

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

I. EXECUTIVE SUMMARY

Date/Time/ Location of Incident:	July 2012 and April 2015 various times and various locations including [REDACTED]
Date/Time COPA Notification:	December 23, 2015 at 12:49 PM

[REDACTED] registered this complaint alleging that at multiple various times Police Officer [REDACTED] # [REDACTED] was intoxicated, punched her, headbutted her, choked her, pointed a handgun at her, pinned her on the floor, made threats to shoot her and kill her, and repeatedly used the word “nigger” during the course of their relationship. Officer [REDACTED] denied the allegations against him.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] # [REDACTED] Employee # [REDACTED] Date of Appointment: [REDACTED] 2004; Police Officer; Unit of Assignment: [REDACTED] DOB: [REDACTED] 1969; Male; Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1981; Female; Hispanic

III. ALLEGATIONS

Officer	Allegations	Findings
Officer [REDACTED]	1. [REDACTED] alleged that on an unknown date and time and at an unknown location Officer [REDACTED] was intoxicated while driving in violation of Rule 1.	Not Sustained
	2. [REDACTED] alleged that on an unknown date and time and at an unknown location Officer [REDACTED] punched her while he was driving in violation of Rule 8.	Sustained

<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.

<p>3. The complainant alleged that on an unknown date and time and at an unknown location Officer [REDACTED] headbutted [REDACTED] while he was driving in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>4. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] threatened to shoot [REDACTED] if she made a complaint against him in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>5. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] pointed a gun at [REDACTED] in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>6. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] pinned [REDACTED] on the floor in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>7. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] choked [REDACTED] in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>8. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] used the word “nigger” in violation of Rule 8.</p>	<p>Not Sustained</p>
<p>9. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer [REDACTED] threatened to kill [REDACTED] if she dated a “nigger” in violation of Rule 8.</p>	<p>Not Sustained</p>

**IV. APPLICABLE RULES AND LAWS**

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<p>Rules</p>
<ol style="list-style-type: none"> <li>1. Rule 1 – Violation of any law or ordinance.</li> <li>2. Rule 8 - Disrespect to or maltreatment of any person, while on or off duty.</li> </ol>

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State Laws

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1. 625 IL CS 5/11-501(a) Driving while under the influence

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V. INVESTIGATION<sup>2</sup>

## a. Interviews

In a **statement**<sup>3</sup> on December 28, 2015, ██████████ stated that she started dating Officer ██████████ in 2010. Ms. ██████████ stated that Officer ██████████ was mentally and verbally abusive to her throughout their relationship and when she moved into Officer ██████████ residence in July of 2012, he became physically abusive toward her. Ms. ██████████ related one incident where she went with Officer ██████████ to an unknown bar to watch a Chicago Bears game with unknown coworkers of Officer ██████████. Ms. ██████████ stated that she asked to leave after a short time because Officer ██████████ was flirting with an unknown female officer. Officer ██████████ and Ms. ██████████ left the bar and Officer ██████████ drove back to their residence. Ms. ██████████ stated that Officer ██████████ had been drinking at the bar and was driving while he was intoxicated. Ms. ██████████ stated that she and Officer ██████████ argued on the way home and when they stopped at a red light, Officer ██████████ punched her in the face and headbutted her. Ms. ██████████ stated that Officer ██████████ broke her nose during the incident.

Ms. ██████████ stated that Officer ██████████ told her that he would lose his job if she reported him. Ms. ██████████ reassured Officer ██████████ that she would go to the hospital but that she would not tell them he broke her nose and instead she would make up a story. Ms. ██████████ stated that when she went to the hospital the following day, she told emergency department personnel that she injured herself by a door or something. Ms. ██████████ stated that photos of her injuries were on an old cell phone and she would send them to investigators if she was able to retrieve them.<sup>4</sup> Ms. ██████████ also stated that at multiple unknown times during their relationship, Officer ██████████ used the word “nigger” in describing people and stated that Officer ██████████ frequently made racist statements. Ms. ██████████ stated that Officer ██████████ was diagnosed with ██████████ following military service and he concealed that diagnosis from the Chicago Police Department. Ms. ██████████ stated that she believed Officer ██████████ to be an alcoholic because of the amount of alcohol he consumed. Ms. ██████████ stated that Officer ██████████ threatened her on multiple occasions, including pointing a firearm at her. Ms. ██████████ stated that when she moved out of Officer ██████████ residence, she moved into the house next door to Officer ██████████ where her mother lived but she attempted to avoid contact with him because she feared for her safety.

In a **statement** on July 26, 2018, **Police Officer** ██████████ stated that he was engaged to ██████████ for approximately six months and they lived together at Officer ██████████ home for approximately two years. Officer ██████████ stated that he no longer has any contact with ██████████ and that ██████████ and her mother no longer live next door to him. Officer ██████████ denied using the word “nigger” at any point during his relationship with ██████████

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment 7 and 8

<sup>4</sup> Ms. ██████████ did not provide any photos.

██████ denied pointing a firearm at ████████ denied threatening to shoot or kill ████████ ████████ denied every choking ████████ and denied pinning ████████ to the floor. Officer ████████ stated that on an unknown date and time during the relationship, he and Ms. ████████ went to an unknown bar to watch a football game with other officers from his unit of assignment<sup>5</sup>. At the bar, Officer ████████ saw a female officer who is also a United States Marine<sup>6</sup> and greeted her as such. Ms. ████████ accused Officer ████████ of flirting with the female officer and demanded that they leave. Officer ████████ and Ms. ████████ left the bar and Officer ████████ drove them home. Ms. ████████ and Officer ████████ continued to argue on the way home and Officer ████████ stated that Ms. ████████ struck him throughout the ride. Officer ████████ stated that he attempted to defend himself by deflecting the blows from Ms. ████████. Officer ████████ stated that he inadvertently struck Ms. ████████ on the side of her face with the back of his hand when trying to deflect her blows. Officer ████████ stated that they were at the bar for a short time and he denied being intoxicated or driving his vehicle while intoxicated. Officer ████████ denied headbutting or punching Ms. ████████. Officer ████████ stated that when the relationship ended and Ms. ████████ moved out, he obtained an Emergency Order of Protection after Ms. ████████ damaged some of Officer ████████ property when she came to his house to retrieve her property. Officer ████████ stated that Ms. ████████ also obtained an Emergency Order of Protection against him but that both orders were vacated in court.

#### **b. Documentary Evidence**

**Medical Records** from St. Catherine Hospital indicate that Ms. ████████ went to the hospital on November 11, 2013<sup>7</sup> and complained of a broken nose that was the result of having a television fall on her.<sup>8</sup> Emergency Department personnel noted bruising and tenderness to the bridge of Ms. ████████ nose but a radiology report indicated that her nose was not fractured.

## **VI. LEGAL STANDARD**

### **a. Possible findings and burdens of proof**

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

Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

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<sup>5</sup> Officer ████████ did not identify the other officers present. Due to the lack of details regarding the date, time and location of the incident, as well as the statements by Ms. ████████ and Officer ████████ that they did not argue in the bar but rather left and argued on the way home, the unknown officers are not considered witnesses in this investigation.

<sup>6</sup> Officer ████████ described himself as an “inactive Marine” (14:44). Officer ████████ did not identify the female officer but she is not considered a witness to any misconduct.

<sup>7</sup> A search of the Chicago Bears schedule for the 2013 season indicated that the Bears played a game at 12:00 Noon on November 10, 2013.

<sup>8</sup> Medical records are documented in Attachment 17. ████████ explanation of why she gave false information to her medical providers is in Attachments 7 and 8, which are ████████ statement to COPA.

Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

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 reviewed 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 conduct violated Department policy than that it did not, 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

### a. Allegations 1 & 3-9

COPA finds the allegations that Officer ██████ was intoxicated while driving, headbutted ██████ threatened to shoot ██████ if she made a complaint against him, pointed a gun at ██████ pinned ██████ to the floor, choked ██████ repeatedly used the word "nigger", and threatened to kill ██████ if she ever dated a "nigger", **Not Sustained**. This investigation deals with allegations of verbal and physical abuse throughout the course of a domestic relationship. Ms. ██████ was unable to provide specific dates and times for the acts of misconduct she alleged Officer ██████ committed. There were no witnesses to the alleged misconduct. The available evidence is limited to statements from Officer ██████ and Ms. ██████ and Officer ██████ denied all allegations. The available evidence is insufficient to either sustain or refute the allegations. **Therefore, these allegations are Not Sustained.**

### b. Allegation 2

COPA **Sustains** the allegation that Officer ██████ punched ██████ While Ms. ██████ was unable to provide a specific date for this incident, both Ms. ██████ and Officer ██████ state that on the date in question, they were at a bar watching the Bears game. Ms. ██████ stated that she went to the doctor the next day. Ms. ██████ also stated that she told hospital staff a false story to protect Officer ██████ Based on their statement regarding the incident and her medical records COPA finds that it is more likely than not that the incident occurred November 10, 2013.

Officer ██████ and Ms. ██████ both provided accounts of the incident with Officer ██████ account describing the contact with Ms. ██████ as accidental in the act of defending himself while driving. Officer ██████ also stated that the back of his hand made contact with the

side of Ms. [REDACTED] face. Ms. [REDACTED] account of the incident involved Officer [REDACTED] intentionally punching her in the face. Ms. [REDACTED] medical records noted tenderness to the nose and medical professionals observed bruising to the bridge of Ms. [REDACTED] nose. Although Ms. [REDACTED] told medical professionals a tv had fallen on her, during her statement she admitted to providing misleading information to the hospital at the pleas of Officer [REDACTED] Given the physical evidence available, Ms. [REDACTED] account of events are consistent with the injuries sustained. COPA finds that, with respect to this allegation, it is more likely than not that Officer [REDACTED] punched Ms. [REDACTED] in the face instead of striking the side of her face with the back of his hand, as per his statement. As such, this allegation must be **Sustained**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer [REDACTED]**

Officer [REDACTED] complimentary, training and disciplinary history were considered in recommending discipline in this case. Officer [REDACTED] does not have a history of discipline. COPA found that Officer [REDACTED] punched Ms. [REDACTED] in the face, causing injury. This allegation is serious and Officer [REDACTED] explanation was not forthcoming, instead he attempted to minimize his actions. However, COPA also notes the age of this investigation and the lack of any subsequent allegations of this nature against Officer [REDACTED] in the years since this incident occurred. Accordingly, COPA recommends a 10-day suspension.

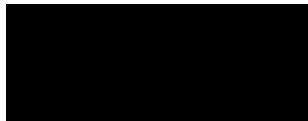
**IX. CONCLUSION**

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

Officer	Allegation	Finding
Officer [REDACTED]	<ol style="list-style-type: none"> <li>1. The complainant alleged that on an unknown date and time and at an unknown location Officer [REDACTED] was intoxicated while driving in violation of Rule 1.</li> <li>2. The complainant alleged that on an unknown date and time and at an unknown location Officer [REDACTED] punched [REDACTED] while he was driving in violation of Rule 8.</li> <li>3. The complainant alleged that on an unknown date and time and at an unknown location Officer [REDACTED] headbutted [REDACTED] while he was driving in violation of Rule 8.</li> <li>4. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer</li> </ol>	<p>Not Sustained</p> <p>Sustained/10-day Suspension</p> <p>Not Sustained</p> <p>Not Sustained</p>

<p>██████████ threatened to shoot ██████████ if she made a complaint against him in violation of Rule 8.</p>	
<p>5. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer ██████████ pointed a gun at ██████████ in violation of Rule 8.</p>	Not Sustained
<p>6. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer ██████████ pinned ██████████ on the floor in violation of Rule 8.</p>	Not Sustained
<p>7. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer ██████████ choked ██████████ in violation of Rule 8.</p>	Not Sustained
<p>8. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer ██████████ used the word “nigger” in violation of Rule 8.</p>	Not Sustained
<p>9. The complainant alleged that at various unknown dates and times during their relationship at unknown locations Officer ██████████ threatened to kill ██████████ if she dated a “nigger” in violation of Rule 8.</p>	Not Sustained

Approved:



Andrea Kersten  
Deputy Chief Administrator – Chief Investigator

September 12, 2019

Date

Appendix A

Assigned Investigative Staff

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