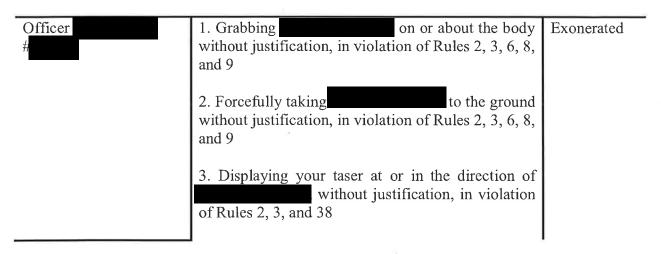
SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	July 16, 2016/Approximately 2 AM/
	· ·
Date/Time of COPA Notification:	August 5, 2016/12:08 PM
Involved Officer #1:	Appointment: 2006, Police Officer, Unit of Assignment: Date of Birth: 1981, Male, Asian Pacific
Involved Officer #2:	Appointment: 2013, Police Officer, Unit of Assignment: Date of Birth: 1983, Male, White
Involved Officer #3:	Appointment: 2012, Police Officer, Unit of Assignment: Date of Birth: 1983, Male, White
Involved Individual #1:	, Date of Birth: 1994, Male, Black
Case Type:	Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer #	1. Grabbing on or about the body without justification, in violation of Rules 2, 3, 6, 8, and 9	Exonerated
Officer #	1. Grabbing on or about the body without justification, in violation of Rules 2, 3, 6, 8, and 9 2. Forcefully taking to the ground without justification, in violation of Rules 2, 3, 6, 8, and 9	Exonerated

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.



II. SUMMARY OF EVIDENCE²

COPA's investigation included interviews of the accused officers # COPA contacted 4 , and ¹⁰ via telephone and mail ⁹, and numerous times, as well as, visited their residences 11 to schedule an interview, but the attempts were met with negative results. Chicago Police Department ("CPD") reports ¹², RD # documenting the incident were also collected, which included summaries of the officers' accounts. COPA also received Chicago Fire Department reports¹³ documenting 's behavior and condition. COPA received video footage from Officers and in-car cameras¹⁴ and 's cell phone. 15 Upon a review of the compiled evidence, COPA finds the following narrative occurred by clear and convincing evidence. On July 16, 2016 at approximately 2 AM around observed violating traffic laws, and subsequently, , Officers and initiated their emergency lights. did not stop and continued to drive into an alley, and eventually parked in a residential garage. The officers approached "seventually parked" is vehicle, which was failed to comply with the commands of Officer also occupied by three males.

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

³ Attachments 60 and 61

⁴ Attachment 66

⁵ Attachment 71

⁶ Attachments 15, 34, 41, and 72

⁷ Attachments 35, and 72

⁸ Attachments 38, 39, and 72

⁹ Attachments 36, 42, and 72

¹⁰ Attachments 37, 40, and 72

¹¹ Attachments 16 and 45

¹² Attachments 4, 5, 6, 8, and 10

¹³ Attachments 17 and 46

¹⁴ Attachments 27 and 28

¹⁵ Attachment 44

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went to grab, but upwards.
Officer unholstered his taser and assisted Officer continued to flai
his arms, and stated to the officers to shoot him and let him go, and began ferociously moving
away from the officers. Officers and attempted to control by grabbing his
body and commanding to the ground. continued to struggle, and Officers
and told him to stop resisting. Officer and then conducted a takedown
Officer and additional officers arrived on scene for assistance. While on the ground,
continued to defeat custody, and Officer also grabbed in order to assist. The
officers gained control of and placed him into the squad car, where he continued to ac
aggressively and attempted to flee from the squad car.

HI. LEGAL STANDARD

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

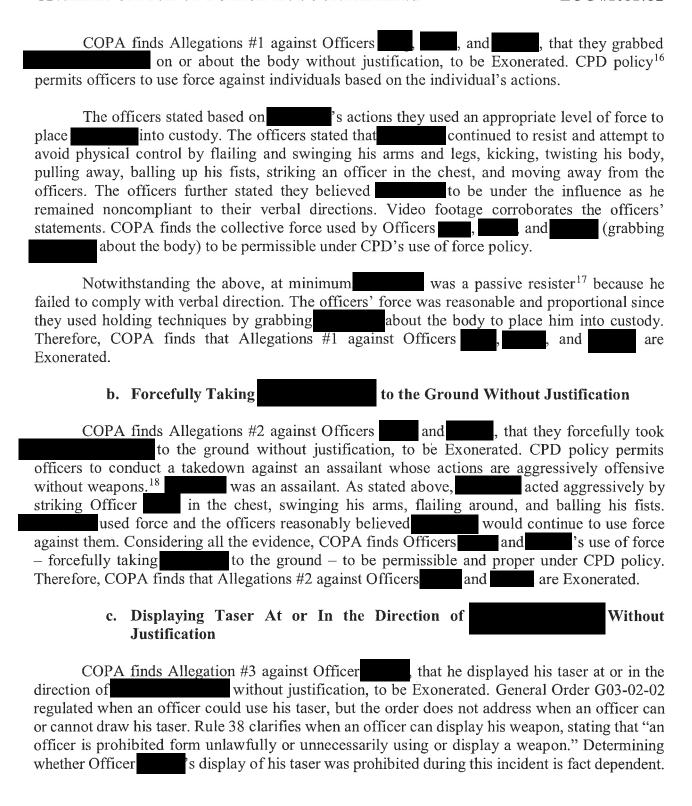
- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. See Avery v. State Farm Mutual Automobile Insurance Co., 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See e.g., People v. Coan, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." Id. at ¶28.

IV. ANALYSIS AND CONCLUSION

a. Grabbing On or About the Body Without Justification



¹⁶ General Order G03-02-02: Force Options (Effective January 1, 2016)

¹⁷ Id. at 3 stating a passive resister is "a person who fails to comply with verbal or other direction."

¹⁸ *Id.* at 7 stating an assailant whose actions are aggressively offensive without weapons is one "who is using or threatening the imminent use of force against himself/herself or another person" and "one who places a member in fear of a battery..."

<u>CPD</u> policy permits an officer to use a taser against an active resister. ^{19, 20} COPA finds that
's actions of pulling away and moving to defeat custody were an attempt to avoid the
officers' physical control, thus, making him an active resister. Officer believed
was an assailant because he fled from the officers and disobeyed verbal directions. Officer
also stated was agitated and aggressive and believed the situation would escalate. As
such, COPA finds Officer appropriately displayed his taser at or in the direction of
to prepare himself if the situation necessitated the use of his taser. Therefore, COPA
finds that Allegation #3 against Officer is Exonerated.
 Approved:
7-31-19
Angela Hearts-Glass Date
Deputy Chief Administrator – Chief Investigator

¹⁹ *Id.* at 4 stating an active resister is "a person whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes gestures ranging from evasive movement of the arm, trough flailing arms..."
²⁰ *Id.* at 5.

Assigned Investigative Staff

Squad#:

Investigator:

Supervising Investigator:

Deputy Chief Administrator:

Angela Hearts-Glass