

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

Date/Time/Location of Incident:	May 31, 2015 / 12:40 pm / 3344 W. Congress Parkway
Date/Time of IPRA Notification:	June 2, 2015 / 5:07 pm
Involved Officer #1:	██████████ Star # ██████ employee ID# ██████ Date of Appointment: ██████ 1998; Police Officer; Unit ██████ Date of Birth: ██████ 1972; Male; Hispanic.
Involved Officer #2:	██████████ Star # ██████ employee ID# ██████ Date of Appointment: ██████ 1994; Police Officer; Unit ██████ Date of Birth: ██████ 1965; Male; Hispanic.
Involved Officer #3:	██████████ <sup>2</sup> Star # ██████ Employee ID# ██████ Date of Appointment: ██████ 2000; Police Officer; Unit ██████ Date of Birth: ██████ 1967; Male; White.
Involved Officer #4:	██████████ Star # ██████ Employee ID# ██████ Date of Appointment: ██████ 2006; Police Officer; Unit ██████ Date of Birth: ██████ 1977; Male; White.
Involved Officer #5:	Unidentified Uniformed Police Officer
Involved Individual #1:	██████████ Date of Birth: ██████ 1987; Male; Black.
Case Type:	Excessive Force; False Arrest.

I. ALLEGATIONS

Officer	Allegation	Finding
Police Officer ██████ ██████████	1. Arrested ██████ without justification, in violation of Rule 2.	Exonerated
	2. Punched ██████ about the head, in violation of Rule 9.	Unfounded

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

<sup>2</sup> Officer ██████ resigned from the Chicago Police Department, effective March 13, 2017. (Att. #170)

	<ol style="list-style-type: none"> <li>3. Slammed [REDACTED] on the ground, in violation of Rule 9.</li> <li>4. Slammed [REDACTED] head against the ground, in violation of Rule 9.</li> <li>5. Pulled [REDACTED] hair out, in violation of Rule 9.</li> <li>6. Kicked [REDACTED] about the head and body, in violation of Rule 9.</li> <li>7. Placed his knee on [REDACTED] back, in violation of Rule 9.</li> <li>8. Stated to [REDACTED] "Fuck your hair," and referred to him as a "bitch," in violation of Rules 8 and 9.</li> <li>9. Failed to properly inventory [REDACTED] cellular telephone, in violation of Rule 10.</li> </ol>	<p>Unfounded</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Unfounded</p> <p>Not Sustained</p> <p>Not Sustained</p>
<p>Police Officer [REDACTED]</p>	<ol style="list-style-type: none"> <li>1. Slammed [REDACTED] head against the ground, in violation of Rule 9.</li> <li>2. Pulled [REDACTED] hair out, in violation of Rule 9.</li> <li>3. Punched [REDACTED] about the head, in violation of Rule 9.</li> <li>4. Kicked [REDACTED] about the head and body, in violation of Rule 9.</li> <li>5. Placed his knee on [REDACTED] back, in violation of Rule 9.</li> <li>6. Stated to [REDACTED] "Fuck your hair," and referred to him as a "bitch," in violation of Rules 8 and 9.</li> <li>7. Failed to complete a Tactical Response Report for the use of force he utilized against [REDACTED] in violation of Rule 6.</li> </ol>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Not Sustained</p> <p>Unfounded</p> <p>Not Sustained</p> <p>Not Sustained</p>
<p>Police Officer [REDACTED]</p>	<ol style="list-style-type: none"> <li>1. Discharged his Taser against [REDACTED] without justification, in violation of Rule 9.</li> <li>2. Slammed [REDACTED] head against the ground, in violation of Rule 9.</li> <li>3. Pulled [REDACTED] hair out, in violation of Rule 9.</li> <li>4. Punched [REDACTED] about the head, in violation of Rule 9.</li> <li>5. Kicked [REDACTED] about the head and body, in violation of Rule 9.</li> <li>6. Placed his knee on [REDACTED] back, in violation of Rule 9.</li> <li>7. Stated to [REDACTED] "Fuck your hair," and referred to him as a "bitch," in violation of Rules 8 and 9.</li> </ol>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Not Sustained</p>

Police Officer █████ █████	<ol style="list-style-type: none"> <li>1. Arrested █████ without justification, in violation of Rule 2.</li> <li>2. Discharged OC spray on █████ without justification, in violation of Rule 9.</li> <li>3. Slammed █████ head against the ground, in violation of Rule 9.</li> <li>4. Pulled █████ hair out, in violation of Rule 9.</li> <li>5. Punched █████ about the head, in violation of Rule 9.</li> <li>6. Kicked █████ about the head and body, in violation of Rule 9.</li> <li>7. Placed his knee on █████ back, in violation of Rule 9.</li> <li>8. Stated to █████ “Fuck your hair,” and referred to him as a “bitch,” in violation of Rules 8 and 9.</li> <li>9. Failed to properly inventory █████ cellular telephone, in violation of Rule 10.</li> </ol>	Exonerated Unfounded Not Sustained Unfounded Unfounded Unfounded Exonerated Not Sustained Not Sustained
Unidentified Uniformed Police Officer	<ol style="list-style-type: none"> <li>1. Stepped on █████ back, in violation of Rule 9.</li> </ol>	Not Sustained

**II. SUMMARY OF EVIDENCE<sup>3</sup>**

█████ was involved in a traffic collision with █████ Based on witness accounts and █████ own admissions to IPRA, when Officer █████ arrived on the scene, █████ drove into an alley and fled from the officer. Officer █████ caught up to █████ and tried to place him into custody. █████ flailed his arms to prevent the officer from handcuffing him. Additional officers arrived to assist. Officers █████ and █████ took █████ to the ground and used open hand strikes to try to gain control of him. Officer █████ also discharged his OC spray. Officer █████ deployed a Taser at █████ while he was on the ground and flailing his arms. The officers were unable to control █████ who ran from them to a vacant lot. Several officers chased after █████ Officer █████ deployed the Taser again, causing █████ to fall to the ground in the lot. A video of this portion of the incident shows █████ lying prostrate on the ground as officers attempt to place him into custody. The video shows Officer █████ standing to the side holding a Taser and talking into his radio. Officer █████ is on top of █████ trying to handcuff him. Officer █████ stands near █████ head and appears to kick at him as █████ is lying on the ground. There are several officers standing around █████ at that point and the video does not show whether Officer █████ made contact with █████ or exactly what he was doing. An unidentified uniformed officer puts his foot on █████ back and appears to stand on

<sup>3</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

him.<sup>4</sup> ■■■■■ sustained abrasions and scratches to his face, limbs, and back. He was charged with operating a motor vehicle without insurance, driving on an expired license,<sup>5</sup> failing to give information/rendering aid following a motor vehicle accident, and resisting arrest.

Several officers completed Tactical Response Reports (“TRRs”) documenting the force they used. Officer ■■■■■ reported using open hand strikes and take down/emergency handcuffing. In his interview with IPRA, Officer ■■■■■ acknowledged that he grabbed ■■■■■ by the hair at one point, which resulted in him pulling out a dreadlock when ■■■■■ was able to run away. Officer ■■■■■ TRR documents he deployed his Taser, but he denied the other allegations against him during his IPRA interview. Officer ■■■■■ reported using open hand strikes, take down/emergency handcuffing, and OC spray. In his interview with IPRA, Officer ■■■■■ also acknowledged that he put his knee on ■■■■■ back to hold him down during handcuffing. In an interview with IPRA, Officer ■■■■■ described his movement as him placing his foot on ■■■■■ arm to facilitate handcuffing rather than a kick. According to Officer ■■■■■ he did not complete a TRR because his action did not rise to the level of force that would require such a report. He further denied the allegations against him.

### III. LEGAL STANDARD

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

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

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

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. See

---

<sup>4</sup> IPRA/COPA was unable to identify this officer, despite interviewing numerous CPD officers and supervisors who were on the scene.

<sup>5</sup> In his IPRA interview, ■■■■■ admitted that he was driving on an expired license and that he resisted Officer ■■■■■ initial attempts to take him into custody.

*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**

█████ alleged that the accused officers arrested him without justification, used excessive force against him, directed verbal abuse at him and failed to properly inventory his cellular telephone. Despite its attempts to identify the police officer who stepped on █████ in the video recording, COPA was unable to identify the officer. As a result, COPA finds that this allegation is Not Sustained. In addition, because there is no audio recording of the alleged verbal abuse and the officers denied the allegation, COPA is unable to prove by a preponderance of the evidence that it occurred. Similarly, due to the lack of witnesses or other corroborating evidence, COPA was also unable to determine whether Officers █████ and/or █████ slammed █████ head against the ground, kicked him about the head and body, and failed to inventory his cellular telephone. Although the video recording depicts Officer █████ moving his leg toward █████ the officer denied kicking █████ and responded that he placed his foot on █████ arm. Consequently, due to the lack of clarity on the video, COPA cannot determine whether Officer █████ committed the alleged action or whether a TRR would have been required.

Officers █████ and █████ admitted to pulling █████ hair and placing a knee on █████ back, respectively. Because both officers admitted to the alleged actions, which occurred as █████ was actively resisting their attempts to place him in custody, COPA finds these specific allegations to be Exonerated. Finally, COPA finds that since █████ became an active resister when he flailed his arms and ran from the officers, Officers █████ and █████ employed use of force that was permissible under General Order G03-02-02, “Force Options.” Moreover, COPA finds that Officer █████ did not have any physical contact with █████ beyond discharging his Taser and that Officer █████ did not have any physical contact with █████ beyond the alleged kicking.

Approved:

████████████████████  
████████████████████  
████████████████████

October 27, 2019

\_\_\_\_\_  
Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

---

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