

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	April 21, 2016, Various Times, 1524 N. Laramie, Community First Hospital, 5645 W. Addison, Chicago Illinois, and 025 th District, 5555 W. Grand Avenue
Date/Time of COPA Notification:	November 15, 2016 at 4:08 p.m. via mail
Involved Officer #1:	██████████ star # ██████ employee # ██████ DOA: ██████ 2010; Police Officer; UOA: ██████ ██████████ DOB: ██████, 1985; Male; White.
Involved Officer #2:	██████████ star # ██████ employee # ██████ DOA: ██████, 2000; Sergeant; UOA: ██████ DOB: ██████ 1978; Male; Hispanic.
Involved Officer #3:	██████████ star # ██████ employee # ██████ DOA: August ██████; Police Officer; UOA: ██████ Male; White.
Involved Individual #1:	██████████ DOB: ██████, 1985; Male; Black.
Case Type:	Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████	1. It is alleged that on 21 April 2016 at approximately 0213 hours, on the street at 1524 N. Laramie, Officer ██████ struck ██████ multiple times about the head and body, causing him to lose consciousness and hit his head on the hood of a car.	Unfounded
	2. It is alleged that on April 21, 2016, inside a squad car while in transit from Community First Medical Center, located at 5645 W. Addison Avenue, to the 025 th District Station, Officer ██████ without justification, covered the mouth of ██████	Unfounded

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.

	<p>struck [REDACTED] on the throat with an open hand; and pulled his shirt over his head.</p> <p>3. It is further alleged that on April 21, 2016, at approximately 0400 hours, inside the lockup of the 025th District Station, Officer [REDACTED] threw [REDACTED] into a cell, causing him to hit his head.</p>	<p>Unfounded</p>
<p>Sergeant [REDACTED] [REDACTED]</p>	<p>1. It is alleged that on 21 April 2016, at approximately 0300 hours, at and in the immediate area of Community First medical Center, located at 5645 W. Addison Avenue, Sergeant [REDACTED] struck [REDACTED] twice on the chest with his elbow and verbally abused him by calling him an “asshole.”</p> <p>2. It is further alleged that on 21 April 2016, at approximately 0300 hours, at and in the immediate area of Community First medical Center, Sergeant [REDACTED] verbally abused [REDACTED] in that he stated, “That’s why you black niggers are getting killed for acting dumb.”</p> <p>3. It is alleged that on April 21, 2016, inside a squad car while in transit from the Community First Medical Center, located at 5645 W. Addison Avenue, to the 25th District Station, located at 5555 W. Grand Avenue, Sergeant [REDACTED] pulled [REDACTED] shirt over his head.</p> <p>4. It is further alleged that on April 21, 2016, at approximately 0400 hours, inside the lockup of the 25th District Station, located at 5555 W. Madison Avenue, Sergeant [REDACTED] threw [REDACTED] into a cell, causing him to hit his head.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Exonerated</p> <p>Unfounded</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that on 21 April 2016, at approximately 0213 hours, on the street at 1524 N. Laramie, Officer [REDACTED] stuck [REDACTED] multiple times about the head and body, causing Mr. [REDACTED] to lose consciousness and hit his head on the hood of the car.</p>	<p>Unfounded</p>

II. SUMMARY OF EVIDENCE²

██████████ was arrested on April 21, 2016, and charged with five traffic related offenses, including Driving Under the Influence of Alcohol, as well as Aggravated Battery to a Peace Officer, an outstanding Warrant, and two counts of Resisting /Obstructing a Police Officer. Mr. ██████████ plead guilty and was subsequently convicted of Resisting/Obstructing a Police Officer with Injury and sentenced to four years in the Illinois Department of Corrections.³

The Arrest Report and Case Report⁴ document that Mr. ██████████ was stopped after committing a traffic infraction and that the officers smelled alcohol on his breath. Mr. ██████████ was unable to produce a valid Driver's license and had bloodshot eyes and slurred speech. A check by the officers indicated that Mr. ██████████ had a revoked license and was wanted for a DUI parole violation. Mr. ██████████ was transported to Community First Medical Center by ambulance after complaining of illness. Mr. ██████████ became combative toward the arresting officers and verbally combative toward hospital staff. Mr. ██████████ refused medical treatment and refused to leave the emergency room once discharged. It was noted that Mr. ██████████ became dead weight, was subsequently shackled, and carried to a squadrol, which he refused to enter. Officers ██████████ and ██████████ along with Sergeant ██████████ placed Mr. ██████████ inside the squadrol, where he dropped his body to the floor and attempted to strike his head. Mr. ██████████ was removed from the squadrol and placed between Officer ██████████ and Sergeant ██████████ in the backseat of a police vehicle in order to ensure his safety. While driving back to the 025th District, Mr. ██████████ became combative and headbutted Officer ██████████ on the left side of his jaw, causing an abrasion and swelling. Mr. ██████████ then used his bodyweight to lean into Officer ██████████ left side. Mr. ██████████ attempted to either vomit or spit on Officer ██████████ after he headbutted him, prompting Officer ██████████ to use an openhand stun to move the direction of Mr. ██████████ head away from him. It was noted that Mr. ██████████ was uncooperative upon his return to the lockup and would not be photographed or fingerprinted. After complaining of chest pain, Mr. ██████████ was transported to Community First Hospital a second time. The Central Booking Photographs of Mr. ██████████ depict no obvious, visible injury.⁵

The Tactical Response Report (TRR) for Officer ██████████ documented that he utilized member presence, verbal commands, escort holds, wrist lock, arm bar, and open-hand strike on Mr. ██████████ who did not follow verbal direction, stiffened, and attacked without weapon. The Officer's Battery Report (OBR) documented that Mr. ██████████ headbutted him, threatened to spit on him, and verbally threatened him. The Evidence Technician Photographs of Officer ██████████ documented redness and minor swelling to the left side of his jaw. The TRR for Sergeant ██████████ documented that he utilized member presence, verbal commands, and escort holds on Mr. ██████████ who did not follow verbal direction, stiffened, and pulled away. It was noted on both TRR's that

²COPA 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 Att. 6, 17

⁴ Att. 6 & 10

⁵ Att. 41

Mr. █████ complained of rib pain and wanted medical treatment. Mr. █████ was transported a second time to Community First Medical Center.⁶

In a letter to IPRA dated November 5, 2018,⁷ █████ alleged that during his arrest Officers █████ and █████ beat him about the head and body, causing him to lose consciousness when he struck his head on the hood of a car. Mr. █████ stated that his friend █████ witnessed this occurrence.⁸ Mr. █████ wrote that an ambulance took him to Community First Medical Center where he did not feel safe and refused treatment because Officers █████ and █████ along with the paramedics, now known as █████ and █████ were present in the treatment area.⁹ Mr. █████ stated that he wanted treatment but had to refuse because the officers and paramedics would not leave him alone with medical personnel in the treatment area. Sergeant █████ came to assist Officers █████ and █████ in removing Mr. █████ from the Emergency Room.¹⁰ Mr. █████ stated that he did not want to leave the hospital. Mr. █████ alleged that Officers █████ and █████ joined by Sergeant █████ carried Mr. █████ to the squad car. Mr. █████ stated that he was beaten and called racist names. Mr. █████ stated that he was seated in the back of a squad car between Officer █████ and Sergeant █████ where he fell asleep because he had been drinking. Mr. █████ wrote that he belched in his sleep and Officer █████ struck him on the face and smothered him with his shirt with Sergeant █████ assistance. Mr. █████ wrote that Officer █████ mistakenly thought that he had tried to spit or vomit on him. Upon being returned to the 025th District Station, Mr. █████ wrote that Officer █████ and Sergeant █████ threw him in a cell where he hit his head and was left unconscious.

On June 13, 2017, Mr. █████ was interviewed by IPRA via telephone¹¹ and related essentially the same information. Mr. █████ added that he did not know how he passed out but thought he hit his head on a car after being punched in the head. Mr. █████ denied headbutting and spitting on Officer █████. Mr. █████ stated that he was not combative. He had no answer when asked why he refused to be photographed in the lockup. Mr. █████ stated that he did not know why he had plead guilty to the charges. Mr. █████ confirmed that he had refused to leave the hospital and did make his body dead weight as he was escorted out. Mr. █████ clarified that Officer █████ struck him on the throat in the squad car. Mr. █████ later requested to go back to Community First where he was given tests and released.

COPA interviewed Chicago Fire Department (CFD) Paramedics █████ and █████¹² They had no recollection of Mr. █████ adding that they would have reported police misconduct if they observed any. Both paramedics stood by the Ambulance Report¹³ completed by Paramedic █████ that documented that they observed no visible injury to Mr.

⁶ Att. 7, 8, 9, 10, & 23

⁷ Att. 4, 5

⁸ Attempts to contact █████ were unsuccessful. See Att. 61, 70, 71, 72

⁹ Mr. █████ wrote that either Paramedic █████ or Paramedic █████ had threatened him by stating, "That out of all the people I delt (sic) with today, that if I had your gun, I would've shot this guy." This allegation was subsequently forwarded to the Inspector General. (Atts. 4, 42).

¹⁰ Mr. █████ wrote that he obtained the names of Officers █████ and █████ and Sergeant █████ from court documents.

¹¹ Att. 33

¹² Att. 38 & 50

¹³ Att. 36

smelled alcohol on him, that he is refused to answer paramedic questions, and was verbally abusive to both them and Emergency Room staff upon arrival at Community First Medical Center.

COPA interviewed Community First staff members, and Registrar¹⁴ had no recollection of Mr. Nurse had a vague recollection of Mr. stating that she stood by her notes in the medical records.¹⁵ She recalled that Mr. would not answer questions or respond to the doctor, refused treatment, refused to vacate the bed, and refused to walk at discharge. Nurse added that her notes would have documented any allegations or abuse or mistreatment that Mr. disclosed.

Dr. recalled Mr. after reviewing his medical records. Dr. stated that Mr. was face down on the bed and did not comply with anything, refusing all medical treatment. Dr. stated that he discharged Mr. after he declined treatment. Dr. stated that extensive testing found no evidence of trauma or assault, and therefore, the records documented Mr. diagnosis as “alleged assault.”

The Medical Records¹⁶ for Mr. documented that he was in police custody and uncooperative at 2:38 a.m. on April 21, 2016. Mr. was discharged after refusing treatment at 3:18 a.m. It was noted that Mr. placed his head between the bed and side rails and refusing to answer any questions, including his name. It was noted that Mr. stated that he did not feel safe and wanted to be treated at another hospital. Mr. returned to the hospital at 11:13 hours complaining of headache, neck pain, chest and ribs pain, abdominal pain, nausea, back pain, and blurry vision. Mr. was discharged with a diagnosis of alleged assault, cephalgia (cluster headaches), subjective blurry vision and possible post-concussive syndrome. It was noted that Mr. stated that he did not recall refusing treatment earlier and that he felt worse than he did earlier. It was also noted that Mr. had no obvious signs of bruising or trauma to the skin.

COPA interviewed Assisting Officer # and Officer #¹⁷ who related essentially the same information. Neither officer had a substantial independent recollection of this incident and gave statements largely based on the reports. The officers initially encountered Mr. in the hallway of the 025th District when he complained of being sick. Officer stated that Mr. was uncooperative and stiffened his body as Officer and put him in the ambulance. Officers and brought an uncooperative, dead weight Mr. to the squadrol. Mr. repeatedly banged his head inside the squadrol and was removed by Sergeant and Officer and placed in the rear of the squad car. Neither officer reported observing Officer or Sergeant become physically or verbally abuse Mr. At the 025th District, Mr. refused to walk and was carried inside.

COPA interviewed Officer and Officer¹⁸ who went to Community First Hospital to transport Mr. back to the 025th District. Neither officer had a

¹⁴ Att. 53, 57, & 62

¹⁵ Att. 24

¹⁶ Att. 24 & 45

¹⁷ Att. 81 & 83

¹⁸ Att. 84 & 103

recollection of this incident or memory of Mr. [REDACTED] Officer [REDACTED] added that she would have remembered it if she observed the police abuse Mr. [REDACTED] because she would have reported it.

In a statement to COPA,¹⁹ Accused Officer [REDACTED] denied the allegations made against him by Mr. [REDACTED] and described the allegations against Sergeant [REDACTED] as false. Officer [REDACTED] related essentially the same information as documented in the Arrest Report, Case Report, TRR and OBR.

In a statement to COPA,²⁰ Accused Sergeant [REDACTED] essentially corroborated the account provided by Officer [REDACTED] Sergeant [REDACTED] admitted to pulling Mr. [REDACTED] shirt over his head but stated he did so to prohibit his phlegm and /or vomit from hitting Officer [REDACTED] after Mr. [REDACTED] head butted Officer [REDACTED] Sergeant [REDACTED] denied all other allegations made against him. Sergeant [REDACTED] further stated that Officer [REDACTED] did not commit the actions alleged against him.

In a statement to COPA²¹ Accused Officer [REDACTED] stated that he stood by the narrative of his report, relating essentially the same information as documented in the Arrest Report, Case Report, TRR and OBR. Officer [REDACTED] denied Mr. [REDACTED] allegations. Officer [REDACTED] also denied Mr. [REDACTED] allegations against Officer [REDACTED] and Sergeant [REDACTED]

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 I 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 is has found to be more probably true than not). If the evidence gathered in an investigation establishes that it more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

¹⁹ Att. 102

²⁰ Att. 105

²¹ Att. 99

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 the proposition ... is true” *Id.* at 28.

I. ANALYSIS AND CONCLUSION

COPA finds for **Allegations #1 – 3 against Officer [REDACTED]** that he struck [REDACTED] multiple times about the head and body, causing him to strike his head on the hood of a car, covered the mouth of [REDACTED] with his hand, struck [REDACTED] on the throat with an open hand, pulled his shirt over his head, and threw him into a cell, causing him to strike his head are **Unfounded**. Mr. [REDACTED] did not report the allegations until November 2016. Although Mr. [REDACTED] stated to COPA that he was not intoxicated and only had two drinks that night, his uncooperative behavior and the observations by the Arresting Officers and paramedics indicate that he was intoxicated, causing his credibility to be diminished. Mr. [REDACTED] stated to COPA that he thought that he hit his head on the car but was not certain. The Medical Records diagnosed Mr. [REDACTED] with “alleged assault” and “possible post concussive syndrome,” indicating that there was no physical evidence to support that he was physically assaulted, beaten, unconscious, or had struck his head on a car hood or in the cell after being thrown in.

Department reports and witnesses all noted that Mr. [REDACTED] attempted to bang his head inside the squadrol and was removed for his own safety. Various witnesses described Mr. [REDACTED] as verbally abusive and uncooperative. The Evidence Technician photographs depict injury to Officer [REDACTED] jaw and no injury to Mr. [REDACTED] whom was alleged to have beaten about the face repeatedly. Officer [REDACTED] denied striking Mr. [REDACTED] in the throat, stating that he performed an open hand strike to push Mr. [REDACTED] face away from him, as Mr. [REDACTED] attempted to purposefully expel vomit or phlegm onto Officer [REDACTED]. Mr. [REDACTED] also originally wrote that Officer [REDACTED] struck him in the face after he “burped” and later stated that he struck him on the throat. Officer [REDACTED] denied pulling his shirt over his head, and Sergeant [REDACTED] stated that he was the one to pull the shirt over [REDACTED] head. The preponderance of evidence, including Mr. [REDACTED] diminished credibility, the lack of physical evidence in the medical record, the original Department reports, and subsequent accounts of witnesses and accused indicate that these allegations did not occur as alleged. Therefore, the allegations are Unfounded.

COPA finds **Allegations #1, 2 and 4 against Sergeant [REDACTED]** that he elbowed [REDACTED] twice on his chest, verbally abused him by calling him an “asshole,” and further verbally abused him by stating, “That’s why you black niggers are getting killed for acting dumb,” and struck [REDACTED] multiple times about the head and body, causing him to lose consciousness and hit his head on the hood of a car are **Unfounded**. As previously stated, Mr. [REDACTED] delayed in report these allegations and has diminished credibility. Additionally, Medical Records failed to corroborate a physical assault. Again, various witnesses described Mr. [REDACTED] as verbally abusive and uncooperative. The preponderance of evidence, including Mr. [REDACTED] diminished credibility, the lack of physical evidence in the medical record, the original Department reports, and subsequent accounts of witnesses and accused indicate that these allegations did not occur as alleged. Therefore, the allegations are Unfounded.

COPA finds **Allegation #3 against Sergeant [REDACTED]** that he pulled Mr. [REDACTED] shirt over his head is **Exonerated**. Although Mr. [REDACTED] accused both Officer [REDACTED] and Sergeant [REDACTED] of this action, only Sergeant [REDACTED] pulled Mr. [REDACTED] shirt over his head to prohibit his phlegm and /or vomit from hitting Officer [REDACTED] after Mr. [REDACTED] head butted Officer [REDACTED]. This action is reasonable considering the situation and actions of Mr. [REDACTED] who was combative. Therefore, this allegation should be Exonerated.

COPA finds **Allegation #1 against Officer [REDACTED]** that he struck [REDACTED] multiple times about the head and body, causing him to lose consciousness and hit his head on the hood of a car is **Unfounded**. Mr. [REDACTED] stated to COPA that he thought that he hit his head on the car but was not certain to explain his alleged lack of consciousness. Officer [REDACTED] denied the allegation. The Medical Records diagnosed Mr. [REDACTED] with “alleged assault” and “possible post concussive syndrome,” indicating that there was no physical evidence to support that he was physically assaulted, beaten, unconscious, or had struck his head on a car hood. The preponderance of evidence indicates that this allegation did not occur as alleged and is therefore Unfounded.

Approved:

[REDACTED]


November 25, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	