

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	November 21, 2016
Time of Incident:	9:57 P.M.
Location of Incident:	8701 S. Martin Luther King Jr. Drive
Date of IPRA Notification:	January 20, 2017
Time of IPRA Notification:	2:00 P.M.

On the night of November 21, 2016, around 9 P.M., [REDACTED] was stopped by Officers [REDACTED] and [REDACTED] while driving his vehicle. According to the officers, [REDACTED] was stopped for not using a turn signal and his vehicle did not have a license plate light. Officers [REDACTED] and [REDACTED] approached [REDACTED] vehicle. When [REDACTED] rolled down the window for the officers, Officer [REDACTED] smelled cannabis emitting from the vehicle. Officer [REDACTED] told Officer [REDACTED] to get [REDACTED] out of the vehicle. When [REDACTED] got out of the vehicle, Officer [REDACTED] attempted to perform a protective pat-down on [REDACTED] turned and faced Officer [REDACTED] while he was attempting to perform the pat down. In response, Officer [REDACTED] and Officer [REDACTED] performed an emergency take down on [REDACTED] Once on the ground, [REDACTED] was handcuffed and arrested for not providing his license and insurance information to the officers. Officer [REDACTED] searched the center console of [REDACTED] vehicle and recovered one clear knotted bag containing a green leafy substance suspected to be cannabis. [REDACTED] was subsequently transported to the [REDACTED] Police District by another unit. He subsequently requested medical treatment but was denied by Officer [REDACTED]

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Emp. # [REDACTED] DOA: [REDACTED] 2013, Officer, [REDACTED] DOB: [REDACTED] 1984, Male, Hispanic
Involved Officer #2:	[REDACTED] Star # [REDACTED] Emp. # [REDACTED] DOA: [REDACTED] 2012, Officer, [REDACTED] DOB: [REDACTED] 1985, Male, Hispanic
Involved Individual #1:	[REDACTED] 1996, Male, Black

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.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<p>1. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Forcefully taking [REDACTED] to the ground without justification.</p>	Exonerated
Officer [REDACTED]	<p>2. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Searching the passenger compartment of [REDACTED] car without justification.</p>	Exonerated
Officer [REDACTED]	<p>3. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] without justification.</p>	Exonerated
Officer [REDACTED]	<p>4. It is alleged by [REDACTED] on or about November 21, 2016, at the [REDACTED] District Police Station, Officer [REDACTED] Star # [REDACTED] denied Mr. [REDACTED] medical attention.</p>	Sustained
Officer [REDACTED]	<p>1. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Forcefully taking [REDACTED] to the ground without justification.</p>	Exonerated
Officer [REDACTED]	<p>2. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at</p>	Exonerated

<p>or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Searching [REDACTED] pockets without justification.</p> <p>3. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] without justification.</p>	<p>Exonerated</p>
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IV. APPLICABLE RULES AND LAWS

<p>Rules</p>
<p>Rule 10- Inattention to duty Rule 6: Disobedience of an order or directive, whether written or oral.</p>
<p>General Orders</p>
<p>1.G03-02 2.G06-01-01</p>
<p>Federal Laws</p>
<p>1. Fourth Amendment</p>
<p>State Laws</p>
<p>1. 725 ILCS 5/107-2(1)(c)</p>

V. INVESTIGATION²

a. Interviews

██████████ was interviewed by IPRA on January 20, 2017. The incident occurred on November 21, 2016 at 87th Street and King Drive, around 9 P.M. at a Phillips Gas Station. ██████████ indicated that he was stopped at a stop light on 87th Street and King Drive when he noticed two officers coming westbound down 87th Street in an unmarked vehicle. Both officers were male and Hispanic, and they were not in uniforms but had on vests. ██████████ made eye contact with the officers. The officers then proceeded to make a U-turn and get behind ██████████ vehicle. As the light changed green, ██████████ pulled into the gas station and the officers followed. The officers exited their vehicle with their hands on their guns and flashlights aimed at ██████████ vehicle. One of the officers, the driver of the police vehicle, asked ██████████ to step out of the vehicle. ██████████ stepped out of the vehicle with his hands up. Within seconds of ██████████ stepping out of his vehicle, the officers threw him down onto the ground and handcuffed him. While ██████████ was handcuffed the officers were telling him to stop resisting. ██████████ stated that he was not resisting because he was already handcuffed.

While handcuffed, one of the officers, the passenger officer, pushed ██████████ left elbow up to his back until he fractured his left elbow. According to ██████████ the officers were speaking Spanish while they were standing over him. One officer placed his foot on ██████████ until additional officers arrived on scene. ██████████ was placed into an officer's vehicle and transported to the station at 79th Street and Racine Street. While at the station, ██████████ was handcuffed to a wall and placed into a room. While at the station, the original officers told ██████████ that there was something mentally wrong with him. They tried to get him to go to Jackson Park Hospital. ██████████ told the officers he needed medical attention because he could not move his left arm. A supervisor came to see ██████████ and the supervisor told him that his mother did not beat him enough and that is why he is in the predicament he is in.

██████████ indicated that the officers processed him and released him at about 1 A.M. When ██████████ was released from the station he walked from 79th Street and Racine Street to 53rd Street and Cottage Grove to go to the University of Chicago Hospital. The hospital wrapped ██████████ arm into a cast and then released him. ██████████ stated that his arm was fractured. ██████████ then waited for his mother to arrive and they proceeded to ██████████ father's house to obtain money to get the vehicle out of impound.³

Officer ██████████ was interviewed by COPA on February 15, 2019. According to Officer ██████████ on the night of the incident he was working in the ██████████ District with his partner Officer ██████████. Officer ██████████ was in civilian dress and the passenger in an unmarked vehicle. Officer ██████████ was on routine patrol when he observed ██████████ driving a vehicle. Officer ██████████ activated the vehicle's lights and sirens and they curbed the vehicle ██████████ was driving. Officer ██████████ indicated that ██████████ vehicle was being curbed for traffic violations, which included a failure to use his turn signal and no license plate light. Officer ██████████ approached ██████████

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

³ Atts. 22 & 25.

vehicle on the passenger's side. When [REDACTED] rolled down the window Officer [REDACTED] smelled weed or cannabis emanating from the vehicle. Officer [REDACTED] told his partner in Spanish to get [REDACTED] out of the vehicle because he smelt cannabis.

According to Officer [REDACTED] he also heard a verbal confrontation between [REDACTED] and Officer [REDACTED]. Officer [REDACTED] asked [REDACTED] to step out of his vehicle. After [REDACTED] exited the vehicle, Officer [REDACTED] observed [REDACTED] turn around and face his partner. Officer [REDACTED] grabbed [REDACTED] left arm and attempted to place his arm behind his back. [REDACTED] stiffened his arm and would not give Officer [REDACTED] his arm, so he and his partner took [REDACTED] to the ground. Once on the ground, Officer [REDACTED] cuffed [REDACTED] and then Officer [REDACTED] searched his vehicle. [REDACTED] was placed into handcuffs and arrested because he did not give his license and insurance to the officers when asked to do so, as well as resisting and obstructing a peace officer.

Officer [REDACTED] also searched the center console of [REDACTED] vehicle for narcotics while [REDACTED] was outside the vehicle in handcuffs. Officer [REDACTED] did not have permission or a warrant to search the vehicle, but he stated that he had probable cause because of the smell of cannabis. Officer [REDACTED] recovered one clear knotted bag containing a green leafy substance suspected to be cannabis from [REDACTED] vehicle. [REDACTED] was subsequently transported to the [REDACTED] District by another unit.

Once at the [REDACTED] District Police Station another officer approached Officer [REDACTED] and told him [REDACTED] was getting undressed. Officer [REDACTED] asked [REDACTED] why he was getting undressed to which he did not receive an answer. According to Officer [REDACTED] he also asked [REDACTED] if he needed medical attention when Officer [REDACTED] asked [REDACTED] about his mental health. [REDACTED] informed Officer [REDACTED] that his arm was hurt, and he needed an ambulance. Officer [REDACTED] admitted that he did not call an ambulance for [REDACTED] because he assumed [REDACTED] was not injured. Officer [REDACTED] further stated he did not call an ambulance because [REDACTED] was able to get undressed and because [REDACTED] gave conflicting statements about what body part was in pain. Officer [REDACTED] further stated that [REDACTED] was sleeping when Officer [REDACTED] went in to first speak with him. According to Officer [REDACTED] when [REDACTED] was taken to get finger printed, personnel also asked [REDACTED] if he was sick, injured or taking medications and he stated no. Other police personnel asked [REDACTED] what was wrong with his arm and [REDACTED] responded that he could not move his arm. The additional police personnel again asked if he was sick, injured or taking medications to which [REDACTED] replied no.⁴

Officer [REDACTED] was interviewed by COPA on February 15, 2019. On the night of the incident he was working in the [REDACTED] District with his partner Officer [REDACTED]. Officer [REDACTED] was in civilian dress and he was the driver of an unmarked vehicle. Officer [REDACTED] first observed [REDACTED] driving at approximately 87th Street and King Drive. Officer [REDACTED] and his partner stopped [REDACTED] for failing to use a turn signal and because his vehicle had no plate light. Officer [REDACTED] approached [REDACTED] vehicle on the driver's side and asked him for his driver's license. [REDACTED] did not provide his license to Officer [REDACTED]. While the window was rolled down, Officer [REDACTED] smelled fresh narcotics emitting from the vehicle. According to Officer [REDACTED] [REDACTED] became confrontational and asked him why he had been pulled over. Officer [REDACTED] informed [REDACTED] again why he was being pulled over.

⁴ Att. 37.

attempted to open the car door, so Officer asked to step out of the vehicle. After exited the vehicle, Officer conducted a protective pat down. As Officer was attempting to pat down the front of kept turning around toward Officer after being told multiple times not to turn around. Officer and his partner then conducted an emergency takedown. After the takedown, Officer placed into handcuffs and Officer continued his pat down of was placed into handcuffs because he was being arrested for not providing Officer with his driver's license, not using a turn signal and not having a plate light. He was also arrested for obstructing a peace officer.

After was placed under arrest and in handcuffs, Officer began searching his pockets. Officer was searching for weapons or narcotics. was placed into a squad car and Officer searched the passenger side of vehicle. and his vehicle were then transported to the District. According to Officer he never asked if he needed medical attention while at the District and he does not recall if ever asked for medical attention while at the District. However, Officer did recall stating that they were breaking his arm when they were at the initial scene, but he did not say anything about wanting to go to the hospital.⁵

b. Digital Evidence

Officer was wearing a body-worn camera⁶ during the incident and his camera depicted the start of the incident with the officers still inside their vehicle. Officer pulled into a gas station behind a silver vehicle. Officer exited the vehicle and approached the driver's side of the silver vehicle. A male⁷ inside the vehicle lowered the window. Officer asked the male for a driver's license and the driver asked the officer why. Officer then informs the male that he did not use a turn signal and his plate light is out. The male took his keys out of the ignition and unfastened his seat belt. Officer asked the driver to lower the passenger window. The male continues to ask Officer if they [the police] are serious right now. Officer told the male to step out of the vehicle and to keep his hands up. Officer then appeared to be performing a protective pat down of the male when the male turned around toward the officer and asked if he is serious while continuing to move around. Officer and his partner Officer perform a takedown on the male. The male is placed on the ground and held there. He is then placed into handcuffs.

Officer then began to search the male's pockets. Officer is seen in the background telling a woman to leave the area. The male then asked the officers to call his mother. Officer can be seen in the background appearing to search inside the silver vehicle on the driver's side. A sergeant arrives on scene and speaks to the two officers and the male. Officer searches the male's pockets again. Officers and picked the male up off the

⁵ Att. 4 & 5.

⁶ This video is marked as Letter D on the disc for attachment 32.

⁷ Now known as

ground and Officer [REDACTED] walked the male over to another marked squad car. Officer [REDACTED] returned to the silver vehicle and began to look at items that are on the front passenger's seat.⁸

Officer [REDACTED] was also wearing a body-worn camera⁹ during the incident. There are four relevant videos from Officer [REDACTED] body-worn camera. The first video depicts Officer [REDACTED] approach to [REDACTED] vehicle. The video begins with the officers inside their vehicle. Officer [REDACTED] gets out of the vehicle and approaches a silver colored vehicle on the passenger's side. The male¹⁰ inside the vehicle lowers the passenger side window. Officer [REDACTED] leans inside the window and told his partner something in Spanish. The male gets out of the vehicle and turned around to face Officer [REDACTED]. Officer [REDACTED] reached for the male's arm and then performs what appears to be a takedown. The male ends up on the ground and Officer [REDACTED] is holding the male's arm. The male continued to ask the officers if they are serious. The male's hands are placed behind his back and he is placed into handcuffs. Officer [REDACTED] told the male he is going to jail. Officer [REDACTED] then began looking inside of the silver vehicle. He searched the panel on the driver's door and then proceeded to search the center console. Officer [REDACTED] finds a small clear bag appearing to be narcotics inside the center console. He retrieves the bag and shows the male the bag and asks the male what it is. Officer [REDACTED] then told a woman bystander to leave the scene. Officer [REDACTED] then radioed for a cage police vehicle. Officer [REDACTED] went back inside the silver vehicle and continued to search the center console. An unmarked vehicle arrived at the scene and a sergeant exited the vehicle. Officer [REDACTED] told the sergeant that the male on the ground is in custody and that he is going to turn off his body cam. To which the body cam ends.

In the second video¹¹ Officer [REDACTED] opened the back door on the driver's side and begins searching the back area of the silver vehicle. Officer [REDACTED] then returned to the front driver's side area and continued to search the center console area. Officer [REDACTED] found what appears to be a grinder. Officer [REDACTED] told Officer [REDACTED] lets go and that they can search the vehicle back at the station. Officer [REDACTED] got into the driver's side of the silver vehicle and closed the door.

The third video¹² is at the [REDACTED] District Police Station. [REDACTED] is seen in the video sitting in a room resting his head on top of a pile of clothes. [REDACTED] only has on a pair of blue shorts. He is not wearing a shirt. Officer [REDACTED] asked [REDACTED] what is wrong with him and [REDACTED] responded by stating leave me alone. Officer [REDACTED] asked [REDACTED] his name and [REDACTED] told Officer [REDACTED] his name. Officer [REDACTED] then told [REDACTED] to put his clothes back on. [REDACTED] responded by telling Officer [REDACTED] that he does not want to put his clothes back on unless he is going to call him an ambulance because his arm is dislocated. Officer [REDACTED] tells [REDACTED] to let him see his arm. [REDACTED] moves his arm up and down a little and Officer [REDACTED] tells [REDACTED] he looks fine and tells him to put his clothes back on. [REDACTED] tells Officer [REDACTED] that he is not fine. Officer [REDACTED] tells other officers that are present that he thinks [REDACTED] needs to go to Jackson Park Hospital.

⁸ Att. 32.

⁹ This video is marked as Letter E on the disc for attachment 32.

¹⁰ Now known as [REDACTED]

¹¹ This video is marked as Letter F on the disc for attachment 32.

¹² This video is marked as Letter G on the disc for attachment 32.

The fourth video¹³ is also at the [REDACTED] District Police Station. [REDACTED] can be seen still sitting in a room with blue shorts on. Officer [REDACTED] entered the room and informed [REDACTED] that he is worried about his mental health. Officer [REDACTED] told [REDACTED] that his shoulder is not dislocated, and [REDACTED] responded to Officer [REDACTED] that it is his elbow and not his shoulder. Officer [REDACTED] then told [REDACTED] that he could move his hand and that he did not seem in pain. [REDACTED] asked Officer [REDACTED] to leave him alone and if he could get somebody new. Officer [REDACTED] again told [REDACTED] that he is concerned about his mental health.¹⁴

c. Documentary Evidence

After being released from lock up [REDACTED] went to the University of Chicago Hospital for treatment. He was admitted on November 22, 2016 at 5 A.M. and discharged on the same day at 9:45 A.M. [REDACTED] complained that he was stopped by police and roughed up. [REDACTED] complained of shoulder pain and elbow pain/swelling. The medical report documents that [REDACTED] had left elbow joint effusion with findings suggestive of a nondisplaced fracture through the coronoid process of the ulna and normal appearance of the left shoulder with no evidence of fracture or dislocation. The diagnosis was a non-displaced fracture of the left elbow.¹⁵

[REDACTED] was arrested on November 21, 2016. According to the **arrest report and the case report**, Officers [REDACTED] and [REDACTED] observed [REDACTED] vehicle without a plate light and they further observed William make a turn without using a turn signal. The officers curbed [REDACTED] vehicle and approached the vehicle. Upon approach to the window, the officers could smell the odor of burnt cannabis emanating from the vehicle. Officer [REDACTED] asked [REDACTED] for a valid driver's license and proof of insurance. [REDACTED] did not comply with Officer [REDACTED] request. Officer [REDACTED] asked [REDACTED] to exit the vehicle so he could be placed into custody. As the officers attempted to place [REDACTED] into custody, [REDACTED] abruptly turned toward Officer [REDACTED]. The officers then grabbed [REDACTED] arms in an attempt to handcuff him. [REDACTED] stiffened his arms and the officers performed an emergency take down followed by an emergency handcuffing on [REDACTED]. Due to the officers smelling cannabis, as well as [REDACTED] actions, officers searched the vehicle and recovered one clear ziplock bag containing a green leafy substance in the center console. [REDACTED] was then transported to the [REDACTED] District Police Station for processing. Once at the district, [REDACTED] stripped down to his underwear and claimed his elbow was hurt. When asked by officers if he needed an ambulance, [REDACTED] refused.¹⁶

A **TRR** completed by Officer [REDACTED] documented that [REDACTED] did not follow verbal directions, stiffened, pulled away and turned around aggressively. Officer [REDACTED] response was member presence, verbal commands, wristlock and take down/emergency handcuffing.¹⁷

¹³ This video is marked as Letter H on the disc for attachment 32.

¹⁴ Att. 32.

¹⁵ Att. 24.

¹⁶ Atts. 4 & 5.

¹⁷ Att. 6.

A TRR completed by Officer ██████ documented ██████ did not follow verbal directions, stiffened, pulled away and turned around aggressively. Officer ██████ response was member presence, verbal commands, wristlock and take down/emergency handcuffing.¹⁸

d. Additional Evidence

█████ filed a civil case against the City of Chicago (17 CV ██████) which settled for \$90,000.¹⁹ No depositions were taken in the case.

VI. ANALYSIS

A. Officer ██████

1. Allegation 1: It is alleged by ██████ on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer ██████ Star # ██████ committed misconduct through the following acts or omissions: Forcefully taking ██████ to the ground without justification.

An officer's use of force is guided by General Order G03-02, "Use of Force Guidelines." Under this directive, it is required that "department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury." The directive goes on to state that "as set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer."

In an effort to "provide guidance on the reasonableness of a particular response option," the Use of Force Guidelines directive is supplemented by G03-02-01, "The Use of Force Model."²⁰ Under the Use of Force Model, an officer is permitted to apply "the use of force [...] to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances."²¹ Importantly, the directive requires officers to "modify their level of force in relation to the amount of resistance offered by the subject." Pursuant to the Use of Force Model, a Department member is permitted to use a range of force against three levels of subject: Cooperative, Resister, and Assailant.²²

According to General Order G03-02, ██████ could be classified in one of multiple categories: cooperative subject; passive resister; active resister; or, an assailant. ██████ clearly, based on the video, was not a cooperative subject as he continued to yell at the officers throughout the incident, as well as move and abruptly turn and face towards the officer. Nor is ██████ an

¹⁸ Att. 33.

¹⁹ Att. 30.

²⁰ G03-02-01, Effective May 16, 2002 through October 15, 2017

²¹ *Id.* at (II)(A)

²² G03-02-02, Effective January 1, 2016 through October 15, 2017

assailant as he is clearly not attempting to strike the officer or use force in any way. If [REDACTED] was deemed a passive resister, or a person who fails to comply with verbal or other direction, a variety of techniques could have been used to obtain compliance, including wristlocks, grabbing of an arm, armbars and even OC spray. An active resister is a person whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing of the arms, stiffening and other similar movements. If deemed to be an active resister, officers could have used all the above same techniques, in addition to stunning, which is diffused pressure striking or slapping in an attempt to increase control but disorienting the subject and interfering with the subject's ability to resist.

According to [REDACTED] officers threw him down onto the ground within seconds of him stepping out of his vehicle and placed him in handcuffs. [REDACTED] stated that the officers kept telling him to stop resisting when he was not resisting. According to Officer [REDACTED] he observed [REDACTED] turn around and face his partner and [REDACTED] also stiffened his arm and would not give Officer [REDACTED] his arm. Officer [REDACTED] also indicated that he requested multiple times that [REDACTED] stop moving, but that he turned around and abruptly faced him. Officer [REDACTED] and his partner thus performed an emergency take-down on [REDACTED]. Officer [REDACTED] justification for performing the take-down was that [REDACTED] was resisting by stiffening his arm and not allowing the officer to get his arm, as well as abruptly turning and facing the officer. Officer [REDACTED] states the same. [REDACTED] on the other hand denies that he was resisting.

The video clearly shows Officer [REDACTED] attempting to conduct a protective pat down and telling [REDACTED] to stop moving. However, [REDACTED] abruptly turns around and faces the officer. It is here that the officers take [REDACTED] to the ground. It is difficult to see whether [REDACTED] ever stiffens his arms, but it is clear that [REDACTED] abruptly turns towards the officers and sways back and forth repeatedly asking "are you serious right now?" [REDACTED] could certainly be classified as an active resister who is attempting to create distance between himself and the officers reach with the intent to avoid physical control, i.e. the pat down and/or handcuffing. As such, the officers were authorized to use holding and pain compliance techniques such as an emergency takedown, wristlock, or grabbing of an arm to attempt to control [REDACTED]. As such, this allegation should be **Exonerated**.

2. Allegation 2: It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Searching the passenger compartment of [REDACTED] car without justification.

COPA recommends a finding of **Exonerated** for allegation 2. Under the "automobile exception" to the search warrant requirement, "law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize." *People v. James*, 163 Ill. 2d 302, 312 (Ill. 1994) (citing *Carroll v. United States*, 267 U.S. 132 (1925)). "When officers have such probable cause, the search may extend to 'all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks.'"

United States v. Richards, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. [REDACTED]* 627 F.3d 247, 251 (7th Cir. 2010)). In this case, Officer [REDACTED] smelled weed/cannabis coming out of the vehicle when [REDACTED] rolled down the window. He identifies this concern in Spanish to his partner. Officer [REDACTED] searched the center console of [REDACTED] vehicle for narcotics. Officer [REDACTED] recovered one clear knotted bag containing a green leafy substance suspected to be cannabis. As such, Officer [REDACTED] was justified in searching [REDACTED] vehicle, so this allegation should be **Exonerated**.

3. Allegation 3: It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] without justification.

COPA recommends a finding of **Exonerated** for allegation 3. Under 725 ILCS 5/107-2(1)(c), a peace officer may arrest a person when he has reasonable grounds to believe that the person has committed an offense. An officer must have probable cause to arrest a subject. *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)). “Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest.” *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517, 526 (1st Dist. 2003). According to Officer [REDACTED] [REDACTED] was arrested for not providing his license and insurance information to the officers when asked to do so which is a crime. As such, Officer [REDACTED] was justified in arresting [REDACTED] and this allegation should be **Exonerated**.

4. Allegation 4: It is alleged by [REDACTED] on or about November 21, 2016, at the [REDACTED] District Police Station, Officer [REDACTED] Star # [REDACTED] denied Mr. [REDACTED] medical attention.

COPA recommends a finding of **Sustained** for allegation 4. Rule 10 is inattention to duty. [REDACTED] can be seen and heard on Officer [REDACTED] body camera²³ telling Officer [REDACTED] that his arm is dislocated, and he needs an ambulance. During Officer [REDACTED] interview, Officer [REDACTED] admitted that he did not call an ambulance for [REDACTED] because he assumed [REDACTED] was not injured. Officer [REDACTED] stated he did not call an ambulance because [REDACTED] was able to get undressed and he gave conflicting statements about what body part was actually hurt. It is clear from the body-camera footage that [REDACTED] informs Officer [REDACTED] that his arm was dislocated, and he needed an ambulance, which Officer [REDACTED] did not provide. [REDACTED] also went to the hospital after he was released from lock up and his medical records indicated that he had a left, non-displaced elbow fracture. As such, this allegation should be **Sustained**.

²³ In the third (Letter G) and fourth video (Letter H).

B. Officer [REDACTED]

1. Allegation 1: It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Forcefully taking [REDACTED] to the ground without justification.

An officer's use of force is guided by General Order G03-02, "Use of Force Guidelines." Under this directive, it is required that "department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury." The directive goes on to state that "as set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer."

In an effort to "provide guidance on the reasonableness of a particular response option," the Use of Force Guidelines directive is supplemented by G03-02-01, "The Use of Force Model."²⁴ Under the Use of Force Model, an officer is permitted to apply "the use of force [...] to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances."²⁵ Importantly, the directive requires officers to "modify their level of force in relation to the amount of resistance offered by the subject." Pursuant to the Use of Force Model, a Department member is permitted to use a range of force against three levels of subject: Cooperative, Resister, and Assailant.²⁶

According to General Order G03-02, [REDACTED] could be classified in one of multiple categories: cooperative subject; passive resister; active resister; or, an assailant. [REDACTED] clearly, based on the video, was not a cooperative subject as he continued to yell at the officers throughout the incident, as well as move and abruptly turn and face towards the officer. Nor is [REDACTED] an assailant as he is clearly not attempting to strike the officer or use force in any way. If [REDACTED] was deemed a passive resister, or a person who fails to comply with verbal or other direction, a variety of techniques could have been used to obtain compliance, including wristlocks, grabbing of an arm, armbars and even OC spray. An active resister is a person whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing of the arms, stiffening and other similar movements. If deemed to be an active resister, officers could have used all the above same techniques, in addition to stunning, which is diffused pressure striking or slapping in an attempt to increase control but disorienting the subject and interfering with the subject's ability to resist.

²⁴ G03-02-01, Effective May 16, 2002 through October 15, 2017

²⁵ *Id.* at (II)(A)

²⁶ G03-02-02, Effective January 1, 2016 through October 15, 2017

According to [REDACTED] officers threw him down onto the ground within seconds of him stepping out of his vehicle and placed him in handcuffs. [REDACTED] stated that the officers kept telling him to stop resisting when he was not resisting. According to Officer [REDACTED] he observed [REDACTED] turn around and face his partner and [REDACTED] also stiffened his arm and would not give Officer [REDACTED] his arm. Officer [REDACTED] also indicated that he requested multiple times that [REDACTED] stop moving, but that he turned around and abruptly faced him. Officer [REDACTED] and his partner thus performed an emergency take-down on [REDACTED] Officer [REDACTED] justification for performing the take-down was that [REDACTED] was resisting by stiffening his arm and not allowing the officer to get his arm, as well as abruptly turning and facing the officer. Officer [REDACTED] states the same. [REDACTED] on the other hand denies that he was resisting.

The video clearly shows Officer [REDACTED] attempting to conduct a protective pat down and telling [REDACTED] to stop moving. However, [REDACTED] abruptly turns around and faces the officer. It is here that the officers take [REDACTED] to the ground. It is difficult to see whether [REDACTED] ever stiffens his arms, but it is clear that [REDACTED] abruptly turns towards the officers and sways back and forth repeatedly asking “are you serious right now?” [REDACTED] could certainly be classified as an active resister who is attempting to create distance between himself and the officers reach with the intent to avoid physical control, i.e. the pat down and/or handcuffing. As such, the officers were authorized to use holding and pain compliance techniques such as an emergency takedown, wristlock, or grabbing of an arm to attempt to control [REDACTED] As such, this allegation should be **Exonerated**.

2. Allegation 2: It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Searching [REDACTED] pockets without justification.

COPA recommends a finding of **Exonerated** for allegation 2. The Supreme Court set the bounds of searches incident to arrest in *Chimel v. California*, a case in which officers searched the arrestee's entire three-bedroom house. 395 U.S. 752, 754 (1969). *Chimel* set forth the general rule that arresting officers, in order to prevent the arrestee from obtaining a weapon or destroying evidence, could search both “the person arrested” and “the area within his immediate control.” *Id.* at 763. In *United States v. Robinson*, the Court held that the mere fact of a lawful arrest justifies a search of the arrestee and area within his immediate control; probable cause that weapons or evidence will be found is not required. 414 U.S. 218, 235 (1973).

In addition, General Order 06-01-02 provides that department members are responsible for the safety and security of persons in their custody. A person taken into Department custody will be searched prior to transport and restrained in such a manner as to prevent escape and to provide for the safety of the public, the person in custody, and the officers involved. The General Order goes on to say that a custodial search is a warrantless search of a person under arrest with or without probable cause to believe there is any contraband or evidence subject to seizure on the person. This type of search is justified by the need to keep contraband and weapons out of jail, to preserve any possible evidence and to protect the officer.²⁷ [REDACTED] was placed in handcuffs and arrested

²⁷ *Chimel v. California*, 395 U.S. 752 (1969); *New York v. Belton*, 453 U.S. 454 (1981).

for not providing Officer [REDACTED] with his driver's license and not using a turn signal. Once [REDACTED] was placed into handcuffs, Officer [REDACTED] searched [REDACTED] pockets for weapons or narcotics. [REDACTED] was already in handcuffs and being arrested when Officer [REDACTED] searched his pockets. As such, this allegation should be **Exonerated**.

3. Allegation 3: It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] without justification.

COPA recommends a finding of **Exonerated** for allegation 3. Under 725 ILCS 5/107-2(1)(c), a peace officer may arrest a person when he has reasonable grounds to believe that the person has committed an offense. An officer must have probable cause to arrest a subject. *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)). "Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest." *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517, 526 (1st Dist. 2003). According to Officer [REDACTED] [REDACTED] was arrested for not providing his license and not using a turn signal. As such, Officer [REDACTED] was justified in arresting [REDACTED] and this allegation should be **Exonerated**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. Complimentary and Disciplinary History

Officer [REDACTED] does not have any outstanding complimentary or disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. 4

COPA recommends a penalty of 5-days suspension for Officer [REDACTED] Officer [REDACTED] was aware that he had previously taken [REDACTED] to the ground forcefully and used a wristlock procedure on [REDACTED] Officer [REDACTED] is not a physician. He is a police officer. As such, asking [REDACTED] to move his arm, or challenging his pain threshold are inappropriate responses to someone requesting medical attention. Officer [REDACTED] admission that he did not call an ambulance for [REDACTED] because he "assumed" [REDACTED] was not actually injured is clearly inattention to duty for which a 5-day suspension is proper.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<p>1. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Forcefully taking [REDACTED] to the ground without justification.</p>	Exonerated
	<p>2. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Searching the passenger compartment of [REDACTED] car without justification.</p>	Exonerated
	<p>3. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] without justification.</p>	Exonerated
	<p>4. It is alleged by [REDACTED] on or about November 21, 2016, at the [REDACTED] District Police Station, Officer [REDACTED] Star # [REDACTED] denied Mr. [REDACTED] medical attention.</p>	Sustained
Officer [REDACTED]	<p>1. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Forcefully taking [REDACTED] to the ground without justification.</p>	Exonerated
	<p>2. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the</p>	Exonerated

	<p>following acts or omissions: Searching [REDACTED] [REDACTED] pockets without justification.</p> <p>3. It is alleged by [REDACTED] on or about November 21, 2016, at approximately 21:57 at or near 8701 S. Dr. Martin Luther King Jr. Drive, Chicago, that Officer [REDACTED] Star # [REDACTED] committed misconduct through the following acts or omissions: Arresting [REDACTED] [REDACTED] without justification.</p>	<p>Exonerated</p>
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Approved:

[REDACTED]

12-26-19

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

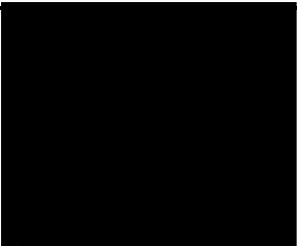
Squad#:

Investigator:

Staff Attorney

Supervising Investigator:

Deputy Chief Administrator:



Angela Hearts-Glass