

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	██████████ 2017
Time of Incident:	██████████ PM
Location of Incident:	██████████ W. Belmont Avenue
Date of COPA Notification:	██████████ 2017
Time of COPA Notification:	██████████ PM

II. INVOLVED PARTIES

Involved Officer #1:	██████████, # ██████████ Employee # ██████████ Date of Appointment: ██████████, 1995; Lieutenant; Unit of Assignment ██████████; DOB: ██████████, 1971; male, white
Involved Individual #1:	██████████ DOB ██████████, 1971; male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Lieutenant ██████████ ██████████ # ██████████	1. It is alleged that on or about ██████████ 2017, at approximately ██████████ PM, at or near ██████████ W. Belmont Avenue, Lt. ██████████ committed misconduct through the following acts or omissions, by searching ██████████ without justification.	Not Sustained
	2. Handcuffing ██████████ without justification.	Exonerated
	3. Placing ██████████ in the back seat of his assigned vehicle without justification.	Exonerated
	4. Failing to give ██████████ a receipt of the Investigatory Stop.	Not Sustained

¹ At the time of the incident ██████████ was a sergeant assigned to the ██████████ District Station. According to the CLEAR System, ██████████ was promoted to lieutenant on ██████████.

	<p>5. Denying [REDACTED] reasonable accommodations for his disabilities, in that he handcuffed [REDACTED] (who is deaf) hands behind his back not allowing him to communicate with his hands, in violation of S02-01-01, III, B.</p> <p>6. Detained [REDACTED] without justification.</p>	<p>Not Sustained</p> <p>Exonerated</p>
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IV. Summary of Investigation

In ██████ of 2017 ██████ sent a document he labeled “Affidavit of ██████” where he related that on ██████ 2017 he was subjected to an unlawful detention, handcuffing and search by the Chicago Police.

COPA interviewed the responding officers and ██████³ COPA also reviewed the investigative stop report, OEMC event query, and attendance and assignment sheets for the relevant date and district.⁴ COPA makes the following findings of fact.

On ██████ 2017, Lt. ██████ was flagged down by a citizen who claimed he scared off a bald, white man in a blue shirt who was attempting to break into his car. The citizen told Lt. ██████ the man fled southbound towards Belmont. According to Lt. ██████ he entered his car and toured the area where he saw complainant ██████ standing outside a ██████, located at ██████ W. Belmont Avenue, matching the description of the offender. According to ██████ Lt. ██████ immediately detained him physically, placed him in cuffs, patted him down and placed him in the police vehicle. Lt. ██████ agrees with Mr. ██████ description of the event but added that as he approached Mr. ██████ he gave him several verbal commands which Mr. ██████ ignored. Further, according to Lt. ██████ Mr. ██████ was with two other men who approached Lt. ██████ causing Lt. ██████ to feel a need to place Mr. ██████ in the squad car.

After responding officers arrived, Lt. ██████ went to get the citizen to attempt to make an identification. After Lt. ██████ conducted the show up, the citizen informed Lt. ██████ that Mr. ██████ was not the perpetrator and Mr. ██████ was released.

V. 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.

² Atts. 4, 7

³ It should be noted that ██████ is deaf and was accompanied by an American Sign Language Interpreter, ██████, a Certified Deaf Interpreter, ██████, and his attorney, ██████, during his interview with COPA. Atts. 4, 7, 27, 28, 36, 37, 42, 44.

⁴ Atts. 8, 9, 11, 15, 17, 22

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with 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 complied with 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.

VI. ANALYSIS

1. Lieutenant [REDACTED]

COPA recommends a finding of **Not Sustained** for **Allegations #1, 4 and 5** against Lt. [REDACTED] alleged that Lt. [REDACTED] searched him without justification, failed to give him a receipt of the Investigatory Stop and denied him reasonable accommodations for his disabilities, in that he handcuffed [REDACTED] (who is deaf) hands behind his back.

In his statement to COPA, Lt. [REDACTED] denied searching [REDACTED] person. Lt. [REDACTED] contended that he conducted a protective pat down as he suspected that [REDACTED] had committed a crime and had a weapon in his possession. [REDACTED] did not describe the magnitude of the search conducted by Lt. [REDACTED] but stated that he was patted down. The witness Department members did not recall observing Lt. [REDACTED] search [REDACTED]

In his statement to COPA, Lt. [REDACTED] denied failing to give [REDACTED] a receipt of the Investigatory Stop and failing to provide [REDACTED] (who is deaf) reasonable accommodations for his disabilities, in that he handcuffed [REDACTED] hands behind his back. Lt. [REDACTED] stated that after the unidentified officer explained the circumstances surrounding the incident to [REDACTED] via sign language and [REDACTED] information was obtained, [REDACTED] left the scene before he could give [REDACTED] a receipt. In his statement to COPA, [REDACTED] stated that Lt. [REDACTED] didn't provide him with a receipt of the Investigatory Stop nor did he offer [REDACTED] a receipt. The witness Department members stated that they did not observe Lt. [REDACTED] fail to give [REDACTED] a receipt. While [REDACTED] did not receive a receipt, it is not clear as to whether Lt. [REDACTED] intentionally failed to provide [REDACTED] with a receipt prior to [REDACTED] leaving the scene.

Additionally, Lt. [REDACTED] stated that he did not fail to provide [REDACTED] reasonable accommodations for his disabilities as he had no personal knowledge that [REDACTED] was deaf prior to him handcuffing [REDACTED] and placing him in the rear of his assigned vehicle. Lt. [REDACTED] related that [REDACTED] matched the physical description of the offender, was in the vicinity of the reported direction the offender fled, and he was ignoring Lt. [REDACTED] verbal commands. Based on the available there is insufficient evidence to prove or disprove the above allegations.

COPA recommends a finding of **Exonerated** for **Allegations #2, 3 and 6** against Lt. [REDACTED] alleged that Lt. [REDACTED] handcuffed him without justification, placed him in the back seat of his vehicle without justification, detained him without justification

Lt. [REDACTED] also denied handcuffing [REDACTED] without justification, placing [REDACTED] in the back seat of his assigned vehicle without justification and detaining [REDACTED] without justification. Lt. [REDACTED] related that [REDACTED] matched the description of an offender who had broken into a vehicle. Lt. [REDACTED] stated that while he was talking to [REDACTED] there were two additional males (no further description) who were present, questioning Lt. [REDACTED] and refusing to leave the immediate area. Lt. [REDACTED] added that he was in fear of possibly receiving a battery because he was outnumbered three to one. Lt. [REDACTED] related that he handcuffed [REDACTED] placed him in the rear of his assigned vehicle and detained him until assisting units arrived and he was able to conduct a show-up identification. Lt. [REDACTED] stated that once the victim informed him that [REDACTED] was not the offender, the handcuffs were removed from [REDACTED] wrist. Based on the information that Lt. [REDACTED] had at the time, his actions of handcuffing [REDACTED] placing [REDACTED] in the rear of his assigned vehicle and detaining [REDACTED] were within Department’s policies.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Lieutenant [REDACTED] [REDACTED] # [REDACTED]	1. It is alleged that on or about [REDACTED] 2017, at approximately [REDACTED] PM, at or near [REDACTED] W. Belmont Avenue, Lt. [REDACTED] committed misconduct through the following acts or omissions, by searching [REDACTED] without justification.	Not Sustained
	2. Handcuffing [REDACTED] without justification.	Exonerated
	3. Placing [REDACTED] in the back seat of his assigned vehicle without justification.	Exonerated
	4. Failing to give [REDACTED] a receipt of the Investigatory Stop.	Not Sustained
	5. Denying [REDACTED] reasonable accommodations for his disabilities, in that he handcuffed [REDACTED] (who is deaf) hands behind his back not allowing him to communicate with his hands, in violation of S02-01-01, III, B.	Not Sustained

	6. Detained [REDACTED] without justification.	Exonerated
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Approved:

[REDACTED]

February 28, 2020

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	4
Investigator:	██████████
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Andrea Kersten