

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	August 2, 2018
Time of Incident:	9:20 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	August 6, 2018
Time of COPA Notification:	4:31 pm

On August 2, 2018, Officer [REDACTED] (“Officer [REDACTED] and Officer [REDACTED] (“Officer [REDACTED] arrested [REDACTED] (“[REDACTED] based on an active alert. [REDACTED] alleged he was falsely arrested because he did not commit the underlying offense, and that Officer [REDACTED] hit him with the police vehicle causing injury to his leg.

The Civilian Office of Police Accountability (“COPA”) conducted a thorough investigation of the allegations. A detailed analysis of COPA’s findings is discussed below.

**II. INVOLVED PARTIES**

Involved Officer #1:	[REDACTED] star # [REDACTED] employee ID# [REDACTED] Date of Appointment: [REDACTED] 2007, PO, Unit [REDACTED] DOB: [REDACTED] 1978, Male, Hispanic
Involved Officer #2:	[REDACTED] star # [REDACTED] employee ID# [REDACTED] Date of Appointment: [REDACTED] 2003, PO, Unit [REDACTED] DOB: [REDACTED] 1974, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1947, Male, White

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	1. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you unlawfully arrested [REDACTED]	Exonerated
Officer [REDACTED]	1. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you unlawfully arrested [REDACTED]  2. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you engaged in excessive force when you caused your police vehicle to make contact with [REDACTED] causing injury.	Exonerated  Unfounded

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 1: Prohibits violation of any law or ordinance.
  2. Rule 6: Disobedience of an order or directive, whether written or oral.
  3. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
  4. Rule 9: Engaging in any unjustified verbal or physical altercation with any person.
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##### General Orders

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1. G01-02-04 "Organization and Functions of the Bureau of Detectives"
  2. G03-02 "Use of Force"
  3. G03-02-01 "Force Options"
  4. G04-03 "Custodial Interrogations"
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##### Special Orders

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1. Special Order S04-16, "Investigative Alerts"
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##### Federal Laws

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1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.<sup>1</sup>

#### V. INVESTIGATION<sup>2</sup>

##### a. Interviews

In an **interview with COPA**, on August 16, 2018, ██████████ ("██████████" stated he called 311 regarding parking issues near Chestnut and Noble. He was transferred to an unknown phone number and spoke to an unknown male,<sup>3</sup> who questioned whether ██████████ was threatening the Alderman. ██████████ denied threatening the Alderman, but ██████████ told him he would be arrested within sixteen hours.

On August 2, 2018, at approximately 9:30-10:00 p.m., he parked his vehicle across the street from ██████████. When he exited his vehicle and attempted to cross the street, a silver SUV drove "through on me, ok, almost crushed me, so, and it pushed me over the bumper, ok, against

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<sup>1</sup> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

<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> ██████████ indicated he said his name was ██████████

the vehicle.”<sup>4</sup> [REDACTED] fell on the side of his vehicle. Two men<sup>5</sup> dressed in plain clothes exited the SUV, and uncomfortably handcuffed [REDACTED] searched him, and placed him into the back of the SUV. The officers did not tell him he was under arrest or explain why they were arresting him. The officers took him to the police station on Belmont.

After about 3 hours in the station, he was questioned by a Detective<sup>6</sup> about an Alderman. [REDACTED] indicated he was not provided his full *Miranda* rights.<sup>7</sup> [REDACTED] asked for legal representation but was denied. [REDACTED] requested medical attention for his heart. [REDACTED] was taken to Illinois Masonic approximately an hour later. He was returned to the police station, where about an hour later he experienced symptoms of a heart attack. He requested medical attention. He was again taken to Illinois Masonic. [REDACTED] believed the hospital personnel treated him poorly on both occasions.<sup>8</sup>

In an **interview with COPA**, on, October 11, 2018 [REDACTED] (“[REDACTED]”) provided a consistent statement with his prior COPA interview with the following additional details. [REDACTED] closed his door and was preparing to cross the street, when the officers, driving approximately 40 to 45 miles per hour, approached him and hit him in the leg. [REDACTED] stated the car hit his left leg,<sup>9</sup> right below the knee on the left side, and he fell onto the car. [REDACTED] stated he told medical personnel about his leg, but they ignored him. [REDACTED] added the hospital personnel did not treat him well and called him a criminal.

At the station, the Detective did not advise him of his full *Miranda* rights before briefly questioning him about whether he had a gun or threatened to shoot someone. [REDACTED] told the Detective that he wanted to speak to an attorney if he was being charged with anything. [REDACTED] stated the Detective stopped questioning him at that point.<sup>10</sup>

In an **interview with COPA**, on November 6, 2018, **Officer** [REDACTED] (“**Officer** [REDACTED]”) stated he was working in plain clothes with his partner, Officer [REDACTED] driving a covert silver Ford Explorer that was not equipped with an in-car camera. Officer [REDACTED] was working in the Fugitive Apprehension Unit, which was not issued body worn cameras. Officer [REDACTED] is given assignments to locate individuals who are wanted. On August 2, 2018, he and Officer [REDACTED] per assignment, went to an area they knew [REDACTED] frequented and waited to arrest him under an active alert with probable cause to arrest.

When Officer [REDACTED] observed [REDACTED] park and exit his vehicle, Officer [REDACTED] pulled out of his parking space and drove toward [REDACTED]. Officer [REDACTED] parked his vehicle, where the front of his vehicle was about a car length in front of [REDACTED] vehicle. Officer [REDACTED] activated the

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<sup>4</sup> Attachment 7 at 14:15-14:25.

<sup>5</sup> Now known as Officers [REDACTED] and [REDACTED] described Officer 1 as a male, Caucasian, body builder, 5’6”, 200 pounds. [REDACTED] described Officer 2, the driver who handcuffed him, as a male, 5’10”, 200 pounds, did not speak clear English and was aggressive.

<sup>6</sup> [REDACTED] later identified as Detective [REDACTED] who during this investigation was promoted to Sergeant and will be referred to as Sgt. [REDACTED] for the remainder of this report.

<sup>7</sup> According to Sgt. [REDACTED] case report and the notes taken by the Assistant State’s Attorney present for [REDACTED] questioning, [REDACTED] was mirandized each time he was questioned.

<sup>8</sup> Attachment 7.

<sup>9</sup> [REDACTED] indicated his leg

<sup>10</sup> Attachment 27.

emergency lights and siren to alert [REDACTED] he was police. [REDACTED] was standing next to his vehicle attempting to open the rear door of his vehicle. Officer [REDACTED] stated he could not have touched [REDACTED] and if his car had hit anything and been damaged it would have been documented.

Officer [REDACTED] exited his vehicle, announced his office, asked [REDACTED] for his name, and told him he was under arrest and detectives wanted to speak with him. The officers told [REDACTED] to turn around and placed him in handcuffs. [REDACTED] did not resist, did not complain of any injury or pain, but he did mumble in another language. He was cooperative while officers patted him down for any weapons and entered the police vehicle on his own. Officer [REDACTED] asked if he was on any medications or needed to go to the hospital. He said no. En route to the police station, the officers notified the detective [REDACTED] was in custody.<sup>11</sup>

In an **interview with COPA**, on November 6, 2018, **Officer [REDACTED]** (“Officer [REDACTED]” stated he was working in plain clothes with his partner, Officer [REDACTED] in a covert silver Ford Explorer. Officer [REDACTED] was not issued a body worn camera. On August 2, 2018, Officer [REDACTED] was assigned an investigative alert with probable cause to arrest [REDACTED]. The officers confirmed, in the database, that the alert was active. The officers used a database to determine where [REDACTED] frequented, went to the area, and waited. The officers identified [REDACTED] when he exited his vehicle and approached in their vehicle. Officer [REDACTED] did not remember exactly where the police vehicle was parked, but it was not parallel to his vehicle, maybe less than 8 feet away. Officer [REDACTED] denied the police vehicle touching [REDACTED]. The officers approached [REDACTED] on foot, told him detectives wanted to speak with him and he would have to go with them. [REDACTED] was reluctant and belligerent, but Officer [REDACTED] doesn’t expect people to want to be placed into custody. [REDACTED] was placed into handcuffs and entered the police vehicle on his own. The officers asked [REDACTED] whether he felt sick, injured or needed go to the hospital. [REDACTED] did not respond to the questions. He yelled and said his girlfriend lived in one of the apartment buildings.<sup>12</sup>

#### **b. Digital Evidence**

There was no **Body Worn Camera (“BWC”)** or **In-Car camera video** that captured [REDACTED] arrest. The BWC video footage captures officers responding to the Alderman’s office and taking statements from staff. The individuals interviewed indicated they received two threatening calls from a male, who indicated he would shoot the Alderman.<sup>13</sup>

#### **c. Physical Evidence**

**Chicago Fire Department (“CFD”) Ambulance Report** documented, on August 3, 2018, [REDACTED] Detectives stated [REDACTED] was in police custody and complained of chest pain approximately 30 minutes prior to CFD arrival. [REDACTED] was found in sitting up in lock up with no signs of respiratory distress, no signs of trauma, spoke in completed sentences and did not have

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<sup>11</sup> Attachment 44.

<sup>12</sup> Attachment 45.

<sup>13</sup> Attachments 32, 33.

slurred speech. ██████ refused to answer questions about pain and was verbally abusive and aggressive to CFD personnel. CFD transported ██████ to Illinois Masonic.<sup>14</sup>

**Medical Record from Illinois Masonic Medical Center** documented, on August 3, 2018, ██████ went to the Emergency Department with a chief complaint of chest pain, which started while in police custody. The record indicated ██████ was in CPD custody when he arrived for treatment of intoxication and chest pain. ██████ complained of chest pain, nausea and shortness of breath. ██████ denied alcohol or illicit drug use, but appeared intoxicated with alcohol smell on his breath, slurred speech, and an unsteady gait.<sup>15</sup> ██████ was tested, treated, and released after a discussion of results and a treatment plan.<sup>16</sup> Under Corrected Result Column Comment, entered on August 3, 2018 at 3:54 a.m., ██████ admitted to alcohol use that night.<sup>17</sup>

On August 4, 2018, ██████ went to the Emergency Department for chest pain and back.<sup>18</sup> Additionally, it was noted the Chicago Fire Department indicated ██████ needed medical clearance for court the next day. Medical notes indicate ██████ complained of a headache, **not chest pain** and refused a physical exam using expletives toward staff.<sup>19</sup> ██████ was medically cleared and released into police custody.<sup>20</sup>

#### d. Documentary Evidence

**Investigative Alert No.** ██████ documented ██████ was the subject of an investigative alert with probable cause, under RD # ██████ for making a phone call to Alderman ██████ office and threatening to shoot the Alderman. The Investigative Alert was expired, dated August 3, 2018.<sup>21</sup>

According to the **Arrest Report**, under RD # ██████ on August 2, 2018, Officers ██████ and ██████ (the “officers”), as part of a Fugitive Apprehension/U.S. Marshals Great Lakes Regional Fugitive Task Force, received information that ██████ had an active alert ██████ for threatening a public official and harassment by telephone. Officers had information that ██████ frequented the 800 block of North Noble. Officers toured the area, conducted surveillance, identified ██████ via LEADs photograph, and placed ██████ into custody. ██████ was transported to ██████ for further processing. ██████ was charged with threatening a public official. While in custody, ██████ was released to the hospital and the Detective Division.<sup>22</sup>

**Department Reports** documented the investigation into a reported threat against Alderman ██████. On August 1, 2018, tactical officers and Detectives, after interviewing involved individuals, unsuccessfully attempted to locate ██████ at his residence address. Sgt. ██████ created an investigative alert for ██████. On August 2, 2018, Detectives were notified

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<sup>14</sup> Attachment 29.

<sup>15</sup> Attachment 31, page 25 of 75.

<sup>16</sup> Attachment 31, page 26 of 75.

<sup>17</sup> Attachment 31, page 66 of 75.

<sup>18</sup> Attachment 31, page 14 of 68.

<sup>19</sup> Attachment 31, page 21 of 68.

<sup>20</sup> Attachment 31.

<sup>21</sup> Attachment 10.

<sup>22</sup> Attachment 11.

that [REDACTED] had been arrested by Fugitive Apprehension Beat [REDACTED] Detectives interviewed [REDACTED] and his girlfriend. During [REDACTED] interview, he complained he was having difficulty breathing and requested an ambulance. CFD responded and transported him to Illinois Masonic Hospital. On August 3, 2018, the State's Attorney's office approved charges for 720 ILCS 5/12-9-A Threaten a Public Official.<sup>23</sup>

**State's Attorney Notes.** *People of the State of Illinois v. [REDACTED]* documented on August 3, 2018 at 2:30 a.m., [REDACTED] was *Mirandized* and spoke to Assistant State's Attorney [REDACTED] and Sgt. [REDACTED]. During that statement, [REDACTED] stated he had heart problems and requested to go to the hospital.<sup>24</sup>

**Office of Emergency Management and Communications ("OEMC") Event Queries and radio transmissions** documented the calls from the Alderman to report threatening phone calls against the Alderman and police response. There is no information related to [REDACTED] arrest.<sup>25</sup>

## VI. ANALYSIS

### a. Officer [REDACTED]

COPA finds the allegation that Officer [REDACTED] unlawfully arrested [REDACTED] is **Exonerated**. COPA's analysis in this incident is limited to whether officers lawfully arrested [REDACTED] not whether [REDACTED] committed the offense for which he was arrested. The Fugitive Apprehension Unit is responsible for the apprehension of individuals wanted on investigative alerts with probable cause to arrest.<sup>26</sup> An officer will take an individual, who has an investigative alert with probable cause on file into custody, process the individual and notify the requesting detectives' unit.<sup>27</sup>

[REDACTED] believed he should not have been arrested because he did not threaten any public official, including the Alderman. Officers [REDACTED] and [REDACTED] were assigned to locate [REDACTED] and place him into custody per an active investigative alert with probable cause to arrest. Prior to relocating to apprehend [REDACTED] Officer [REDACTED] confirmed the alert was active in the database. Department Reports confirm an investigative alert with probable cause to arrest [REDACTED] was created on August 1, 2018. [REDACTED] was arrested, based on the investigative alert, on August 2, 2018. The investigative alert was valid at the time of his arrest and did not expire until August 3, 2018.

Based on the foregoing, a preponderance of the evidence establishes Officer [REDACTED] lawfully arrested [REDACTED] per an active investigative alert with probable cause to arrest. Therefore, this allegation is **Exonerated**.

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<sup>23</sup> Attachments 12-16.

<sup>24</sup> Attachment 34.

<sup>25</sup> Attachments 17, 18, and 46.

<sup>26</sup> G01-02-04 I.C.2.a.

<sup>27</sup> Special Order S04-16 IV.A.1. S04-16 "Investigative Alerts," effective March 6, 2001 and rescinded on December 18, 2018 governs the officers' conduct in this matter.

**b. Officer [REDACTED]**

COPA finds the allegation that Officer [REDACTED] unlawfully arrested [REDACTED] is **Exonerated**, as discussed above.

COPA finds the allegation that Officer [REDACTED] engaged in excessive force when he caused his police vehicle to make contact with [REDACTED] causing injury is **Unfounded**. According to General Order G03-02, officers must escalate or de-escalate the amount of force which is reasonably necessary and proportional to overcome the subject’s resistance and to gain control over the subject. The Department uses a Force Options Model to illustrate how an officer’s response may progress from member presence to the application of deadly force. The question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.<sup>28</sup>

[REDACTED] stated Officer [REDACTED] hit him with the police vehicle, while driving at a high rate of speed, causing injury to his left leg. Officers [REDACTED] and [REDACTED] denied their police vehicle made contact with [REDACTED] and stated their police vehicle was parked in front of [REDACTED] vehicle with some distance between the two vehicles. [REDACTED] denied needing medical attention and did not complain of any injury to Officers [REDACTED] and [REDACTED]. While in custody, [REDACTED] complained only of heart problems and breathing issues. Medical Records from August 3, 2018 document [REDACTED] complained of chest pain, nausea and shortness of breath. Additionally, he also admitted to using alcohol that evening. Medical notes indicated he was intoxicated. Medical records, from August 4, 2018, documented [REDACTED] complained of chest pain, back pain, and a headache.

Considering the totality of the circumstances, [REDACTED] made several medical complaints and went to the hospital multiple times but never complained of any pain or issue to his leg. [REDACTED] medical records did not document any injury to his leg. There was no other testimonial or documentary evidence to support [REDACTED] claim. Conversely, the officers’ stories were consistent with one another and both denied striking [REDACTED] with their police vehicle. Accordingly, it is more likely that Officer [REDACTED] did not use his police vehicle to cause injury to [REDACTED] and therefore, this allegation is **Unfounded**.

**VII. CONCLUSION**

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

Officer	Allegation	Finding
Officer [REDACTED]	1. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you unlawfully arrested [REDACTED]	Exonerated

<sup>28</sup> *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003).

Officer [REDACTED]	1. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you unlawfully arrested [REDACTED]  2. It is alleged that on August 2, 2018, in the vicinity of [REDACTED] at approximately 9:20 p.m., you engaged in excessive force when you caused your police vehicle to make contact with [REDACTED] causing injury.	Exonerated  Unfounded
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Approved:

[REDACTED]

February 24, 2019

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Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

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Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	[REDACTED]
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	[REDACTED]
<b>Deputy Chief Administrator:</b>	Andrea Kersten