

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 10, 2017
Time of Incident:	1:20 p.m.
Location of Incident:	████████████████████ Chicago, Illinois 60618
Date of COPA Notification:	October 25, 2017
Time of COPA Notification:	12:40 p.m.

On October 10, 2017, at approximately 1:20 p.m., Officer ██████████ (██████████) and ██████████ (██████████) arrived at ██████████ to execute a fugitive apprehension arrest for ██████████ (██████████) per active investigative alert, # ██████████ with probable cause to arrest. The Officers arrived at the location, confirmed ██████████ identity and officers attempted to place him under arrest. A brief struggle ensued but the officers were successful in gaining control of ██████████ and placed him under arrest.

In his complaint to the Civilian Office of Police Accountability (COPA) on November 15, 2017, ██████████ alleged the arresting officers illegally arrested him and placed him in a chokehold. ██████████ further alleged he was kicked and stepped on when unidentified department members attempted to wake him up the next morning for his bond hearing.

II. INVOLVED PARTIES

Involved Officer #1:	Officer ██████████ Star # ██████████ Employee # ██████████ Unit ██████████ Date of Appointment: ██████████ 1991, Date of Birth: ██████████ 1964, Male, Hispanic
Involved Officer #2:	Officer ██████████ Star # ██████████ Employee # ██████████ Unit ██████████ Date of Appointment: ██████████ 1995, Date of Birth: ██████████ 1963, Male, White
Involved Department Members:	Unknown
Involved Individual:	██████████ Date of Birth: ██████████ 1993, Male, White Hispanic
Case Type:	Unlawful Search and Seizure Excessive Force

III. ALLEGATIONS

Officer ██████████	
Allegations	Finding

1. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You unlawfully arrested the Complainant.	Exonerated
2. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You placed the Complainant in a chokehold.	Unfounded

Officer [REDACTED]

Allegation	Finding
1. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You unlawfully arrested the Complainant.	Exonerated

Unknown Department Members

Allegations	Finding
1. Failed to intervene in [REDACTED] attempted suicide, in violation of Rule 5 and Rule 10.	Not Sustained
2. Used excessive force when you stepped on [REDACTED] hand, in violation of Rule 8 and Rule 9.	Not Sustained
3. Used excessive force when you kicked [REDACTED] in violation of Rule 8 and Rule 9.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Prohibits violation of any law or ordinance.
2. Rule 5: Failure to perform any duty.
3. Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
5. Rule 10: Inattention to duty.

General Orders

1. G03-02-01: Force Options

Federal Laws

1. United States Constitution, Amendment IV: Prohibits unlawful searches and seizures.

V. INVESTIGATION¹

a. Interviews

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

In an interview with COPA on November 15, 2017, Mr. ██████████ (██████████) provided the following information. On October 10, 2017, at approximately 1:30pm, ██████████ and his ex-fiancé, ██████████ (██████████) were in his apartment on the second floor of ██████████ when he heard footsteps in the gangway. ██████████ looked out an open window and saw two police officers, now known to be Officer ██████████ and Officer ██████████. The officers told ██████████ they needed to go to the third floor because someone called and needed help. ██████████ was suspicious and told the officers he would not let them in unless they told him what was happening. ██████████ stated to COPA investigators, “I don’t trust cops, especially not even white cops” because “they have a tendency.” ██████████ stated he eventually decided to let the Officers inside the building, but had a “bad feeling,” so he used ██████████ cell phone to video record himself opening the front door.

██████████ went downstairs, opened the door, and the officers asked his name. When ██████████ identified himself, the officers “rushed” him, and Officer ██████████ put him in a “chokehold,” which ██████████ later learned is considered deadly force. ██████████ kept asking the officers to see a warrant and did not resist. The officers told ██████████ he was under an investigative alert and that detectives wanted to speak with him. The officers handcuffed ██████████ and promised to show him a warrant, however there was no warrant. ██████████ was transported to the ██████████ District Station and then to Central Male Lockup.

At lockup, ██████████ concealed a rosary in his anus so that he could keep it with him. When he saw guards with gloves, he admitted to having the rosary and removed it. ██████████ was placed into a cell and “started going crazy in there.” ██████████ felt like he was in the cell for much longer than he was. The cell had graffiti reading “I don’t know why there’s no sun in the sky” and “R.I.P. son,” which ██████████ said was “fucking with his head.” ██████████ ripped his shirt, tied a knot, and began to suffocate himself because he “couldn’t take it anymore.” ██████████ stated he knew lockup personnel could see what he was doing because he could see the video monitors that were recording the cells.

██████████ suffocated himself for hours and lost consciousness at some point. When lockup personnel opened the cell door for the bond hearing, an unknown department member or members stomped on ██████████ hand and started kicking him to wake him up. ██████████ heard someone say, “ah shit, someone call an ambulance.” ██████████ believed there was more than three male white department members in his cell, one of which he described as an officer wearing a decorative hat that ██████████ believed signified a higher rank. The paramedics arrived and took ██████████ to Mercy Hospital, where he was examined for possible damage to his throat and possible concussion. ██████████ was then taken to UIC Hospital for a psychiatric evaluation, where he later received an I-bond and was discharged.

██████████ stated he does not like the police although he has not had any previous negative interactions with law enforcement. ██████████ stated he is not afraid of the police but mentioned “everything that’s been happening on the news, and especially with the coverup of ██████████ ██████████ and all the shady shit they’re up to.” ██████████ stated, “they got away with this and they get away with a lot of shit.” He described how recently he was eating in a restaurant and a police

² Att. 8.

officer was staring at him. ██████ stated that since the incident he has been paranoid and does not like to leave his house.

In an interview with COPA on November 15, 2017, Ms. ██████ (██████) provided the following information. ██████ and ██████ were in his apartment when she heard him talking from the kitchen to someone outside. ██████ told ██████ the police were outside and asked to use her cell phone to record as he went downstairs to open the door. ██████ looked out the window and saw two police officers, now known to be Officer ██████ and Officer ██████. ██████ heard ██████ go downstairs and then heard him screaming “stop, stop, stop.” ██████ went to the top of the stairs and saw the Officers on top of ██████ at the bottom of the stairwell.

██████ was on his stomach and struggling. One officer had his arm around ██████ neck in a “chokehold.” The other officer was pushing down on ██████ back while holding onto one of ██████ hands. The officers were telling ██████ to calm down and told ██████ to call the police. ██████ told the officers she would not do anything until she saw a warrant. The officers told ██████ that ██████ was wanted by detectives. ██████ kept asking for a warrant and did not understand why the officers wanted her to call the police because ██████ was pinned down and it was two against one. One officer promised ██████ he would show the warrant once ██████ calmed down. Once ██████ told ██████ to calm down, he willingly put both hands behind his back. ██████ believed ██████ was scared and did not know what was happening. ██████ described ██████ as in “panic mode.” ██████ followed the officers as they led ██████ to their car. One of the officers showed ██████ his phone which had a description of a Hispanic male, light skin, dark hair and eyes, and tattoos. ██████ also noticed two pictures of ██████ on the phone. Before ██████ could look further the officer took the phone back. The officer told ██████ that if she had any more questions to go to the police station.

██████ went to the station and asked to speak to ██████. Two detectives came out and asked where she was on July 5th, where ██████ was employed, and if she knew why he was so thin. The detectives told ██████ that ██████ confirmed everything, and he told them the truth. The detectives told ██████ that ██████ was clearly identified by an eyewitness. The detectives told ██████ they could not discuss anything further. ██████ later called the station and was told that she should attend the bond hearing for further information.

In an interview with COPA on January 31, 2018, Officer ██████ (Officer ██████) provided the following information. ██████ stated he was assigned to unit ██████ fugitive apprehension task force with the US Marshals. Based on the unit’s assignment he is assigned investigative alerts or warrants and is tasked with finding the individuals associated with them and bring them in for questioning. Officer ██████ stated he received an investigative alert to arrest ██████ on October 10, 2017.

Officer ██████ stated when he and his partner, Officer ██████ (Officer ██████) arrived at ██████ address, they identified it as a 3-story building and they tried gaining access at the front, side and rear entrances of the building. Officer ██████ stated after failing to gain entry he went back to the front entrance and heard a voice from a second-floor window asking, “who

³ Att. 9.

⁴ Att. 77.

are you looking for.” Officer ██████ stated Officer ██████ responded but could not recall his exact words because he was at the front entrance while his partner was at the side of the building.

Officer ██████ stated after the individual opened the front door, he asked him his name. ██████ stated the individual identified himself as ██████ and attempted to shake ██████ hand. At that point, Officer ██████ stated he took his handcuffs out while Officer ██████ stated “you’re under arrest.” Officer ██████ stated ██████ turned away from him and tried to flee upstairs. Officer ██████ then stated he grabbed ██████ from behind and they fell on the stairs. Officer ██████ stated he grabbed ██████ by his shoulders to secure his arms from flailing while holding handcuffs in his hand.

Officer ██████ stated he had his arm around ██████ and described the tactic he used as a bear-hug around the shoulders. Officer ██████ stated his arm went to ██████ head area as ██████ was squirming and motioning to get away from him. Officer ██████ stated he did not feel ██████ was having trouble breathing because ██████ kept turning his head toward Officer ██████ who was behind him, and screaming he (Officer ██████) lied to him (██████). Officer ██████ described ██████ demeanor as agitated and distraught. Officer ██████ estimated the encounter lasted about 4 minutes. ██████ stated his arm was near ██████ neck area but did not believe he was choking ██████ because he was not blocking or restricting ██████ airway.

Officer ██████ stated ██████ pregnant ex fiancée, ██████ (██████) appeared in the stairwell after they fell. He stated he asked ██████ to call the police because ██████ seemed confused as to what was happening. Officer ██████ stated he wanted her to be reassured they were the police. Officer ██████ stated ██████ became compliant and was placed under arrest. He stated ██████ did not complain of any pain as they transported him to the ██████ District to speak with detectives. Officer ██████ stated ██████ did not ask for any medical treatment during processing at the ██████ District police station.

Officer ██████ was asked about any chokehold training he received or department policy on chokeholds. Officer ██████ paused and then stated he did not know the policy verbatim but knows choke holds are not allowed and that is how he was trained. Officer ██████ then explained the difference between a bear hug and chokehold as wrapped around a person versus wrapping arms around the neck. Officer ██████ stated he did not block ██████ airway and was not his intention.

In an interview with COPA on January 31, 2018, **Officer ██████ ██████** (Officer ██████) provided the following information. Officer ██████ was working with his partner Officer ██████ (Officer ██████) as members of the Fugitive Apprehension Unit ██████ with the US Marshals. Officer ██████ stated they are assigned investigative alerts with the goal of apprehending these people. Officer ██████ stated he and Officer ██████ went to the address listed on the investigative alert and identified it as a 3-floor building.

Officer ██████ stated he and Officer ██████ decided to work from the top down knocking on doors once they got inside. Officer ██████ stated he could not gain access through the front, side, or rear entrances. Officer ██████ stated as he was knocking at the side entrance someone peeked

⁵ Att. 78.

out of a second-floor window asking if he needed help. Officer ██████ stated he was told by that person that he “doesn’t trust the police” and “would not let him in.” Officer ██████ stated he told the individual that how does he know someone else from the building did not call for help and asked for his name, so he could document who he spoke with.

Officer ██████ stated the individual identified himself as ██████ (██████) Officer ██████ stated ██████ then told him “hold on, I’ll be right down.” Officer ██████ stated he walked to the front at which point ██████ opened the front door. Officer ██████ stated he asked him his name once again and when told, informed ██████ he was under arrest. Officer ██████ stated ██████ tried to go back upstairs so his partner came through the side and all three fell on the stairs. Officer ██████ stated he had one cuff on as ██████ reached to his pants and would not let go. Officer ██████ stated Officer ██████ was straddling ██████ and had one arm over ██████ shoulder. Officer ██████ stated they were telling him to relax and he was under arrest. Officer ██████ stated Officer ██████ was reaching over, holding onto ██████

Officer ██████ stated every time ██████ turned to talk to him, ██████ was changing the position of Officer ██████ arm. Officer ██████ stated the arm contact was near ██████ neck area but not around ██████ neck.

Officer ██████ stated he did not think ██████ breathing was impeded because he was carrying on a conversation the entire time. Officer ██████ stated ██████ did not complain about any pain or being choked. Officer ██████ estimated the whole encounter lasted 3 minutes. Officer ██████ stated ██████ girlfriend, ██████ (██████) came down when they were struggling in the stairwell. Officer ██████ stated Officer ██████ told ██████ to call the police because their radios were left in the car and wanted to calm her down. He wanted her to be reassured that they were in fact the police. Officer ██████ stated he was wearing his black vest, blue jeans with badge and firearm visible.

Officer ██████ stated once they got him under control they took him to the ██████ District police station to speak with detectives. Officer ██████ stated ██████ was left in a secured interview room while they completed ██████ processing. ██████ made no mention of pain. When asked, Officer ██████ stated chokeholds are not allowed and ██████ was not being choked because “his airway was not blocked, there was nothing around his throat.”

In an interview with COPA on January 24, 2018, Sergeant ██████ ██████ (Sergeant ██████) provided the following information. On October 11, 2017, Sergeant ██████ stated he was the watch coordinator for Central Male Lockup and began his shift at approximately 4:00 a.m. with a visual check of all the prisoners in their cells. Sergeant ██████ stated ██████ (██████) was placed in Cell A because ██████ disclosed a prior episode of self-harm when he was brought to the lockup on October 10, 2017, as noted on ██████ arrest report.

On the morning of October 11, 2017, Sergeant ██████ Detention Aides ██████ and ██████ went to Cell A to get ██████ ready for court. Sergeant ██████ stated transport officers are usually present when getting detainees ready for court but could not recall if transport officers were present that morning near Cell A. Sergeant ██████ stated he saw

⁶ Atts. 67 and 68.

██████████ on the cell floor, awake and alert but not responding to verbal commands to get ready for court. Sergeant ██████████ stated based on ██████████ self-reported history of attempted suicide, he decided to have him transported to the hospital by ambulance with an escort by ██████████ District officers.

Sergeant ██████████ stated he did not see anything around ██████████ neck nor did he notice any marks. Sergeant ██████████ stated unequivocally that no one kicked ██████████ or stepped on his hand. Sergeant ██████████ stated that if he had suspected that ██████████ had attempted suicide he would have rendered aid, notified CPIC and his Unit Commander, and completed a Hospitalization Case Report and an Unusual Occurrence Report.

Sergeant ██████████ stated none of these actions were required in ██████████ case as he was merely despondent and non-responsive. Sergeant ██████████ later learned that ██████████ was admitted for a psychiatric evaluation and custody of ██████████ was transferred to 12th District officers. Sergeant ██████████ also stated that on January 20, 2018, he had a conversation with a paramedic named ██████████ who indicated she had provided a statement to COPA regarding the incident. Sergeant ██████████ stated the paramedic told him she noticed marks around ██████████ neck and believed the marks were from a suicide attempt that occurred two days prior to ██████████ arrest.

In an interview with COPA on December 29, 2017, **Detention Aide ██████████ ██████████** (██████████) provided the following information. On October 11, 2017, ██████████ stated he was working the cells at Central Male Lockup. He stated his duties were to check on the prisoners every 15 minutes. ██████████ confirmed that he made a handwritten entry in the Daily Prisoner Log Record at 5:45 a.m. stating, “cell check made all alive [and] well,” and an entry at 6:30 a.m. stating that one prisoner went to the hospital. ██████████ had no recollection of any extraordinary events occurring on October 11, 2017, nor did he recall ever having any contact with ██████████ did not recall the fire department or emergency personnel responding to the lockup on October 11, 2017. When presented with the 911 call from the Central Male Lockup that day, ██████████ identified the caller as Detention Aide ██████████

██████████ stated that Cell A is used for prisoners who may attempt to harm themselves. He described Cell A as padded on all surfaces with no fixtures from which someone could hang themselves. He stated Cell A is located in the middle of the lockup and is checked every 15 minutes just like the other cells. ██████████ stated if he found a prisoner attempting to wrap something around their neck, he would summon additional personnel, enter the cell, and stop the prisoner from harming themselves.

In an interview with COPA on January 9, 2018, **Detention Aide ██████████ ██████████** (██████████) provided the following information. On October 11, 2017, ██████████ was assigned to the desk at Central Male Lockup and would not be responsible for checking cells as part of his desk duty. That duty would belong to someone else but ██████████ could not recall who was working cells that day. ██████████ stated he is unable to see the cells from his position at the desk and does not have access to the security cameras. ██████████ described Cell A as a “rubber room” for prisoners who are unstable or have threatened or attempted suicide. ██████████ identified

⁷ Att. 49.

⁸ Att. 52.

himself as the 911 caller on October 11, 2017, however he had no independent recollection of making the call or having any interaction with ██████████ stated he would have been directed to call 911 by cell staff or a supervisor.

In an interview with COPA on January 16, 2018, **Paramedic ██████████**⁹ could not independently recall the events related to ██████████ hospitalization and relied on the Ambulance Report¹⁰ to refresh her recollection of the event. Paramedic ██████████ restated what was documented in the narrative portion of the Ambulance Report.

In an interview with COPA on January 26, 2018, **Paramedic ██████████** (Paramedic ██████████) provided the following information. Paramedic ██████████ relied on the Ambulance Report¹² to refresh his recollection of the event. Paramedic ██████████ stated he vaguely remembers responding to a call “maybe for a hanging” and noticed a gentleman in the fetal position on the cell floor and not wearing a shirt when he arrived. Paramedic ██████████ stated he did not see any officers in the cell and he entered to assist the individual onto the stair chair.

He stated ██████████ (██████████) was not in critical condition but he noticed what he thought were ligature marks around ██████████ neck but could not tell if they were fresh marks. Paramedic ██████████ described the marks as “indentations in the neck.” He also described ██████████ as timid and nodding his head. Paramedic ██████████ stated there was no indication that an attempted hanging occurred in the cell.

COPA also conducted interviews of the officers assigned to Beat ██████████ on October 11, 2017. **Officer ██████████**¹³ **Officer ██████████**¹⁴ and **Officer ██████████**¹⁵ were unable to recall having any interaction with ██████████ as they were the escort for the ambulance transporting ██████████ to the hospital.

b. Digital Evidence

Cell Phone Video¹⁶ depicts ██████████ (██████████) in his apartment as he prepares to go downstairs to open the apartment building door for Officer ██████████ and Officer ██████████ (██████████) is present in the apartment. ██████████ states that he is recording himself “just in case” and says, “hopefully nothing happens.” ██████████ goes down the stairs, opens the door, and the officers ask his name. After ██████████ identifies himself, the Officers tell him he is under arrest. ██████████ can be heard saying “whoa” and “stop” over the sounds of a struggle. The camera lens becomes obscured and the video stops.

When the video resumes, ██████████ is face down on the staircase with Officer ██████████ on his back. Officer ██████████ right inner forearm is pressed against the right side of ██████████ neck

⁹ Att. 55.

¹⁰ Att. 13.

¹¹ Att. 76.

¹² Att. 13.

¹³ Att. 72.

¹⁴ Att. 92.

¹⁵ Att. 96.

¹⁶ Att. 10.

and handcuffs can be seen in his right hand. ██████ repeatedly turns his head back to scream that the officers lied to him and that he wants to see a warrant. Officer ██████ is seen attempting to secure ██████ arms behind his back. Both officers repeatedly tell ██████ he is under arrest and to relax. ██████ can be seen sitting on the stairs. Officer ██████ tells ██████ to call 911 several times. Officer ██████ tells ██████ that he is under an investigative alert and detectives want to speak with him. Officer ██████ promises to show ██████ the warrant once he is handcuffed. ██████ eventually complies. During the encounter, ██████ yells “you said the third floor,” to which Officer ██████ replies, “would you have opened the door otherwise? No, because you’re already scared of the police.” ██████ responds “I don’t trust the police. Nobody trusts the police.”

Body-Worn Camera (BWC) and In Car Camera (ICC) videos¹⁷ were not found when requested. The Department’s response indicates that “bwc not available in the 5700 series; 5754B, 5754C.”

Office of Emergency Management and Communications audio¹⁸ on October 11, 2017 at 6:05 a.m. captures a call requesting an ambulance to 1718 S. State St. for a 23-year-old Hispanic male who is “acting non-responsive and despondent.”

Video¹⁹ from the ██████ District and Central Male Lockup was unable to be retrieved due to the expiration of the retention period. CPD’s response indicates the retention period for the video was anywhere from 3 to 30 days.²⁰

c. Documentary Evidence

An **Original Case Incident Report**²¹ states that ██████ (██████) was arrested for Robbery Strong Arm: No Weapon.

An **Arrest Report**²² shows ██████ was arrested by Officer ██████ and Officer ██████ at 1:20 pm on October 10, 2017 at ██████ in the porch/hallway, based on an active investigative alert with probable cause to arrest for the robbery of ██████. The report states ██████ identified ██████ from a photo array as one of the offenders who battered and robbed him on July 5, 2017. The report states that ██████ did not resist arrest. The report indicates ██████ was received in Central Male Lockup (CML) at 2:50 p.m., fingerprinted and photographed at 3:15 p.m. ██████ was placed under close observation in Cell A, a one-person cell. The arrestee questionnaire remarks show ██████ stated he attempted suicide two days prior. The movement log shows ██████ was released from CML by Sergeant ██████ at 6:25 a.m. on October 11, 2017 and transported by Ambulance 66 and Beat ██████ to Mercy Hospital. At 11:38

¹⁷ Att. 42.

¹⁸ Att. 16.

¹⁹ Atts. 20 and 21.

²⁰ ██████ was scheduled to provide a sworn statement to COPA on October 25, 2017, however he did not appear. After a letter was mailed to ██████ on October 26, 2017, he provided a sworn statement on November 15, 2017. COPA requested the video on December 6, 2017.

²¹ Att. 11.

²² Att. 12.

a.m. ██████ was transported by Beat ██████ from Mercy to UIC Hospital, where he was admitted for a mental health evaluation. ██████ was issued an I-bond while at UIC.

An **Ambulance Report**²³ indicates that Chicago Fire Department Unit A66 arrived at 1718 S. State St. on October 11, 2017 at 6:13 a.m. in response to a call of a person down from an unknown cause. The report states ██████ was laying on the jail cell floor in a fetal position and told paramedics he had attempted suicide by hanging. ██████ complained of neck pain and paramedics noticed marks around his neck. The report notes ██████ was alert and did not have any other injuries. The report lists suicidal as a pre-existing condition.

Medical Records²⁴ from UIC Hospital contain the following information. Chicago police officers brought ██████ for a psychiatric evaluation at 11:59 a.m. on October 11, 2017 after being medically cleared by Mercy Hospital for an attempted hanging with a t-shirt while in lockup. ██████ was agitated, tearful, and talking non-stop. ██████ stated he twisted a t-shirt around his neck. A red circular abrasion around his neck was noted. ██████ was admitted under suicidal precautions. ██████ did not complain of any other injuries, nor were any observed. It was noted that ██████ had prior episodes of self-harm and cocaine abuse.

██████ psychiatric symptoms included anxiety, depression, insomnia, and ruminating thoughts. ██████ was given lorazepam.²⁵ ██████ was bonded out of custody while at UIC. ██████ was discharged at 2:44 p.m. with a diagnosis of anxiety reaction and impulsiveness. ██████ was advised to make a follow up appointment within two days.

Daily Prisoner Log Records^{26, 27} from the Central Male Lockup on October 10, 2017 and October 11, 2017 do not indicate any unusual occurrences. At 5:45 a.m., an entry states “cell check made all alive [and] well.” At 6:30 a.m. an entry states that one prisoner went to the hospital.

VI. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

²³ Att. 13.

²⁴ Att. 87.

²⁵ Lorazepam is a central nervous system depressant used for short-term treatment of anxiety. <https://www.mayoclinic.org/drugs-supplements/lorazepam-oral-route/description/drg-20072296> (last visited Aug. 10, 2018).

²⁶ Att. 14

²⁷ Att. 15.

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.

VII. ANALYSIS

Officer ██████████

COPA finds **Allegation 1**, the unlawful arrest of ██████████ in violation of Rule 1 for violating of any law or ordinance, against Officer ██████████ EXONERATED. A warrantless arrest is constitutional if there is probable cause for the arrest. *Dunaway v. New York*, 442 U.S. 200 (1979). Probable cause to arrest exists when the facts known to the officer at the time of the arrest are sufficient to lead a reasonably cautious person to believe a crime has occurred and that the person to be arrested committed the crime. *People v. McGee*, 2015 IL App (1st) 130367, ¶ 47. The standard for determining whether probable cause is present is probability of criminal activity, rather than proof beyond a reasonable doubt. *People v. Chapman*, 194 Ill. 2d 186, 218 (2000). Probable cause may be established through information which the arresting officer does not have personal knowledge, however the information must be based on sufficient facts. *People v. Hyland*, 2012 IL App (1st) 110966, ¶ 22. The collective knowledge doctrine provides that

The police who actually make the arrest need not personally know all of the facts that constitute probable cause if they reasonably are acting at the direction of another officer or police agency. In that case, the arrest is proper so long as the knowledge of the officer directing the arrest, or the collective knowledge of the agency he works for, is sufficient to constitute probable cause.

United States v. Valencia, 913 F.2d 378, 383 (7th Cir. 1990).

It is "well settled that positive identification by a single witness who had ample opportunity to observe is sufficient to support a conviction." *People v. Vriner*, 74 Ill. 2d 329, 343 (1978).

Thus, ██████████ identification of ██████████ was more than adequate to establish probable cause. Under the collective knowledge doctrine, the investigative alert imputed probable cause for ██████████ arrest to any Chicago police officer. ██████████ then positively identified himself to Officers ██████████ and ██████████ Acting pursuant to the information in the investigative alert and

██████████ the Officers arrested ██████████ with sufficient probable cause. Therefore, there is clear and convincing evidence that the unjustified arrest of ██████████ is EXONERATED.

COPA finds **Allegation 2**, that Officer ██████████ placed ██████████ in a chokehold in violation of Rule 9, engaging in any unjustified verbal or physical altercation with any person, while on or off duty, is UNFOUNDED. Chicago Police Department General Order G03-02-01: Force Options provides that chokeholds are only justified as a use of deadly force.²⁸ A chokehold is defined as applying direct pressure to a person's trachea (windpipe) or airway (the front of the neck) with the intention of reducing the intake of air.²⁹ Holding and control techniques involving contact with the neck, but which are not intended to reduce the intake of air, are not defined as chokeholds.³⁰

Officer ██████████ self-described use of a bear-hug as a control tactic to stop ██████████ flight upstairs to avoid arrest is within policy because Officer ██████████ did not use his arm to apply direct pressure to ██████████ trachea or have any intentions of reducing ██████████ airflow. Furthermore, ██████████ movement away from the officers and screaming towards the officers as described in the interviews and viewed by cell phone video, confirms that ██████████ airway was never restricted.

Officer ██████████ placement of his arm, making contact with the right side of the ██████████ neck, is consistent with holding or control techniques, not intended to reduce the intake of air, and is not a chokehold. ██████████ and ██████████ described ██████████ as being choked. However, the video is conclusive in that Officer ██████████ arm was not around ██████████ neck and ██████████ was able to protest the arrest clearly and never complains about being choked. ██████████ never mentions being choked to any personnel at the police station or to medical staff when he is transported to the hospital. There is clear and convincing evidence that the use of force tactic applied by Officer ██████████ was consistent with policy and procedure and ██████████ was never in a “chokehold”. Therefore, Allegation 2 against Officer ██████████ is unfounded.

Officer ██████████

COPA finds **Allegation 1**, the unlawful arrest of ██████████ in violation of Rule 1 for violating of any law or ordinance, against Officer ██████████ EXONERATED for the reasons explained above regarding Allegation 1 against Officer ██████████

Unknown Department Members

COPA finds **Allegation 1**, failing to intervene in ██████████ attempted suicide in violation of Rule 5 for failing to perform any duty and Rule 10 for inattention to duty, NOT SUSTAINED. The daily prisoner record log for the morning of October 11, 2017, indicate that both Sergeant ██████████ and Detention Aide ██████████ performed their check of the detainees as required when starting their shifts at 4:15 a.m. and 5:45 a.m. respectively. Detention Aide ██████████ recorded in the daily prisoner record log at 5:45 a.m. “cell check made all alive [and] well” prior to Detention Aide ██████████ call at approximately 6:06 a.m. for an ambulance.

²⁸ § IV(C)(2)(c).

²⁹ § IV(C)(2)(c)(1).

³⁰ § IV(C)(2)(c)(2).

Sergeant [REDACTED] stated his initial interaction with [REDACTED] would have occurred when he performed his check of the cells for detainee well-being when he reported for work at 4:00 a.m. Sergeant [REDACTED] stated his next interaction with [REDACTED] occurred when he and Detention Aides [REDACTED] and [REDACTED] opened the door of Cell A so [REDACTED] could attend court. Sergeant [REDACTED] stated [REDACTED] was awake and alert but not responding to his instructions. Sergeant [REDACTED] stated [REDACTED] did not want to stand up so he decided to call for an ambulance based on [REDACTED] history of self-harm as indicated on his arrest report. Sergeant [REDACTED] also stated he did not see or notice any ligature marks around [REDACTED] neck.

Additionally, the ambulance report indicated [REDACTED] 'complained of neck pain, pain was from attempt of suicide by hanging'. However, the ambulance report narrative attributed to [REDACTED] conflicts with the statements given by [REDACTED] description of how he tried to harm himself when he provided his complaint to COPA. In his complaint, [REDACTED] stated he 'ripped off a piece of his shirt, tied a knot and suffocated himself'. At no time during his interview did he mention an attempted hanging. The ambulance report also conflicts with the statement given by Detention Aide [REDACTED] when describing Cell A as having no fixtures from which someone could hang themselves.

Sergeant [REDACTED] explained that if he had suspected [REDACTED] had attempted suicide he would have rendered aid, notified CPIC and his Unit Commander, and completed a Hospitalization Case Report and an Unusual Occurrence Report. Detention Aide [REDACTED] made similar claims as well. Given the differing accounts surrounding [REDACTED] hospitalization this allegation against unknown department members is not sustained.

COPA finds **Allegation 2**, using excessive force when stepping on [REDACTED] hand in violation of Rule 8 for disrespect to or maltreatment to any person, while on or off duty, and Rule 9 for engaging in any unjustified verbal or physical altercation with any person, while on or off duty, NOT SUSTAINED. [REDACTED] stated he believed there were more than 3 white males in his cell when lockup personnel opened the door and at some point, one or more of these members stepped on his hand and started kicking him to wake him up.

Sergeant [REDACTED] male white, stated Detention Aides [REDACTED] and [REDACTED] were with him after opening the door to [REDACTED] cell but that no one entered. [REDACTED] and [REDACTED] are both black males. Sergeant [REDACTED] was also not wearing a hat that day. Sergeant [REDACTED] also stated no one entered the cell after opening the door and that [REDACTED] was awake and alert, making it is unlikely that anyone needed to wake him by any means. Sergeant [REDACTED] further stated he did not see anyone kick, step on [REDACTED] hand, or anyone's foot touch [REDACTED] body.

Paramedics [REDACTED] a female, and [REDACTED] [REDACTED] a male Hispanic, were the only other individuals with verifiable contact with [REDACTED] that morning as they responded to Male Central Lockup and transported him to Mercy Hospital with a police escort. They also do not fit the description [REDACTED] provided in his complaint.

COPA finds **Allegation 3**, using excessive force when kicking [REDACTED] in violation of Rule 8 for disrespect to or maltreatment to any person, while on or off duty, and Rule 9 for engaging in

unjustified verbal or physical altercation with any person, while on or off duty, NOT SUSTAINED for the same reasons explained above in Allegation 2 against unknown department members.

VIII. CONCLUSION

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

Officer [REDACTED]	
Allegations	Finding
1. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You unlawfully arrested the Complainant.	Exonerated
2. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You placed the Complainant in a chokehold.	Unfounded

Officer [REDACTED]	
Allegation	Finding
1. The Complainant alleged that on 10 October 2017 at approximately 1320hrs at [REDACTED] You unlawfully arrested the Complainant.	Exonerated

Unknown Department Members	
Allegations	Finding
1. Failed to intervene in [REDACTED] suicide attempt, in violation of Rule 5 and Rule 10.	Not Sustained
2. Used excessive force when you stepped on [REDACTED] hand without justification, in violation of Rule 8 and Rule 9.	Not Sustained
3. Used excessive force when you kicked [REDACTED] without justification, in violation of Rule 8 and Rule 9.	Not Sustained

Approved:

[REDACTED]

July 31, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

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