

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	15 August 2019
Time of Incident:	05:48 pm
Location of Incident:	██████████ Avenue
Date of COPA Notification:	25 January 2018
Time of COPA Notification:	03:18 pm

Two police officers responded to an OEMC call reporting a person with a gun near the intersection of South Racine Avenue and West 57th Street. When the officers arrived at the scene, they observed ██████████ whose appearance and clothing matched the suspect’s description. As the officers approached ██████████ he turned away, grabbed at his side, and began to run. One of the officers ordered him to halt, but ██████████ continued to flee. The officer tasered ██████████ and he fell to the ground. ██████████ dropped a firearm that he had been attempting to conceal. He tried to stand, but the officers tackled him. A struggle ensued and ██████████ reached for the weapon, and the officers struck him with closed fists. The officers ultimately subdued and arrested ██████████

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ Employee # ██████████ Appointed ██████████ 2014, Police Officer, Unit ██████████ DOB 1990, Male, Hispanic
Involved Officer #2:	██████████ Star# ██████████, Employee # ██████████, Appointed ██████████ 2015, Police Officer, Unit ██████████ DOB 1986, Male, Hispanic
Involved Individual #1:	██████████ DOB 1984, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<p>It is alleged that, on or about 15 August 2019, at approximately 05:48 pm, at or near [REDACTED] Avenue, the accused committed misconduct in that:</p> <ol style="list-style-type: none"> 1. he kicked the complainant without justification 2. he stomped the complainant without justification 3. he struck the complainant using his knee without justification 4. he tasered the complainant without justification 5. he denied the complainant access to medical treatment 	<p>Unfounded</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
Officer [REDACTED]	<p>It is alleged that, on or about 15 August 2019, at approximately 05:48 pm, at or near [REDACTED] Avenue, the accused committed misconduct in that:</p> <ol style="list-style-type: none"> 1. he kicked the complainant without justification 2. he stomped the complainant without justification 3. he struck the complainant using a closed fist without justification 4. he tasered the complainant without justification 5. he denied the complainant access to medical treatment 	<p>Unfounded</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

General Orders

General Order 03-02, Use of Force (Oct. 16, 2017).

General Order 03-02-01, Force Options (Oct. 16, 2017).

General Order 03-02-04, Taser Use Incidents (Oct. 16, 2017).

Federal Laws

U.S. Constitution, amend. IV.

State Laws

720 ILCS § 5/7-5.

V. INVESTIGATION

A. INTERVIEWS

The complainant in this matter, Mr. ██████ gave a sworn statement to the Civilian Office of Police Accountability ("COPA") on 29 March 2018.¹ According to Mr. ██████ on 15 August 2019, he was near the store at the intersection of West 57th Street and South Racine Avenue. He acknowledged that, at the time of incident, he was armed with a ".45 [caliber] handgun."² He was speaking to ██████ and ██████" who were sitting in a silver sedan on 57th street.³ They asked him to purchase some "blunts" from the store.⁴ He agreed to do so, and they gave him money for the transaction.

After receiving the money, he began "running towards the store."⁵ While he was running, he heard footsteps behind him. He turned around and observed a uniformed officer "sitting in [a marked police vehicle] pointing his gun out the window while another officer was running up."⁶ The officers commanded him to stop. He told them he did not want to talk and continued "going to the

¹ See att. 25.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

store.”⁷ As he reached the entrance, the police vehicle “pulled in front of the store,”⁸ and the officers ordered him to approach the vehicle.

██████████ complied, and the officers advised him that he fit the description of a person with a handgun. ██████████ told the officers he did not have a weapon, although he told COPA investigators that he was indeed armed with a .45 caliber. One officer “tried to grab him,” and he protested.⁹ The other officer tasered him, and he fell. When he tried to stand, the officer tasered him again. While he was on the ground, the officers punched and stomped him. He became unconscious and woke up in handcuffs at ██████████ Hospital.¹⁰

At the hospital, an officer advised medical staff that ██████████ was feigning his injuries. The staff “treated [██████████] for a tase.”¹¹ The staff did not ask him any questions and made no further examination of his person. The hospital released him into police custody, and officers transported him to jail. The next day, ██████████ complained that he was experiencing debilitating back pain and was unable to move. Officers returned him to the hospital. He received treatment and was released into police custody.

Officer ██████████ gave a statement to COPA on 12 July 2018.¹² According to Officer ██████████ on 15 August 2019, he and his partner, Officer ██████████ were uniformed and working beat ██████████ in a marked police vehicle. The officers received an OEMC call of a person with a gun at 5700 South Racine Avenue. OEMC described the suspect as “a heavy-set male, black, wearing a red shirt and blue jeans.”¹³ The officers drove to the scene and arrived there in about five minutes. Officer ██████████ immediately observed a man matching the suspect’s description. The man—later identified as ██████████ on the sidewalk, leaning into the window of a parked car.¹⁴

As he and Officer ██████████ exited their vehicle, ██████████ “bladed” his stance, held the right side of his waistband, and began walking away.¹⁵ Officer ██████████ stated that, based on these actions, he believed Mr. ██████████ was attempting to conceal a weapon. He ordered ██████████ to approach him. ██████████ began to run.

Officer ██████████ “was in fear” that ██████████ might turn around, draw a weapon, and shoot him, his partner, or a bystander.¹⁶ Officer ██████████ discharged his taser. The cartridge struck ██████████ in the back, and he fell forward. The officers “got on top of him.”¹⁷ Officer ██████████ saw Mr.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *See id.* Mr. ██████████ exact words are: “I woke up at the hospital” (emphasis added).

¹¹ *Id.*

¹² *See* att. 39.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* According to Officer ██████████ “a bladed stance” is a physical maneuver a person takes to conceal part of his body.

¹⁶ *Id.*

¹⁷ *Id.*

██████████ “reach toward his waistband” and “heard an object fall.”¹⁸ He observed a handgun underneath ██████████ and repeatedly ordered him not to reach for it.

Despite Officer ██████████ commands, ██████████ “tried to reach for the handgun.”¹⁹ He attempted to drive-stun ██████████ with his taser. However, the taser had been accidentally disabled, and, as a result, failed to activate. Officer ██████████ dropped his taser, delivered a knee-strike to the left side of ██████████ torso, and “got on his back.”²⁰ ██████████ grabbed the officers’ vests and attempted to stand.²¹ As he did so, he “picked [Officer ██████████] up with him,” and both men fell to the ground.²²

While Officer ██████████ wrestled with ██████████ Officer ██████████ pushed the handgun away. Officer ██████████ then picked up the discarded taser and attempted to drive-stun Mr. ██████████. The taser again failed to activate. He dropped the taser and struck ██████████ about the head multiple times with a closed fist. The officers and ██████████ continued “wrestling.”²³ Additional police units arrived on the scene and, with their assistance, the officers subdued ██████████ and placed him in handcuffs.

Officer ██████████ body camera was accidentally deactivated during the struggle.

Officer ██████████ gave a statement to COPA on 12 July 2018.²⁴ According to Officer ██████████ on 15 August 2019, he and Officer ██████████ were uniformed and working beat ██████████. The officers received an OEMC call of a person with a gun at the intersection of 57th Street and South Racine Avenue. OEMC described the suspect as “male, black, red shirt, blue jeans, with a gun on his side.”²⁵ The officers drove to the scene and immediately observed a man matching the suspect’s description.

As the Officers turned onto 57th Street, the ██████████ approaching a parked car. The officers exited their vehicle, and ██████████ began walking away while “holding his side.”²⁶ The officers ordered him to stop, but he began to run. Officer ██████████ tasered him. He fell and dropped a handgun. He attempted to reach for the weapon. Officer ██████████ ordered him to “stop reaching for the gun,” and Officer ██████████ pushed the weapon away from him.²⁷

Officer ██████████ ordered ██████████ to stop resisting, but he continued “fighting” and “being combative.”²⁸ The officers attempted to restrain him. During the struggle, Officer ██████████ dropped his taser, and Officer ██████████ picked it up. Officer ██████████ attempted to use the taser against

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *See* att. 33.

²⁵ *See* att. 16.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

██████████ but it failed to activate. Officer ██████████ delivered “two or three closed-fist strikes to ██████████ face.”²⁹ Additional police arrived, and the officers placed ██████████ in custody.

B. DIGITAL EVIDENCE

COPA obtained video from body-worn cameras (“BWCs”) of Officers ██████████ and ██████████ as well as the assisting officers.³⁰ Video from BWCs corroborates the officers’ account of the incident.

C. DOCUMENTARY EVIDENCE

COPA obtained an Arrest Report, dated 16 August 2017, from CPD.³¹ The report shows Mr. ██████████ was taken into custody on 15 August 2017, at 05:48 p.m., and charged with armed habitual criminal and obstruction (with injury to a peace officer). The report also provides an incident narrative that is consistent with the officers’ statements to COPA and adds that, during processing, Mr. ██████████ initially identified himself as ██████████.³²

COPA obtained two Tactical Response Reports, both dated 15 August 2017, from CPD.³³ Both reports characterize ██████████ as an “active resister” on the basis of his attempted flight.³⁴ The report prepared by Officer ██████████ discloses that he discharged his taser and used a “knee-strike” against ██████████.³⁵ The report prepared by Officer ██████████ discloses that he struck ██████████ with a closed fist.³⁶

COPA obtained an Ambulance Run Sheet, dated 08/15/2017, from the Chicago Fire Department.³⁷ This document states that, when paramedics arrived on the scene to treat ██████████ he was “alert” and his “vitals [were] all within normal range.”³⁸ The document also notes that ██████████ refused to give his name or “answer questions regarding [his] complaints and medical history.”³⁹

COPA obtained Mr. ██████████ medical records, dated 16 August 2019 and 17 August 2019, from ██████████ Hospital.⁴⁰ These materials indicate that, during ██████████ first visit to the hospital after the incident, he made “no complaints of loss of consciousness or dizziness.”⁴¹ The materials also indicate that ██████████ never made any complaint about back pain.⁴²

²⁹ *Id.*

³⁰ *See* att. 41.

³¹ *See* att. 7.

³² *Id.*

³³ *See* att. 8, att. 11.

³⁴ *See* att. 8, att. 11.

³⁵ Att. 11.

³⁶ Att. 8.

³⁷ *See* att. 14.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *See* att. 26.

⁴¹ *Id.*

⁴² *See id.*

VI. ANALYSIS

I. 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 ¶ 28.

A. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS DID NOT KICK OR STOMP THE COMPLAINANT.

██████████ alleged officers kicked and stomped him. The officers deny this. Although video from BWCs shows extensive physical contact between ██████████ and the officers, the footage does not show the officers take any action which resembles a kick or a stomp.

Moreover, multiple factors in this case militate against [REDACTED] credibility. First, [REDACTED] falsely identified himself as [REDACTED] during processing.⁴³ Second, there are several discrepancies between the statements [REDACTED] gave to COPA and other sources of evidence:

[REDACTED] claimed that one of the officers aimed his firearm at him from a seated position within the police vehicle.⁴⁴ However, video from BWCs shows Officer [REDACTED] only officer to draw his gun—did not unholster his weapon until after he exited the vehicle.⁴⁵

[REDACTED] claimed that, as he began moving away from the silver sedan, the officers followed him in their police vehicle.⁴⁶ However, video from BWCs shows that, upon arriving at [REDACTED] location, the officers immediately exited the vehicle and pursued [REDACTED] on foot.⁴⁷

[REDACTED] claimed that, although he was armed, he told officers he did not have a weapon.⁴⁸ However, video from BWCs shows that, in fact, [REDACTED] made no such statement.⁴⁹

[REDACTED] implied the officers beat him so severely that he fell unconscious and did not recover until he was at the hospital.⁵⁰ However, in video from BWCs, [REDACTED] appears awake and lucid throughout the incident.⁵¹ Moreover, records from the Chicago Fire Department confirm [REDACTED] was “alert” while still on the scene.⁵² And [REDACTED] medical records indicate [REDACTED] made “no complaints of lost consciousness.”⁵³

Finally, [REDACTED] claimed that, as a result of injuries he sustained during the incident, he was suffering from debilitating back pain.⁵⁴ However, his medical records show that, during multiple visits to the hospital, he sought treatment only for generalized headaches and knee pain.⁵⁵

These discrepancies, as well as [REDACTED] conduct during the processing of his arrest, place his reliability as a witness in doubt. [REDACTED] diminished credibility—coupled with the absence of any corroborating evidence—establishes a firm and abiding belief that the accused officers did not kick or stomp [REDACTED]. Accordingly, COPA finds Allegations #1 and #2 against Officer [REDACTED] and Allegations #1 and #2 against Officer [REDACTED] are **UNFOUNDED**.

⁴³ Att. 7.

⁴⁴ See att. 25.

⁴⁵ See att. 41.

⁴⁶ See att. 25.

⁴⁷ See att. 41.

⁴⁸ See att. 25.

⁴⁹ See att. 41.

⁵⁰ See att. 25.

⁵¹ See att. 41.

⁵² See att. 14.

⁵³ See att. 16.

⁵⁴ See att. 25.

⁵⁵ See att. 16.

B. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS' USE OF A TASER, CLOSED-FIST STRIKES, AND KNEE-STRIKES AGAINST THE COMPLAINANT WERE OBJECTIVELY REASONABLE UNDER THE CIRCUMSTANCES.

Although they denied kicking or stomping ██████████ both officers acknowledged using other force against him. Specifically, Officer ██████████ struck him with his knee, and Officer ██████████ struck him with a closed fist.⁵⁶ Under General Order 03-02-01, both of these actions constitute “direct mechanical techniques” (*i.e.*, “forceful, concentrated striking movements such as punching and kicking”).⁵⁷ The order permits officers to use direct mechanical techniques during an arrest against a subject who is “an assailant.”⁵⁸ An assailant is a person who “is using or threatening the use of force against another person.”⁵⁹ To qualify as an assailant, a person’s actions must be “aggressively offensive with or without weapons.”⁶⁰

There is no doubt that, in this incident, ██████████ conduct is aggressively offensive: he attempted to grab a firearm while officers ordered him not to do so.⁶¹ He also grabbed at the officers’ vests, pushed them, and wrestled with them.⁶² In fact, the order expressly states that “a subject who is armed with a deadly weapon but whose actions do not constitute an imminent threat of death or great bodily harm” may be an assailant.⁶³ Therefore, the evidence supports a firm and abiding belief that ██████████ was an assailant, and the officers’ use of direct mechanical techniques against him was within policy. For these reasons, COPA finds Allegation #3 against Officer ██████████ and Allegation #3 against Officer ██████████ are **EXONERATED**.

Additionally, both officers also attempted to tase ██████████⁶⁴ Under General Order 03-02-01, officers may use a taser during an arrest against a subject who is an “active resister.”⁶⁵ An active resister is a person who “attempts to create distance between himself. . . and [an officer’s] reach with the intent to avoid physical control and/or defeat the arrest.”⁶⁶ Video from BWCs clearly shows that, when Officer ██████████ deployed his taser, ██████████ was ignoring the officer’s orders and attempting to flee.⁶⁷ Likewise, video from BWCs clearly shows that, when Officer ██████████ deployed the taser, ██████████ was ignoring the officer’s orders, reaching for his firearm, and wrestling with the officers in an effort to escape their control. Therefore, the evidence supports a firm and abiding belief that ██████████ was an active resister through the multiple attempts, and the officers’ use, or attempted use, of the taser against him was within policy. For this reason, COPA finds Allegation #4 against Officer ██████████ and Allegation #4 against Officer ██████████ is **EXONERATED**.

⁵⁶ See att. 8, att. 11.

⁵⁷ CPD General Order 03-02-01, Force Options § IV.C.1.a(1) (Oct. 16, 2017).

⁵⁸ *Id.*

⁵⁹ *Id.* § IV.C.

⁶⁰ *Id.*

⁶¹ See att. 25, att. 33, att. 39.

⁶² See att. 25, att. 33, att. 39.

⁶³ CPD General Order 03-02-01, Force Options § IV.C.1 (Oct. 16, 2017).

⁶⁴ See att. 8.

⁶⁵ CPD General Order 03-02-01, Force Options § IV.B.2.c(5) (Oct. 16, 2017).

⁶⁶ *Id.* § IV.B.2.

⁶⁷ See att. 25.

C. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS DID NOT DENY THE COMPLAINANT ACCESS TO MEDICAL CARE.

██████████ also complained officers interfered with his access to medical treatment. Under General Order 03-02, once the scene of an arrest is safe, officers must assist any person who “is injured” or “complains of injury” in obtaining “appropriate medical aid.”⁶⁸ Furthermore, under General Order 03-02-04, if officers discharge their tasers against a person, they must request “appropriate medical aid” for such person if he or she is penetrated by taser probes, or appears to be in any physical distress.⁶⁹

Here, ██████████ was penetrated by taser probes.⁷⁰ Accordingly, after officers subdued him, they contacted paramedics and accompanied him to the hospital. Medical staff treated ██████████ for the tase and released him into police custody. ██████████ suggested medical staff did not render adequate medical care during his visit because a police officer told medical workers he believed ██████████ was feigning his injuries. However, records from the Chicago Fire Department show ██████████ refused to answer paramedics’ questions about his injuries or medical history.⁷¹

The next morning, while in lock up, ██████████ complained of debilitating back pain. He was transported to the hospital for a second time in twenty-four hours. Hospital records show that, during ██████████ second visit, he did not complain about some of the injuries he discussed in his statements to COPA.

Therefore, the evidence supports a firm and abiding belief that the accused officers obliged their responsibility to help ██████████ obtain medical assistance. For these reasons, COPA finds the remaining allegations against Officer ██████████ and Officer ██████████ are **UNFOUNDED**.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████████	It is alleged that, on or about 15 August 2019, at approximately 05:48 pm, at or near ██████████ Avenue, the accused committed misconduct in that: <ol style="list-style-type: none"> 1. he kicked the complainant without justification 2. he stomped the complainant without justification 	Unfounded Unfounded

⁶⁸ CPD General Order 03-02, Use of Force § IV.A.1 (Oct. 16, 2017).

⁶⁹ CPD General Order 03-02-04, Taser Use Incidents § IV.A.3.a-c (Oct. 16, 2017).

⁷⁰ See att. 14.

⁷¹ See att. 26.

	3. he struck the complainant using his knee without justification	Exonerated
	4. he tasered the complainant without justification	Exonerated
	5. he denied the complainant access to medical treatment	Unfounded
Officer [REDACTED]	It is alleged that, on or about 15 August 2019, at approximately 05:48 pm, at or near [REDACTED] Avenue, the accused committed misconduct in that:	
	1. he kicked the complainant without justification	Unfounded
	2. he stomped the complainant without justification	Unfounded
	3. he struck the complainant using a closed fist without justification	Exonerated
	4. he tasered the complainant without justification	Exonerated
	5. he denied the complainant access to medical treatment	Unfounded

Approved:

[REDACTED]

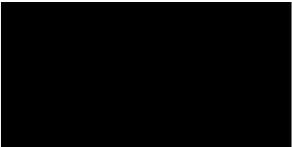
1-22-2020

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	
	Angela Hearts-Glass