

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	July 2, 2018
Time of Incident:	23:51
Location of Incident:	645 N. State Street
Date of COPA Notification:	November 13, 2018
Time of COPA Notification:	10:24

The Complainant, [REDACTED] alleges that the accused officer arrested him without justification for riding a Divy bike in the street and searched his person without his consent.

**II. INVOLVED PARTIES**

Involved Officer #1:	[REDACTED] star # [REDACTED] employee ID# [REDACTED] Date of Appointment [REDACTED] 12, PO, Unit [REDACTED] DOB [REDACTED] 86, M, WWH
Involved Individual #1:	[REDACTED] DOB [REDACTED] 91, M, BLK

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
[REDACTED]	1. It is alleged that the accused unlawfully arrested the complainant for riding a Divy bike in the street.	Exonerated
	2. It is alleged that the accused searched the complainant without his consent.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

Rules
1. Rule 1: Violation of any law or ordinance.
Federal Laws
1. United States Constitution, Amendment IV: Prohibits unreasonable search and seizure

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City of Chicago Municipal Code

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1. Title 9, Chapter 9-52 Bicycles Operation

**V. INVESTIGATION**

**a. Interviews**

In his statement to COPA<sup>1</sup> on November 13, 2018, ██████████ stated that the accused officer detained him outside of a convenience store. Mr. ██████████ explained that he and his friends were riding Divy bikes, in the street, in downtown Chicago. He rode onto the sidewalk, got off the bike, and entered the store. Upon exiting the store, the accused officer detained him. He told Mr. ██████████ that he was being detained for riding the bike on the sidewalk. The accused officer grabbed his arm and hand cuffed him. He told him that he was not being arrested. The officer asked Mr. ██████████ for his identification and when Mr. ██████████ could not produce it, he told him he was under arrest. Mr. ██████████ stated that he asked the accused officer to look up his information and to issue a ticket and the officer told him that he did not have to issue a ticket and would be taking him to the police station. Mr. ██████████ said that at this point, he became angry.

It should be noted that Mr. ██████████ did not complete his statement. COPA attempted to contact Mr. ██████████ by telephone and certified mail in order to allow him to complete the statement but he did not contact COPA.

In his statement to COPA<sup>2</sup> on April 9, 2019, Accused Officer ██████████ stated that he was driving in the area of north State Street on routine patrol. He saw Mr. ██████████ and two other persons riding Divy bikes on the sidewalk of north State Street. Officer ██████████ explained that he watched Mr. ██████████ ride the bike for approximately two blocks before he exited the sidewalk and rode in the street. He rode in the street with two other bikers, and they rode vertically, causing an interruption in the flow of traffic. He watched him ride the bike back and forth between the sidewalk and street until Mr. ██████████ stopped at a store. Officer ██████████ stated that he exited his car and followed Mr. ██████████ into the store. He observed Mr. ██████████ in the store and when he exited the store, he followed him out and stopped him. Officer ██████████ explained that he informed Mr. ██████████ that he was being detained for riding the bike on the sidewalk. He stated that he hand cuffed Mr. ██████████ because he was not being cooperative, and he did not want him to run away while he was writing a ticket. He said that Mr. ██████████ denied riding on the sidewalk and was very uncooperative. He asked Mr. ██████████ for his identification and Mr. ██████████ said he did not have identification. He continued to talk to Mr. ██████████ about the incident, but Mr. ██████████ was argumentative and uncooperative, so he made the decision to arrest him. He arrested him for disorderly conduct for disrupting traffic while riding the bike in the street and for riding on the sidewalk.

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<sup>1</sup> Att. 19

<sup>2</sup> Att. 23

### b. Digital Evidence

The Body Worn Camera<sup>3</sup> footage captures the interaction between the parties outside of the store. The footage corroborates the statement of Officer [REDACTED] It captures Officer [REDACTED] talking to Mr. [REDACTED] about riding on the sidewalk. Mr. [REDACTED] appears to be visibly upset and uses profanity when talking to the accused officer. It also captures the officer searching Mr. [REDACTED] when he informs him, he is being arrested.

It should be noted that Officer [REDACTED] stated that his department vehicle is an unmarked car and therefore does not have an In-Car camera.

### c. Documentary Evidence

The Chicago Police Department Arrest Report<sup>4</sup> summarizes the event and states that Mr. [REDACTED] was riding on the sidewalk and in the street, swerving in and out of traffic.

The Chicago Police Department Criminal History Report of Mr. [REDACTED] includes a total of 4 arrest for Reckless or Disorderly Conduct spanning from October 2009 up to December 2018. It should be noted that one of these arrests, happened on July 1, 2018, and was investigated by COPA.<sup>5</sup>

## 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
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

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<sup>3</sup> Att. 24

<sup>4</sup> Att. 4

<sup>5</sup> See Civilian Office of Police Accountability - Log# 1090103

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**

The allegation that the accused officer illegally arrested Mr. [REDACTED] should be exonerated. Officer [REDACTED] saw Mr. [REDACTED] riding the Divy bike on the side walk and, in the street,, in a manner that disrupted the flow of traffic. When Officer [REDACTED] detained Mr. [REDACTED] he told him it was for riding the bike on the sidewalk. Although Mr. [REDACTED] denied riding on the sidewalk, the accused officer’s statement is more credible. Mr. [REDACTED] has a history of engaging in activities that have led to his arrest for disorderly conduct. It is illegal to ride a bike on the side walk in the city of Chicago. If in fact, Mr. [REDACTED] rode the bike on the sidewalk, and in the street, in a manner that disrupted traffic, then Officer [REDACTED] had a lawful reason to arrest him. The action of obstructing traffic while riding a bike in the street can be reckless in conduct. Reckless Conduct is a misdemeanor and an arrestable offense. Therefore, the arrest was legally justified, and the search of Mr. [REDACTED] person was incident to his arrest and could be conducted without his consent. The allegation that the accused officer search Mr. [REDACTED] without his consent must be exonerated.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
[REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused arrested the complainant without justification for riding a Divy bike in the street.</li> <li>2. It is alleged that the accused searched the complainant without his consent.</li> </ol>	<p><del>Not Sustained</del> Exonerated</p> <p>Exonerated</p>

Approved: *A*



Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

Date

*7-31-19*

[Name]  
*Chief Administrator*

Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Investigator:</b>	█ r
<b>Supervising Investigator:</b>	█
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass
<b>*Attorney:</b>	█