

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	August 16, 2015
Time of Incident:	8:22 pm
Location of Incident:	7843 S. Hermitage
Date of COPA Notification:	Jan 25, 2016
Time of COPA Notification:	4:13pm

Officers [REDACTED] and [REDACTED] curbed a vehicle that was double parked in the street. During the traffic stop, officers noticed that the driver, Mr. [REDACTED] showed signs of impairment and an open liquor bottle was observed in the vehicle. Officers instructed Mr. [REDACTED] to exit the vehicle. When he exited the vehicle, Mr. [REDACTED] attempted to flee. Officer [REDACTED] grabbed Mr. [REDACTED] arm and tried to handcuff him. After being unable to effect Mr. [REDACTED] arrest, the officers called for assistance. A third officer, Officer [REDACTED]³ arrived on scene and kicked Mr. [REDACTED] about the body. The incident was captured on video by a witness. After not receiving cooperation from [REDACTED] an Affidavit Override was obtained in order to proceed with the case.⁴

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star [REDACTED] Employee # [REDACTED] DOA [REDACTED] 2006, Sergeant, Unit [REDACTED] DOB [REDACTED] 1977, Male, Caucasian
Involved Officer #2:	[REDACTED] Star [REDACTED] Employee # [REDACTED] DOA [REDACTED] 2007, Police Officer, Unit [REDACTED] DOB [REDACTED] 1976, Female, Caucasian
Involved Officer #3:	[REDACTED] Star [REDACTED] Employee # [REDACTED] DOA [REDACTED] 2007, Detective, Unit [REDACTED] DOB [REDACTED] 1982, Female, African-American
Involved Individual #1:	

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.

² [REDACTED] was a police officer at the time of the incident. He was recently promoted to Sergeant. However, he will be referred to as Officer throughout this report.

³ During the course of this investigation, [REDACTED] was promoted from an officer to a detective. However, she will be referred to as Officer throughout this report.

⁴ Att. 32,35,40,51

██████████ DOB ██████████ 1967, Male, African-American

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer ██████████ ██████████	1. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused grabbed Mr. ██████████ by the arm and pulled him to the ground. 2. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused kneed Mr. ██████████ about the body.	Exonerated Not Sustained
Officer ██████████	1. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused kicked ██████████ ██████████ about the body. 2. It is further alleged that the accused failed to accurately document her contact with Mr. ██████████	Unfounded Unfounded
Officer ██████████ ██████████	1. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused kicked ██████████ ██████████ about the body. 2. It is further alleged that the accused failed to accurately document her contact with Mr. ██████████	Sustained / 5 days Sustained / Written Reprimand

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2 - Any action or conduct which impeded the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 8 – Disrespect to or maltreatment of any person, while on or off duty.
3. Rule 11- Incompetency or inefficiency in the performance of duty.

General Orders

1. G03-02-02 Use of Force; Effective May 16 2012

V. INVESTIGATION

a. Interviews

Although ██████████ did not provide a statement to this agency, he was deposed⁵ on Aug. 17, 2018 relative to a civil suit regarding this incident. Mr. ██████ stated on the date in question he drove to see his friend, ██████████ Mr. ██████ and Mr. ██████ consumed two to three cans of beer and a shot of vodka while at Mr. ██████ home. Mr. ██████ stated he felt sober enough to drive Mr. ██████ to a store named Four Brothers. Mr. ██████ stated that he was driving down Hermitage street, with Mr. ██████ in the front passenger seat, when a pedestrian known to Mr. ██████ named ██████ flagged him down to ask him a question. While speaking to Mr. ██████ Mr. ██████ informed him that the police were coming, which made Mr. ██████ look in his rear-view mirror. Mr. ██████ saw the marked police car approaching so he moved his car to side of the curb. While pulling over, the police turned their lights on. Mr. ██████ stated the police car parked behind his car and the two officers exited their vehicle. One officer approached the driver's side while the second officer approached the passenger's side. Mr. ██████ described both officers as white males but could not recall either of their names.

Mr. ██████ stated that the officer that approached his window asked for his license and insurance. While handing the license and insurance to the officer, Mr. ██████ asked what the problem was. The officer did not respond to Mr. ██████ and took Mr. ██████ license and insurance back to his vehicle. The officer was at his vehicle for approximately five minutes, while the second officer observed Mr. ██████ and Mr. ██████ in their vehicle. Mr. ██████ stated that when the officer returned to Mr. ██████ vehicle, he asked Mr. ██████ to step out. Mr. ██████ again asked what the problem was to which the officer again instructed Mr. ██████ to exit the vehicle. Mr. ██████ opened the door but before he was fully out of the vehicle the officer grabbed him by his left arm and threw him on the ground. Mr. ██████ fell to his stomach while the officer was on top of him kneeling him on his back and neck. Mr. ██████ told the officer multiple times that he was hurting him. Mr. ██████ stated while this was happening more officers arrived. However, Mr. ██████ could not recall the officer calling for back up. Mr. ██████ stated that while he was on the ground, an officer kicked him in his face but was not able to see which officer it was. Mr. ██████ also stated he could feel someone standing on his leg but could not see who it was because of the position he was in. Mr. ██████ stated he was picked up by his arms by the officers and was put into a squadrol. After watching the video of his arrest, he believed it was a heavyset white female officer with short black hair that kicked him on the face. Mr. ██████ did not recall the names of either of these officers.

Mr. ██████ stated that once he arrived at the police station, at approximately 8:30 p.m., he asked the officers multiple times to take him to the hospital. Mr. ██████ stated that he was transported to a cell where he kept banging on the glass door to get someone's attention to ask for

⁵ Att. 57

medical help again. While in custody, he was then taken to Little Company of Mary Hospital for neck pain. At Little Company of Mary, CT films were taken of his body, and the doctor prescribed him pain pills. Mr. ██████ could not recall if he told hospital staff that he was kicked on the face. Mr. ██████ stated that he had bruising near the bottom of both eyes.

In a **telephone conversation with ██████** (the male who was in the vehicle with Mr. ██████) Mr. ██████ related that the officers pulled Mr. ██████ vehicle over and told him to exit the vehicle. When Mr. ██████ exited the vehicle, he began to tussle with the officers and the officers “jumped” on Mr. ██████. Mr. ██████ became scared, exited the vehicle and left the scene. Mr. ██████ failed to cooperate any further with the investigation.⁶

In his statement to COPA on July 31, 2019, **Accused Officer ██████**⁷ who was recently promoted, explained that he was working overtime through the Violence Reduction Initiative (VRI) in the ██████ District and was partnered with Officer ██████ on the date and time in question. Both officers were in uniform and occupants of a marked squad car. While on patrol, Officer ██████ noticed a car on 79th and Hermitage with its bright lights illuminated which is against the Illinois Vehicle Code. When Officer ██████ drove around the block and returned to 79th and Hermitage, he observed cars reversing northbound on Hermitage because the same vehicle was blocking the street. Officer ██████ also noticed the vehicle’s headlight was out. After observing three violations, Officer ██████ activated the squad car’s emergency lights and made a traffic stop. Officer ██████ stated that the complainant, Mr. ██████ pulled his vehicle over to the side and out of the street. Officer ██████ exited the vehicle and approached the driver’s side of the vehicle followed by Officer ██████ who secured the passenger side of the vehicle. In Mr. ██████ vehicle, Officer ██████ observed a half empty bottle of beer in the backseat and could smell a strong odor of alcohol on Mr. ██████ breath. Mr. ██████ was seated on the driver’s seat and an unknown black male seated in the backseat on the passenger side. Officer ██████ recalled Mr. ██████ eyes being red and glossy and noticed Mr. ██████ words were slurred when he spoke to him. Although Officer ██████ does not recall exactly what he said to Mr. ██████ he stated that he would normally greet a person, advise the subject as to why they were pulled over and discuss the violation with them.

After he refreshed his memory by viewing Mr. ██████ arrest report which he prepared, Officer ██████ stated that he asked Mr. ██████ if he had been drinking and Mr. ██████ responded that he had not. Based off his training and ten years of experience being a traffic enforcement officer, Officer ██████ suspected Mr. ██████ of being under the influence of alcohol. Officer ██████ decided to conduct additional investigative steps to determine if Mr. ██████ was, in fact, impaired. Officer ██████ returned to the squad car and pulled the vehicle back in case he needed space to conduct a field sobriety test. Officer ██████ believed that Officer ██████ remained outside and at the passenger side of Mr. ██████ vehicle. When Officer ██████ returned to Mr. ██████ vehicle, he asked Mr. ██████ to exit the vehicle. Initially, Mr. ██████ refused. When Officer ██████ asked him a second time, Mr. ██████ complied and stepped out of the vehicle. Mr. ██████ then tried to walk away, but Officer ██████ grabbed him. Mr. ██████ continued to pull away and Officer ██████ came to assist Officer ██████. Officer ██████ considered Mr. ██████ to be an active resister at this point because he was pulling away, resisting and not following verbal commands. Officer

⁶ Att. 19

⁷ Att. 65, 66

██████████ attempted to perform an emergency takedown and described the action of pulling Mr. ██████████ down to the ground with Officer ██████████ assistance. Once on the ground, Mr. ██████████ actions fluctuated between active and passive resister and Officer ██████████ adjusted his response accordingly. He explained that at times Mr. ██████████ would resist by holding his arms to prevent from being handcuffed and other times he would pull away. Due to Mr. ██████████ continued resistance and Officer ██████████ inability to handcuff Mr. ██████████ Officer ██████████ called a 10-1 over the police radio requesting additional officers for assistance. Officer ██████████ related that because it was getting dark outside and his glasses were knocked off his face in the struggle, he could hear voices and recalled people on their porches. That, coupled with the fact that the second male was still in the car and on the scene, made Officer ██████████ determine he needed assistance.

Not too long after, Officer ██████████ heard sirens and additional officers had arrived on the scene. Officer ██████████ related that with the assistance of other officers, Mr. ██████████ was subdued and handcuffed. Officer ██████████ couldn't recall who handcuffed Mr. ██████████ Officer ██████████ stated that he did not know what happened to the other male or at what point he exited Mr. ██████████ vehicle. Officer ██████████ continued that once at the district station and during the administration of the standardized field sobriety, Mr. ██████████ attitude was up and down. Mr. ██████████ attitude ranged from cocky, excited, combative, and indifferent. Mr. ██████████ was using profane language as well as making insulting and sexually incorporate comments to Officer ██████████

Officer ██████████ described the force Officer ██████████ exercised during the arrest as minimal due to the fact that she was only holding on to Mr. ██████████ arm to get him into handcuff and denied observing Officer ██████████ kick Mr. ██████████ Officer ██████████ stated that from his vantage point, he never viewed Mr. ██████████ as an assailant. Officer ██████████ stated that Mr. ██████████ was not intentionally trying to strike them, but he recalls getting bumped when Mr. ██████████ was trying to pull away. Officer ██████████ stated that he did not observe any officer on the scene kick Mr. ██████████ He explained that his glasses were knocked off his face, he was out of breath, and still struggling with Mr. ██████████ Officer ██████████ related that he did grab Mr. ██████████ by the arm and pull him to the ground. Officer ██████████ explained that Mr. ██████████ was an active resister at the time and tried to flee to avoid being arrested. However, Officer ██████████ denied kneeling Mr. ██████████ on the body. Officer ██████████ added that if it happened, it was definitely not intentional since he tried to use the least amount of force to effect the arrest.

Officer ██████████ related that he sustained injury to his knees, wrists and hands and sought medical treatment at Little Company of Mary or Christ Hospital. Officer ██████████ believed he injured his knees during the takedown and from moving his knees on the pavement. Officer ██████████ did not recall Mr. ██████████ being injured during the arrest.

After being provided the opportunity to view the video, Officer ██████████ positively identified himself, Mr. ██████████ and Officer ██████████ Officer ██████████ could not positively identify the third officer who arrived on the scene but believed the individual was a female. Based off his observations from the video, Officer ██████████ related that the officer made a sweeping or kicking motion with her foot.

In a statement at COPA on July 31, 2019, **Accused Officer** [REDACTED] related that on the date and time in question she was working overtime and partnered with Officer [REDACTED]. Officer [REDACTED] was assigned to the Violence Reduction Initiative, clad in full uniform and the occupant of a marked squad car. While on patrol, she and Officer [REDACTED] observed a vehicle parked in the middle of Hermitage street, preventing other vehicles from passing and causing drivers to reverse their vehicles to find another path. Officer [REDACTED] activated the emergency lights and parked behind the vehicle with intentions of conducting a traffic stop and issuing citations. Officer [REDACTED] was the guard officer and Officer [REDACTED] was the business officer. Officer [REDACTED] approached the driver's side of the vehicle while Officer [REDACTED] proceeded to the passenger's side. Mr. [REDACTED] was seated in the driver's seat and there was an older gentleman sitting on the backseat. Officer [REDACTED] recalled that Officer [REDACTED] told her that he saw open alcohol inside of the vehicle, but she did not recall when he told her. Officer [REDACTED] asked Mr. [REDACTED] to step out of the vehicle and Mr. [REDACTED] refused. Officer [REDACTED] did not recall the exact conversation between Mr. [REDACTED] and Officer [REDACTED]. At some point, Mr. [REDACTED] exited the vehicle and made a motion that led them to believe that he was trying to run. Officer [REDACTED] grabbed Mr. [REDACTED] and tried to hold onto him, at which time, the two of them began to pull and tug on one another.

Officer [REDACTED] went to the driver's side of the vehicle to assist Officer [REDACTED] who was trying to takedown [REDACTED]. It was at this time that she smelled alcohol on Mr. [REDACTED]. Officer [REDACTED] stated that she did not know exactly how she assisted but she decided to call a 10-1 because Mr. [REDACTED] was still resisting, tensing up his body while on his hands and knees, and not cooperating. Officer [REDACTED] stated that she decided they needed additional assistance after she and Officer [REDACTED] were unable to gain control of Mr. [REDACTED]. Mr. [REDACTED] was on his hands and knees. When additional officers arrived on the scene, they were able to handcuff and place Mr. [REDACTED] into custody. Mr. [REDACTED] was transported to the [REDACTED] District by other officers. While at the District Station, Officer [REDACTED] had minimal contact with Mr. [REDACTED] and Officer [REDACTED] was the officer responsible for the DUI tests and reports. Officer [REDACTED] related that she did not observe any injuries to Mr. [REDACTED] and did not recall if Mr. [REDACTED] asked for medical treatment. Officer [REDACTED] stated that Officer [REDACTED] injured his knee during the arrest and sought treatment at Little Company of Mary Hospital. Officer [REDACTED] recalled three officers completing a Tactical Response Report including herself. In conjunction with her TRR, Officer [REDACTED] described Mr. [REDACTED] as being a passive and active resister and related that she performed an emergency takedown and handcuffing technique during his arrest. She recalls grabbing one of Mr. [REDACTED] hands to try to handcuff him but was unsuccessful because he was stiffening his body. She was unable to recall the force Officer [REDACTED] and other officers utilized during Mr. [REDACTED] arrest. Officer [REDACTED] related that the passenger in Mr. [REDACTED] vehicle was not arrested and she believed that she completed a contact card for him, and he was free to go.

After being provided the opportunity to observe the video recording of Mr. [REDACTED] arrest, Officer [REDACTED] identified herself and Officer [REDACTED] in the video. Thirty-two seconds into the video, another officer approaches. Officer [REDACTED] stated that based on her observations of the video, the officer ran up to Mr. [REDACTED] who was still on his hands and knees, and moved her leg, creating a kicking motion. Officer [REDACTED] stated that she did not observe the officer kick Mr. [REDACTED] on the scene. She explained that her focus was on Mr. [REDACTED] and getting him under control. Officer [REDACTED] denied kicking Mr. [REDACTED] and failing to accurately document her contact with him.

⁸ Att. 73, 74

During a statement at COPA on August 1, 2019, **Accused Officer [REDACTED]** related that on the date and time of the incident, she was working overtime with the Violence Reduction Initiative, a CPD program designed to deter crimes in targeted areas. Officer [REDACTED] was in CPD uniform, partnered with Officer [REDACTED] and given the task to patrol the [REDACTED] District. While on duty and in the vicinity of 78th and Hermitage, Officer [REDACTED] heard a fellow officer call a 10-1 over the radio. A 10-1 is the highest-level emergency involving a police officer which requires an immediate response. Officer [REDACTED] immediately drove to the scene.

Upon arrival, she noticed that the street was backed up with traffic. Instead of waiting for the cars to move out of the way, Officer [REDACTED] hopped out of the marked squad car and ran, less than a half a block, to the scene of Mr. [REDACTED] arrest. When she approached, she observed two officers on the ground struggling and trying to gain control of a black male (now known as Mr. [REDACTED]) who was on his hands and knees. Officer [REDACTED] said that she could see Mr. [REDACTED] pulling away and tensing up. Officer [REDACTED] related that she couldn't see exactly what the officers were doing because the officers' backs were turned. As she neared them, Officer [REDACTED] could see one of the officers trying to grab Mr. [REDACTED] arm. The closer she got, the more she could see. She could now ascertain that there was one male and one female struggling with Mr. [REDACTED]

When the male officer saw Officer [REDACTED] he yelled, "Help!" Officer [REDACTED] explained that she grabbed Mr. [REDACTED] by his upper body and gave him a knee strike to try to pull him down to the ground. However, she was unsuccessful in that Mr. [REDACTED] did not move or fall to the ground. He was still resisting by pulling away and stiffening his body. Officer [REDACTED] described the knee strike as pulling Mr. [REDACTED] upper body towards her while Officer [REDACTED] believe that she made contact with Mr. [REDACTED] back. Officer [REDACTED] repeatedly told him to release his arms and get down on the ground but Mr. [REDACTED] did not comply. More units arrived on the scene to assist the officers. Officer [REDACTED] related that once Mr. [REDACTED] was flat on his stomach, she placed her knee on his back to keep him in place so he could be handcuffed. Officer [REDACTED] related that he was still an active resister in that he was still moving around on the ground. Officer [REDACTED] related that the entire incident happened so quickly, and she did not recall where her partner was during the incident and didn't know how many officers assisted in handcuffing Mr. [REDACTED] Officer [REDACTED] added that she gave Mr. [REDACTED] verbal commands before and after she performed the knee strike. Officer [REDACTED] was unaware of any injuries Mr. [REDACTED] sustained and later learned that Officer [REDACTED] was injured during the arrest.

Officer [REDACTED] related that while on the scene, she didn't know that Mr. [REDACTED] was intoxicated but while at the district station completing her TRR, she recalled him being loud, having slurred speech and red eyes and smelling like alcohol. Officer [REDACTED] related that Mr. [REDACTED] was never an assailant and he didn't strike her or any of the other officers. The main thing he was trying to do was defeat the arrest by pulling away, stiffening his body and not listening to verbal commands.

After reviewing her TRR, she related that although performing a knee strike would match the force used to subdue an assailant, she was taught that you could go one step higher than the offender. Officer [REDACTED] admitted that she did not document the knee strike on her TRR. She

⁹ Att. 78, 80

stated that it was not an intentional omission and she considered the knee strike as part of the emergency takedown. Officer ██████ stated that while she didn't kick Mr. ██████ a knee strike resembles a kick as she still had to lift her leg off the ground to get the fatty part of her knee to strike Mr. ██████

After reviewing and identifying herself in the video, Officer ██████ stated that she can see her knee hit Mr. ██████ body, but she didn't see her feet make contact with him and cannot recall if her foot made contact with Mr. ██████ Officer ██████ related that in the video it clearly looks like she kicked Mr. ██████ Officer ██████ related that it is possible that her foot struck Mr. ██████ as well. Officer ██████ related that the incident occurred a long time ago and she had no independent recollection of the incident. Officer ██████ did not admit to or deny the allegation that she kicked Mr. ██████ Officer ██████ stated that if she did kick Mr. ██████ it was not intentional. Her intention was to perform a knee strike. Officer ██████ added that while she did fail to accurately document her contact with Mr. ██████ she did not check the box marked "knee strike" on the TRR because she believed that it was part of her takedown.

b. Digital Evidence

In-car camera footage relative to this incident had been purged by the time the investigative agency received notice of the of this complaint.¹⁰

In a **video recording** captured from the cellphone of ██████ an officer runs up to the scene of Mr. ██████ arrest and lifts her right leg and moved her feet in a kicking motion. The individual recording the incident yelled out, "You're kicking him? We seen that!" and "They stomped and kicked him for nothing."¹¹ ██████ did not respond to COPAs attempts to contact him.¹²

c. Physical Evidence

There were no evidence technician photographs taken of Mr. ██████ However, Mr. ██████ **booking photograph** does not show any signs of visible injury.¹³

According to **medical records** obtained from Little Company of Mary Hospital, Mr. ██████ sought treatment, while in police custody, on August 17, 2015, at approximately 0315 hours. Mr. ██████ reported that during his arrest, he was kneed to the ground by the police and suffered pain on the right side of his neck. He was diagnosed with neck strain.¹⁴

d. Documentary Evidence

¹⁰ Att. 23

¹¹ Att. 17,18

¹² Att. 14, 39, 41, 54, 55

¹³ Att. 4,79

¹⁴ Att. 27

On Jul 20, 2017, **Civil Lawsuit 17CV** [REDACTED] was filed on behalf of [REDACTED]. The lawsuit alleged that during Mr. [REDACTED] arrest, Officer [REDACTED] pulled Mr. [REDACTED] from his car, slammed him on the ground, beat Mr. [REDACTED] about the neck and body, and placed a knee on his neck causing pain and injury to Mr. [REDACTED] neck. The civil suit was settled on Feb 27, 2019 and Mr. [REDACTED] was awarded \$50,000 U.S.C.¹⁵

According to **Chicago Police Department reports**, on August 26, 2015 at approximately 8:22 pm, officers observed a four-door tan Jaguar double parked on 78th and Hermitage. Other vehicles were backing up traveling northbound in reverse on Hermitage as they could not go south due to the vehicle's obstructing the street. Officers turned onto Hermitage and activated their emergency lights. Officer [REDACTED] who was listed as the first arresting officer, documented that he observed the red taillight was out. Officers curbed the vehicle and upon making contact with the driver, Mr. [REDACTED] officers observed an open 12 oz. bottle of MGD Beer on the rear center console. Mr. [REDACTED] had a strong odor of alcohol on his breath, coupled with slurred speech and glassy and bloodshot eyes. When asked, Mr. [REDACTED] denied drinking any alcoholic beverages. Mr. [REDACTED] was asked to exit the vehicle, but he refused. When asked again, he stepped out of the vehicle and attempted to flee on foot. Officer [REDACTED] and Officer [REDACTED] gained control of Mr. [REDACTED] who then escalated into an active resister. An emergency takedown was executed. While on the ground, Mr. [REDACTED] continued to resist and would not listen to verbal instructions. Officers then called for assistance (10-1) over the radio. Shortly after, Mr. [REDACTED] was subdued, placed into custody, and transported to the [REDACTED] District Station. At the District, a Standard Field Sobriety Test was administered to Mr. [REDACTED]. Mr. [REDACTED] showed multiple signs of impairment and had a breath alcohol result of .216. Mr. [REDACTED] demeanor at the time of the field sobriety exam was documented as cocky, combative, excited, indifferent, insulting, talkative, and profanity laced. Mr. [REDACTED] was charged with resting arrest, driving under the influence, double parking, unlawful use of headlights, and unlawful carry or transport of alcohol in a passenger vehicle.¹⁶

Although a field contact card could not be located for the backseat passenger inside of Mr. [REDACTED] vehicle, [REDACTED] was listed as the witness/passenger on Mr. [REDACTED] **Alcohol/Drug Influence Report**.¹⁷

Officer [REDACTED] TRR indicated that he utilized an open hand strike and takedown/emergency handcuffing technique during Mr. [REDACTED] arrest. He categorized Mr. [REDACTED] as both an active and passive resister in that he did not follow directions, stiffened his body, fled and pulled away.¹⁸ **PO [REDACTED] TRR** indicated that she performed a takedown/emergency handcuffing to assist in Mr. [REDACTED] arrest.¹⁹

Officer [REDACTED] TRR categorized Mr. [REDACTED] as both a passive and active resister in that he stiffened his body, failed to follow directions and pulled away. She indicated that she performed a takedown/emergency handcuffing during the course of Mr. [REDACTED] arrest.²⁰

¹⁵ Att. 46,81

¹⁶ Att. 4-13

¹⁷ Att. 7

¹⁸ Att. 37

¹⁹ Att. 22

²⁰ Att. 36

e. Additional Evidence

A **canvass** was conducted and although witnesses were identified, no one cooperated with the investigation.²¹

On Feb. 22, 2016, Mr. ██████ summary suspension was rescinded, and all **criminal charges** were dismissed, nolle prosequi.²²

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 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 ¶

VI. ANALYSIS

COPA determined that **Allegation #1** that **Officer ██████** grabbed Mr. ██████ by the arm and pulled him to the ground is **Exonerated**. Officer ██████ admitted during his statement that he performed the action to effect the arrest of Mr. ██████ Mr. ██████ who was slow to comply

²¹ Att. 15,19,24,25,26,39,41,52-55

²² Att. 33

when asked to exit the vehicle, attempted to flee when he opened the vehicle's door. The fact that Officer [REDACTED] and Officer [REDACTED] continued to struggle on the ground with Mr. [REDACTED] as seen in the video, is evident that he was an active resister. Therefore, the force used by Officer [REDACTED] was proportionable to Mr. [REDACTED] actions.

COPA determined that **Allegation #2** that Officer [REDACTED] kneed Mr. [REDACTED] about the back is **Not Sustained**. Although Mr. [REDACTED] stated that Officer [REDACTED] kneed him on the body, Officer [REDACTED] denied the allegation. Officer [REDACTED] stated that if it occurred, it was accidental and not intentional. Officer [REDACTED] related that he used minimal force to effect the arrest of Mr. [REDACTED] including calling other officers for assistance when he and Officer [REDACTED] could not gain control of Mr. [REDACTED]. Officer [REDACTED] account of the incident was forthcoming and credible and thoroughly documented in the department reports that he authored. This portion of the arrest was not captured on video. Officers [REDACTED] and [REDACTED] did not observe Officer [REDACTED] knee Mr. [REDACTED] about the body. At this time, there is insufficient evidence to prove or disprove the allegation.

COPA concludes that **Allegations #1-2** that Officer [REDACTED] kicked Mr. [REDACTED] about the body and failed to accurately document her contact is **Unfounded**. Although Mr. [REDACTED] related that a white female kicked him about the body, this investigation revealed that Officer [REDACTED] was not the officer responsible. Officer [REDACTED] self-identification while watching the video, coupled with Officer [REDACTED] and Officer [REDACTED] statement, proves that is not the accused officer in this investigation.

COPA determined that **Allegation #1** that Officer [REDACTED] kicked Mr. [REDACTED] about the body is **Sustained**. In his deposition, Mr. [REDACTED] alleged that an officer kicked him in the face. The video shows a third officer, whom Officer [REDACTED] identified as herself, run towards Mr. [REDACTED] and make a kicking motion towards his body. Both Officer [REDACTED] and Officer [REDACTED] stated that they did not observe any Department kick Mr. [REDACTED] while on the scene because they were focused on handcuffing Mr. [REDACTED]. However, after viewing the video and being asked to describe their observations, both Department Members admitted to observing a female officer arrive on the scene and make a sweeping or kicking motion near Mr. [REDACTED]. Officer [REDACTED] stated that while it looked as if she kicked Mr. [REDACTED] she believed that she performed a knee strike in an attempt to cause Mr. [REDACTED] to lose balance from his position so they could handcuff him. She stated that her knee made contact with Mr. [REDACTED] but she did not know what part of the body she struck. Although Officer [REDACTED] denied kicking Mr. [REDACTED] she stated that it was possible that her foot unintentionally made contact with his body. COPA notes that either a knee strike or a kick were excessive force in this instance in that all involved officers, including Officer [REDACTED] described Mr. [REDACTED] as a passive and active resister. A knee strike and/or kick is the appropriate force allocated for an assailant according to the Use of Force Model.

COPA determined that **Allegation #2** that Officer [REDACTED] failed to accurately document her contact with Mr. [REDACTED] is **Sustained**. While Officer [REDACTED] did document some of the force she used during Mr. [REDACTED] arrest, she failed to indicate that she performed a knee strike.

Although she stated she considered the knee strike as part of her documented takedown, she admitted that she did not check the correct box on the TRR documenting the knee strike.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED] Unit [REDACTED]

i. Complimentary:

- DEPLOYMENT OPERATIONS CENTER AWARD (1) 1
- ATTENDANCE RECOGNITION AWARD (1)
- PRESIDENTIAL ELECTION DEPLOYMENT AWARD 2008 (1)
- HONORABLE MENTION (51)
- DEPARTMENT COMMENDATION (4)
- COMPLIMENTARY LETTER (2)
- NATO SUMMIT SERVICE AWARD (1)
- 2009 CRIME REDUCTION AWARD (1)

b. Disciplinary History

SPAR # [REDACTED] – June 26, 2018 - Reprimand – Preventable Accident

i. Recommended Penalty, by Allegation

- 1. Allegation No. 1: 5 days
- 2. Allegation No. 2: Written Reprimand

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation ²³
Officer [REDACTED] [REDACTED]	1. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused grabbed Mr. [REDACTED] by the arm and pulled him to the ground in violation of Rule 8. 2. It is alleged that on August 26, 2015 at approximately 8:22pm, in the vicinity of 7843 S.	Exonerated Not Sustained

²³ Penalty recommendations are only applicable to “Sustained” findings.

	Hermitage, the accused kneed Mr. [REDACTED] about the body in violation of Rule 8.	
Officer [REDACTED] [REDACTED]	<p>1. It is alleged that on August 26. 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused kicked [REDACTED] about the body in Violation of Rule 8.</p> <p>2. It is further alleged that the accused failed to accurately document her contact with Mr. [REDACTED] in Violation of Rule 11.</p>	<p>Unfounded</p> <p>Unfounded</p>
Officer [REDACTED] [REDACTED]	<p>1. It is alleged that on August 26. 2015 at approximately 8:22pm, in the vicinity of 7843 S. Hermitage, the accused kicked [REDACTED] about the body in Violation of Rule 2 and 8.</p> <p>2. It is further alleged that the accused failed to accurately document her contact with Mr. [REDACTED] in Violation of Rule 11.</p>	<p>Sustained / 5 days</p> <p>Sustained / Written Reprimand</p>

Approved:

[REDACTED]

September 29, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

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