Officer █████ to take out his Taser in case █████ fought. Officer █████ moved to arrest █████ with the assistance of Officer █████. █████ resisted by wrestling his hands away and evading the officers attempts at cuffing him. Officer █████ told █████, “you better stop fighting me.” █████ responded not to tase him. █████ briefly grabbed hold of a fence behind him and used it to keep the officers from arresting him. Shortly thereafter, Officer █████ and Officer █████ moved away. Officer █████ then signaled Officer █████ to deploy his Taser. Officer █████ called out “Taser, Taser, Taser,” and Officer █████ and Officer █████ took a step away from █████. Officer █████ could be heard deploying his Taser as █████ fell to the ground.

Officer █████ moved in to cuff █████ as he was on the ground. █████ audibly surrendered but continued trying to turn to a sitting position as Officer █████ tried to cuff him. Officer █████ forced █████ back down a number of times before █████ was cuffed. █████ was placed in the back of the car. █████ asked Officer █████ to remove the taser from his leg. Officer █████ looked to pull at a part of the taser and discard it on the street behind him. █████ did not react. Officer █████ began collecting the tickets from the street. He started telling his fellow officers what happened, then gave █████ the tickets.

Sergeant █████ spoke with █████ on the scene and advised him that he should have remained a distance away from the traffic stop. Officer █████ located two taser probes on the ground near the squad car.

█████ captured a portion of the arrest on a **Cell Phone Video**.¹⁴ █████ video is consistent with what is reflected on the Officers Body Worn Camera, except that █████ is yelling that █████ did not do anything wrong and accuses Officer █████ of lying about requesting a sergeant.

Sergeant █████ Body Worn Camera¹⁵ begins with him speaking with Officer █████ about the deployment of his Taser. Officer █████ said that Officer █████ told him to keep it out in case █████ fought. Officer █████ said that they attempted to take █████ into custody, but █████ was being combative by flailing his arms.

Sergeant █████ also spoke to █████ who insisted that he had not done anything wrong. Sergeant █████ told █████ that he should have waited a distance away from the traffic stop rather than approach the officer. █████ denied approaching Officer █████. █████ denied resisting arrest. Sergeant █████ told █████ that he could have addressed it after the stop was over. The officers gathered █████ belongings and gave them to █████.

¹⁴ See Attachment 47.

¹⁵ See Attachment 47.

Sergeant [REDACTED] then spoke with [REDACTED] after the other officers were gone. [REDACTED] told Sergeant [REDACTED] that Officer [REDACTED] drove down the wrong way on a one-way street and nearly collided with her. [REDACTED] told Sergeant [REDACTED] that Officer [REDACTED] pulled her over for being on her phone, even though she was on speakerphone. [REDACTED] insisted that [REDACTED] was Tasered for no reason. Sergeant [REDACTED] told [REDACTED] that he would look at the video in the district and if there were any violations, they would be handled administratively. Sergeant [REDACTED] further explained that if he sees that [REDACTED] refused to leave and interfered with the investigation, [REDACTED] would be charged.

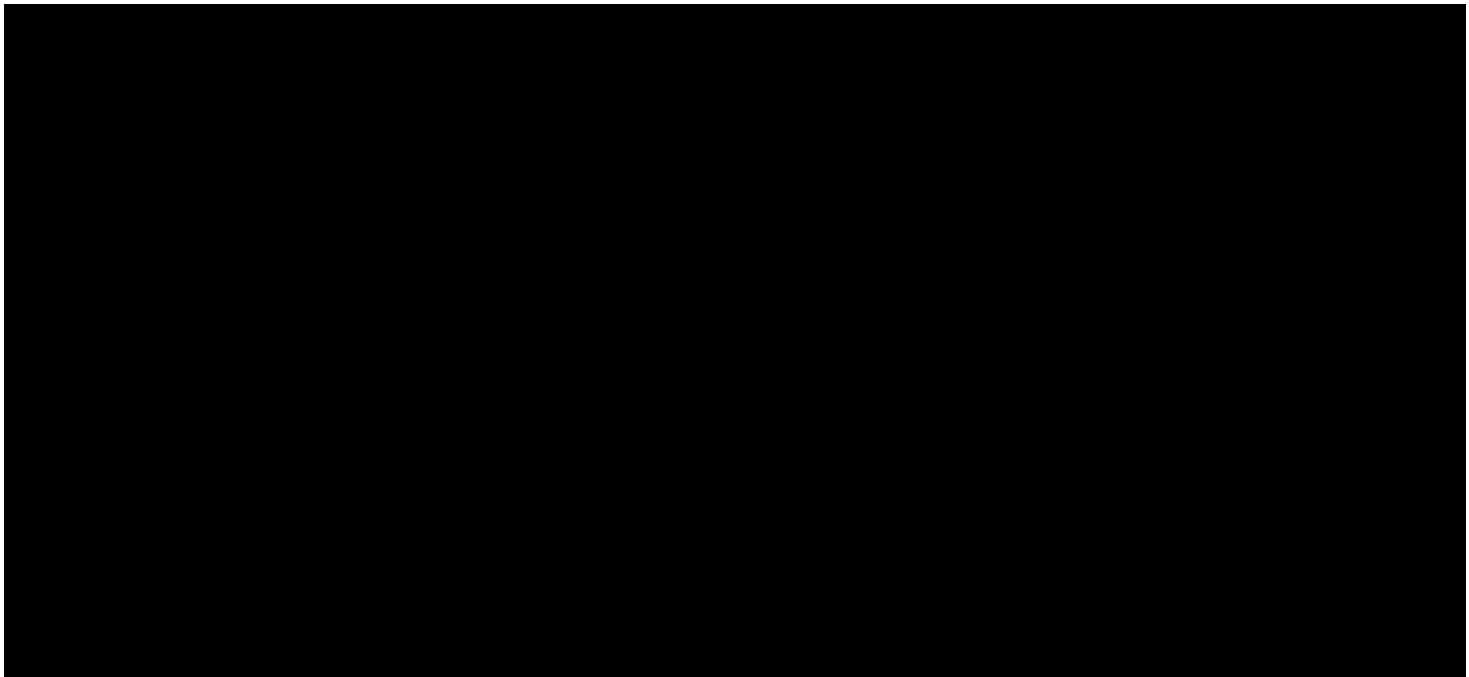
Officer [REDACTED] Body Worn Camera (in transit)¹⁶ captured Officer [REDACTED] transport [REDACTED] to the District for processing. Officer [REDACTED] insisted that he asked [REDACTED] to leave repeatedly. [REDACTED] argued that he was not near the car. Officer [REDACTED] insisted that [REDACTED] pushed him. [REDACTED] insisted that he did not, then [REDACTED] said, “well, if you feel that way, then I apologize.” Officer [REDACTED] asked [REDACTED] if he had been drinking and told him that he smelled of alcohol. [REDACTED] confessed to having been intoxicated the previous night.

Officer [REDACTED] and [REDACTED] arrived at the station. Officer [REDACTED] escorted [REDACTED] through the parking lot. [REDACTED] accused Officer [REDACTED] of being angry at him but did not indicate any particular behavior. Officer [REDACTED] deactivated his body worn camera once he brought [REDACTED] inside the station.

Injury Photos submitted by [REDACTED]:



¹⁶ See Attachment 47.



c. Documentary Evidence

The **Arrest Report**¹⁷ states that [REDACTED] was arrested for Obstruction, Aggravated Battery, and Disorderly Conduct. Officer [REDACTED] wrote that [REDACTED] presence on the scene constituted a safety issue and his resistance to leaving the immediate area caused him to seek to take [REDACTED] into custody. Officer [REDACTED] wrote that he sought backup. When backup arrived, together, they attempted to take [REDACTED] into custody, but he resisted in a manner that ultimately resulted in his being Tasered.

Watch Commander [REDACTED] found there to be insufficient evidence to charge the arrestee based on his review of the body worn camera. [REDACTED] was released without charges.

Event Query [REDACTED]¹⁸ details the traffic stop of a vehicle with the license plate [REDACTED] by beat [REDACTED]. Beats [REDACTED] and [REDACTED] were called to assist. Beat [REDACTED] deployed their Taser. The RD Number [REDACTED] was assigned to the arrest.

The **Tactical Response Report**¹⁹ completed by Officer [REDACTED] detailed his account of the incident. Officer [REDACTED] indicated that [REDACTED] failed to follow directions, stiffened, and pulled away, and physically attacked by shoving an officer. Officer [REDACTED] further indicated that prior to using his Taser he used member presence, verbal directions, and additional members to mitigate the necessity for of using force. Further, Officer [REDACTED] wrote in his narrative that Officer [REDACTED] gave him a nod to tase the subject after the subject flailed and pushed himself away from Officer [REDACTED].

Watch Commander, Lieutenant [REDACTED] found the use of force to be in compliance with Department policy.

¹⁷ Attachment 4

¹⁸ Attachment 29

¹⁹ See Attachment 21.

The **Taser Discharge Download**²⁰ shows that Officer [REDACTED] fired his Taser once for a total of five seconds.

[REDACTED] **Medical Records**²¹ show that [REDACTED] was seen on July 27, 2018. The records confirm that a taser barb was removed from [REDACTED] right groin area at the hospital. The records also reflect that [REDACTED] had scratches and bruising related to falling on his left side after being tasered and minor swelling around his wrists. [REDACTED] also complained to the hospital staff that Officer [REDACTED] yanked a taser barb out of him.

VI. LEGAL STANDARD

a. Possible findings and burdens of proof

For each allegation COPA must make one of the following findings:

Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

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 reviewed 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 conduct violated Department policy than that it did not, 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.

²⁰ See Attachment 21.

²¹ Attachment 34

VII. ANALYSIS**Allegations against Officer [REDACTED]:**

- 1. It is alleged that on July 27, 2018, Officer [REDACTED] drove westbound on [REDACTED], a one-way road going the opposite direction, nearly causing an accident with [REDACTED] while not engaged in a pursuit or other emergency situation in violation of rule 6.**

This allegation is **SUSTAINED**. Rule 6 prohibits the disobedience of any order or directive. Uniform and Property U02-01-01 requires Department members to, “during routine driving, operate Department vehicles in a safe and courteous manner and comply with all traffic laws and ordinances. According to 625 ILCS 5/11-708, upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices. Officer [REDACTED] admitted that he drove the wrong direction on [REDACTED], a one-way road, by mistake.

It is reasonable to believe that Officer [REDACTED] made a mistake. Officer [REDACTED] told investigators that he had only recently returned to the District after some time away and had only been on that beat for a few weeks. [REDACTED] told investigators that Officer [REDACTED] was driving hurriedly as if he was trying to get off of the street quickly because he knew he made a mistake. [REDACTED] admitted that the street was confusing, in that one portion of the street was one-way heading eastbound and another portion of the same street was one-way going the opposite direction. Officer [REDACTED] apologized to [REDACTED] for driving the wrong way.

While we are sympathetic to Officer [REDACTED] reasonable mistake, it does not negate the fact that he drove in the wrong direction on a one-way street, creating a dangerous situation for himself and other drivers. The allegation that Officer [REDACTED] drove the wrong direction on a one-way, in a non-emergency situation, is **SUSTAINED**.

- 2. It is alleged that on July 27, 2018, Officer [REDACTED] unlawfully arrested [REDACTED] for Disorderly Conduct in violation of rules 1 and 6.**

COPA finds that Officer [REDACTED] should be **EXONERATED** of the allegation that he unlawfully arrested [REDACTED].

The Fourth Amendment to the U.S. Constitution gives citizens the right to be free of unreasonable searches and seizures, including arrest. Rule 1 prohibits a Department member from violating any law or ordinance, including the U.S. Constitution. Rule 6 requires a Department member to follow all orders and directives, including the Preliminary Investigation orders, General Order G04-01, which require an officer to have probable cause prior to making an arrest. COPA finds that there was sufficient probable cause to arrest [REDACTED] for Disorderly Conduct and Obstructing a Police Officer.

The issues here are whether [REDACTED] complied with Officer [REDACTED] orders and whether those orders were legal. The municipal code defines Disorderly Conduct as when a person 1) knowingly

fails to obey an order by a peace officer, 2) who is reasonably identifiable as such, 3) issued under circumstances where it is reasonable to believe that the order is necessary to allow public safety officials to address a situation that threatens the public health, safety or welfare. It has long been accepted that the enforcement of traffic laws is necessary for the safety of the public. There is no dispute as to whether Officer [REDACTED] was readily identifiable as a peace officer. Officer [REDACTED] was in full uniform, driving a marked squad vehicle. There is no dispute about whether the traffic stop was lawful. [REDACTED] repeatedly admitted that she was on her cell phone.

Based on the evidence referenced above, once [REDACTED] arrived on the scene he was instructed several times to walk away from the car. [REDACTED] initially refused, then moved from the curb immediately adjacent to the vehicle to the sidewalk. [REDACTED] also repeatedly told [REDACTED] to walk away from the car. [REDACTED] still refused. Officer [REDACTED] again told [REDACTED] to move away, saying, "sir, I'm instructing you to get back over there or you're going to be arrested." [REDACTED] disregarded Officer [REDACTED] warning and engaged [REDACTED] in conversation. Officer [REDACTED] repeatedly tried to get [REDACTED] attention, but [REDACTED] continued to engage with [REDACTED]. [REDACTED] then continued standing in place and looking at his phone, refusing to acknowledge Officer [REDACTED]. Officer [REDACTED] then informed [REDACTED] that he was being placed under arrest.

In his interview, Officer [REDACTED] said that he considered [REDACTED] to be a threat to his safety because he did not know who [REDACTED] was, because [REDACTED] waistline was partially obscured, and because he was alone on the stop. It is reasonable that a single officer conducting a traffic stop would be concerned about the presence of an unknown third party standing in close proximity to the traffic stop and ignoring directions from the officer to move. Failing or refusing to heed the order of an officer to move further away from the scene of a traffic stop under the circumstances presented here would be disorderly conduct.

3. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by tightening the cuffs to the extent that they caused injury and unnecessarily twisting his arm in violation of rules 8 and 9.²²

This allegation is **NOT SUSTAINED**. Rules 8 and 9, when read together, prohibit an officer from using an unnecessary level of force against a civilian in the performance of their duties. [REDACTED] has alleged that after being taken into custody, while waiting to be processed, Officer [REDACTED] tightened his handcuff intentionally to cause injury. While [REDACTED] submitted photos purporting them to depict injuries to [REDACTED] wrists, those photos did not clearly show an injury. Officer [REDACTED] denied tightening [REDACTED] handcuffs and there is no video or audio evidence of the alleged event.

Similarly, there is no evidence to support or refute [REDACTED] claim about his shoulder being twisted. Officer [REDACTED] body worn camera captured him transporting [REDACTED] to the District for processing. Nothing captured on the video between the parking lot and the interior door of the precinct showed any evidence of malice on the part of Officer [REDACTED] or an intention to do additional

²² Unfortunately, the lock-up and precinct camera footage were unavailable as a result of being deleted during the normal course of the retention policy prior to a request being made.

harm. Officer [REDACTED] denies twisting [REDACTED] arm. However, without video evidence or other eye witness accounts, there is insufficient evidence to prove or disprove that Officer [REDACTED] twisted [REDACTED] arm at the station.

4. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by pushing his face against a wall after he was in custody.

This allegation is **NOT SUSTAINED**. Rules 8 and 9, when read together, prohibit an officer from using an unnecessary level of force against a civilian in the performance of their duties. [REDACTED] has alleged that after being taken into custody, while waiting to be processed, Officer [REDACTED] pushed him face first into a wall causing injury. While [REDACTED] submitted photos purporting them to depict injuries to [REDACTED] face, there is nothing to suggest that the injuries were sustained extrajudicially after he was taken into custody, rather than at the time [REDACTED] was lawfully arrested using force. Officer [REDACTED] denied pushing [REDACTED] face into the wall.

Video evidence confirms that [REDACTED] engaged in a physical altercation when he was tased that may have led to his facial injuries. However, because we were unable to obtain video footage from the District, we cannot say with clear and convincing proof that additional injuries were not suffered at the station.

5. It is alleged that on July 27, 2018, you removed the Taser barb from [REDACTED]

This allegation is **UNFOUNDED**. Rule 6 prohibits an officer from violating any order or directive. General Order G03-02-04 prohibits officers from removing taser barbs that are embedded in the flesh of the subject of force. [REDACTED] was struck with the taser in the right thigh and

right groin area. One taser probe struck ██████ in the groin area, the barb was later removed at the hospital. It is unclear whether the taser barb successfully embedded in the flesh of ██████ or if the taser barb became dislodged while the officers were attempting to take ██████ into custody.

After ██████ was in the car, Officer ██████ could be seen interacting with the taser probes. According to Officer ██████ he only separated the wires from the probe, which was permitted by Department Policy. When Officer ██████ separated the wires from the taser probe ██████ did not vocalize pain or additional discomfort, which could have indicated that a barb was being “yanked” from his flesh. Officer ██████ appeared to discard the wires on the ground. Moments later, Officer ██████ would point out two taser probe on the ground near the squad car. At no point do you see the taser barbs either imbedded in ██████ or attached to the recovered probes.

Based on these observations, we know that Officer ██████ never removed a taser barb from ██████ flesh. We find that the taser barb was not embedded in ██████ flesh at the time it was removed. For these reasons, there is clear and convincing evidence to find that this allegation is **UNFOUNDED**.

- 6. It is alleged that on July 27, 2018, you were verbally abusive to ██████ by using language such as "motherfucker, you're going to jail now," "I got your ass now," "Bitch, your ass is going to jail now," and "your bitch ass is finna sit here for some hours."**

This allegation is **UNFOUNDED**. Rule 8 Prohibits an officer from disrespecting or mistreating any person, while on or off duty. ██████ alleged that Officer ██████ was verbally abusive to him by saying things such as “motherfucker, you’re going to jail now” and “I got your ass now.” ██████ alleged that Officer ██████ whispered these things into his ear while placing him into custody. Officer ██████ body worn camera was on during the entire arrest. There is no evidence of Office ██████ saying anything similar to what ██████ has alleged. The body worn cameras are sensitive enough that they capture the sound of tickets crinkling in Officer ██████ hands and keys and phone chargers being discarded a distance away. If Officer ██████ said what is alleged, that, too, would have been captured on the body worn camera.

██████ also alleged that, while in transport to the police station, Officer ██████ said, “bitch, your ass is going to jail now.” Again, there is no evidence on the body worn camera to support the allegation. Based on the surrounding captured in the periphery of Officer ██████ body worn camera, it appeared that Officer ██████ reinitiated recording prior to leaving the scene with ██████ though there is a thirty-second buffer with no audio. Based on the nature of the conversation captured, it seems evident that no such comment would have been made in the thirty-second window, nor is it captured anywhere else in the nine-minute recording of the ride to the station. While in transit to the police station, not only did ██████ also apologize for his behavior, ██████ admitted that he had just woken up from drinking the night before. Officer ██████ referred to ██████ exclusively as “sir” throughout the ride, even when ██████ argued that Officer ██████ had arrested him for no reason. That language would have been a sudden and abrupt departure from Officer ██████ conduct at all times during the arrest. We find ██████ account to be too implausible to believe. Similarly, we find no reason to believe ██████ when he alleged that Officer ██████ said,

“your bitch ass is finna sit here for some hours.” For these reasons, there is clear and convincing evidence to find that this allegation is **UNFOUNDED**.

- 7. It is alleged that on July 27, 2018, you behaved unprofessionally by mocking [REDACTED] and imitating him being tasered.**

This allegation is **UNFOUNDED**. Rule 2 prohibits an officer from taking any action which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department. Mocking arrestees is unprofessional conduct that would bring discredit upon the Department. There is no evidence to support the allegation that this conduct occurred. There was no video footage from the processing area of the police station that could have proven [REDACTED] claim, if it did occur. However, we find the allegation to be so highly unlikely as to find that it did not occur. It is clear from [REDACTED] statement, when compared to the evidence, that he his account was not entirely credible.

Based on the nature of the interactions until then, Officer [REDACTED] alleged behavior would have been a sudden and abrupt departure from the behavior demonstrated throughout the recorded interactions. Officer [REDACTED] was asked about the incident multiple times on camera. Each time he repeated his account excitedly but without mocking [REDACTED]. Officer [REDACTED] told investigators that he only spoke to the involved officers and Sergeant [REDACTED] and Lieutenant [REDACTED] about the incident at the station. Officer [REDACTED] told investigators that once [REDACTED] was in lock-up, he had no further interaction with him. [REDACTED] was interviewed by both Sergeant [REDACTED] and Lieutenant [REDACTED], and never mentioned being mocked by Officer [REDACTED]. For these reasons, there is clear and convincing evidence to find that this allegation is **UNFOUNDED**.

Allegations against Officer [REDACTED]:

- 1. It is alleged that on July 27, 2018, Officer [REDACTED] unlawfully arrested [REDACTED] for Disorderly Conduct in violation of rules 1 and 6.**

Similar to the analysis above for the same allegation against Officer [REDACTED], Officer [REDACTED] is **EXONERATED** of the allegation that he unlawfully arrested [REDACTED]. While Officer [REDACTED] personally witnessed the unfolding of the events that create probable cause to arrest [REDACTED], Officer [REDACTED] is entitled to trust the word of his fellow officer that there is probable cause for the arrest, barring firsthand knowledge to the contrary. Here, it is known that Officer [REDACTED] and Officer [REDACTED] responded to Officer [REDACTED] request for assistance. By the time Officers [REDACTED] and [REDACTED] arrived at the scene, Officer [REDACTED] had already informed [REDACTED] that he was being arrested. There is no need for Officer [REDACTED] to second guess Officer [REDACTED]. Even if he did not believe Officer [REDACTED] his recourse would be to report Officer [REDACTED] for misconduct. However, what Officer [REDACTED] did observe was Officers [REDACTED] and [REDACTED] struggling to take a flailing [REDACTED] into custody as he resisted arrest, which is its own arrestable offense.

- 2. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] by unnecessarily deploying his Taser in violation of rules 1, 6, 8, and 9.**

Officer ██████ is **EXONERATED** of the allegation that he used excessive force against ██████ by unnecessarily deploying his Taser. Rules 8 and 9, when read together, prohibit an officer from using an unnecessary level of force against a civilian in the performance of their duties. Rule 1 prohibits an officer from violating any law or ordinance, including case law. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.²³ The Department has also set forth a number of directives to help officers determine what level of force is appropriate, including General Orders G03-02-01, G03-02, and G03-02-04.

Specifically, the Department codified a sliding scale of acceptable levels of force for a given level of resistance. General Order G03-02-01 describes a person as an “active resister” when they attempt to create distance between themselves and a police officer by engaging in evasive movements with their arms, flailing their arms, or fleeing. Officers are authorized to use stunning techniques, takedowns, and Tasers to subdue an active resister. An “assailant” is a subject who is using or threatening to use force likely to cause injury. Assailants who do not constitute a threat of great bodily harm can be met with all of the same force options as an active resister but may also be met with direct mechanical strikes among other things. We find that Officer ██████ acted within policy and used a reasonable level of force for the level of resistance.

Based on the video evidence discussed above, Officer ██████ told ██████ that he was under arrest and instructed him to put his hands on the hood of ██████ vehicle. ██████ refused to put his hands on the car but did not flee or retreat away. At that point, ██████ would have been classified a “passive resister,” however, as Officer ██████ and ██████ approached ██████, ██████ started backing away. At that point, he became an active resister.

Nonetheless, Officer ██████ and Officer ██████ attempted to apply holding techniques such as grabbing his arms and come-along holds, which were a permitted level of force. ██████ then began flailing his arms and engaging in evasive arm movements, grappling with the officers. ██████ again, was an active resister. After several seconds of grappling with ██████, Officer ██████ disengaged and asked Officer ██████ to deploy his Taser at that time, Officer ██████ did not.

████████ then adopted a “ready” posture, in that he was bracing himself for another fight with the officers. Officer ██████ then signaled Officer ██████ for the second time to deploy his Taser. Officer ██████ acknowledged the signal and called out, “Taser, Taser, Taser.” Officer ██████ and Officer ██████ then cleared away from ██████ as to give Officer ██████ a clearer shot. Officer ██████ then fired his Taser striking ██████ on the right side of his body. Officer ██████ deployed the Taser once, for five seconds, which is what policy recommends. COPA finds that at the time Officer ██████ deployed his Taser at ██████ he was an active resister and the use of the Taser was a permitted by policy.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer ██████

²³ *Graham v. Connor*, 490 U.S. 386

Officer [REDACTED] complimentary and disciplinary history were considered in recommending discipline in this matter. Officer [REDACTED] received a reprimand for Indebtedness to the City on December 8, 2018 and a reprimand for Court Appearance Violation September 11, 2018.

Officer [REDACTED] admits to mistakenly driving down the wrong way. [REDACTED] also stated that Officer [REDACTED] was visibly frantic and apologized to her for driving down the wrong way. Officer [REDACTED] actions were misconduct but clearly were not intentional. Therefore, COPA recommends a penalty of violation noted.

IX. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED]	<ol style="list-style-type: none"> <li data-bbox="581 747 1166 1010">1. It is alleged that on July 27, 2018, Officer [REDACTED] drove westbound on [REDACTED], a one-way road going the opposite direction, nearly causing an accident with [REDACTED] while not engaged in a pursuit or other emergency situation in violation of rule 6. <li data-bbox="581 1052 1166 1199">2. It is alleged that on July 27, 2018, Officer [REDACTED] unlawfully arrested [REDACTED] for Disorderly Conduct in violation of rules 1 and 6. <li data-bbox="581 1241 1166 1461">3. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by tightening the cuffs to the extent that they caused injury and unnecessarily twisting his arm in violation of rules 2, 8, and 9. <li data-bbox="581 1493 1166 1671">4. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] while he was in custody by pushing his face against a wall after he was in custody in violation of rules 2, 8, and 9. 	<p>SUSTAINED</p> <p>EXONERATED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>
Officer [REDACTED]	<ol style="list-style-type: none"> <li data-bbox="581 1734 1166 1879">1. It is alleged that on July 27, 2018, Officer [REDACTED] unlawfully arrested [REDACTED] for Disorderly Conduct in violation of rules 1 and 2. 	<p>EXONERATED</p>

	2. It is alleged that on July 27, 2018, Officer [REDACTED] used excessive force against [REDACTED] by unnecessarily deploying his Taser in violation of rules 1, 6, 8, and 9.	EXONERATED
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Approved:

[REDACTED]

July 8, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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