

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	June 3, 2014
Time of Incident:	11:16 pm
Location of Incident:	7531 S. Stony Island (Jackson Park Hospital)
Date of IPRA Notification:	June 6, 2014
Time of IPRA Notification:	2:19 pm

On June 3, 2014, Officers [REDACTED] and [REDACTED] transported a patient experiencing a mental health episode, [REDACTED] to Jackson Park Hospital from Roseland. [REDACTED] requested to be taken to the Jackson Park Hospital for a mental evaluation, after getting involved in an altercation with his family members. As [REDACTED] was being placed in the police vehicle, he was verbally aggressive toward Officer [REDACTED] during which time he threatened to harm Officer [REDACTED] physically.

Once they arrived at Jackson Park Hospital, [REDACTED] was taken to the triage area of the emergency room. As the officers and [REDACTED] waited for a room to be prepared for [REDACTED] he paced back and forth in the emergency room area. [REDACTED] was told by Officers [REDACTED] and [REDACTED] to sit down several times, but he refused. As [REDACTED] continued to pace the emergency room area, he and Officer [REDACTED] exchanged words. [REDACTED] then punched Officer [REDACTED] on the face, causing Officer [REDACTED] to stumble backward. Officer [REDACTED] with the assistance of other officers that were present, took [REDACTED] down to the floor and placed him in handcuffs.

Officers [REDACTED] and [REDACTED] escorted [REDACTED] whose hands were cuffed behind his back, to an observation room. When Officer [REDACTED] and [REDACTED] entered the observation room, with Officer [REDACTED] trailing just behind, Officer [REDACTED] pushed [REDACTED] into the wall and then punched him once on the right side of the face. [REDACTED] then fell onto a bed inside of the room, and Officer [REDACTED] punched him several more times about the body. Jackson Park Hospital staff entered the room, and Officer [REDACTED] immediately left the observation room.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star# [REDACTED] Employee ID# [REDACTED] DOA: [REDACTED] [REDACTED] 2004, Officer, Unit [REDACTED] DOB: [REDACTED] 1975, Male, Black
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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.

Involved Officer #2:	Star# [REDACTED] Employee ID# [REDACTED] DOA: [REDACTED] 2007, Officer, Unit [REDACTED] DOB: [REDACTED] 1972, Male, Black
Involved Individual #1:	DOB: [REDACTED] 1972, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer [REDACTED]	<ol style="list-style-type: none"> 1. It is alleged that on June 3, 2014, at approximately 11:16 p.m., at the location 7531 S. Stony Island Avenue, Officer [REDACTED] shoved [REDACTED] into a wall while he was handcuffed behind his back, without justification; 2. Punched [REDACTED] about the face and body while he was handcuffed behind his back; 3. Punched [REDACTED] while he was handcuffed behind his back without justification; 4. It is alleged that between the dates of June 3 and June 4, 2014, Officer [REDACTED] failed to truthfully and accurately document the physical action between him and [REDACTED] in the Department reports; 5. It is alleged that on July 6, 2018 at 8:35 A.M., during his audio-recorded an interview with COPA at 1615 W. Chicago Ave. – 4th Floor, Officer [REDACTED] provided false information during his interview, when he stated that he did not make contact with [REDACTED] face or head, when he performed a closed hand strike, in violation of Rule 14. 	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
Officer [REDACTED]	<ol style="list-style-type: none"> 1. It is alleged that on June 3, 2014, at approximately 11:16 p.m., at the location 7531 S. Stony Island Avenue (Jackson Park Hospital), Officer [REDACTED] failed to perform any duty in violation of Rule 5, in that he failed to intervene and/or ensure the safety of [REDACTED] during a physical 	<p>Sustained</p>

	<p>confrontation between Officer [REDACTED] and [REDACTED] who was in handcuffs at the time of the physical confrontation.</p> <p>2. It is alleged that on June 4, 2014, at approximately 1:36 A.M., Officer [REDACTED] made a false report, written or oral, when he stated in his Chicago Police Department Original Case Incident Report ([REDACTED]) that Mr. [REDACTED] “began struggling and kicking and the officers had to use force to gain control again.”</p> <p>3. It is alleged that on June 4, 2014, at approximately 1:06 A.M., Officer [REDACTED] made a false report, written or oral, when he failed to document in his Tactical Response Report that Mr. [REDACTED] struck Officer [REDACTED] on the face/head with a closed fist and that Officer [REDACTED] employed takedown/emergency handcuffing to restrain Mr. [REDACTED]</p>	<p>Not Sustained</p> <p>Not Sustained</p>
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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 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Rule 5: Failure to perform any duty.

Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

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

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Rule 14: Making a false report, written or oral.

Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct is contrary to the policy, orders or directives of the Department.

General Orders

General Order G03-02-01: The Use of Force Model

General Order G03-02-02: Force Options

General Order G03-02-04: Incidents Requiring the Completion of a Tactical Response Report

Special Orders

Special Order S04-20: Responding to Incidents Involving Persons in Need of Mental Health Treatment

V. INVESTIGATION²

a. Interviews

IPRA interviewed ██████████ on February 5, 2016. During this interview, ██████████ said he did not recall what occurred on June 3, 2014. ██████████ was shown video footage of what occurred at Jackson Park Hospital on June 3, 2014, at which point he said, “now that I see the video, yeah. I remember. . . .”⁴ ██████████ did not know how he arrived at Jackson Park Hospital or why he was there. ██████████ believed he was taken to Jackson Park Hospital because he was involved in a family dispute. ██████████ indicated that he was not cooperating with the hospital staff because he did not want anyone to touch him, nor did he want to be at the hospital. ██████████ further recalled that he got into a verbal altercation with a female security guard at the hospital, but he was unable to provide additional details about the altercation.

██████████ was asked if he remembered getting into a confrontation with an officer, and he said that he remembered an officer threatening him, but he could not recall exactly what was stated. ██████████ said around the time of the incident, he was taking medication for his bipolar disorder, and he believed that he blacked out at some point during the incident. ██████████ recalled that while he was in the waiting room, the officers told him to sit down, but he refused. At this time, the officers threw ██████████ to the ground and stepped on his head, before he was escorted to the observation room. ██████████ later reported that an officer bumped and shoved him and that he punched the officer once on the face. ██████████ described the officer he punched as tall, with a bald head. ██████████ never said that the officer punched him, but when ██████████ was asked if the same PO who he punched is the one that punched him, he replied “yes”⁵ and he referred to the video and stated,

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 Att. 53, 59. The interview was conducted along with Cook County State’s Attorney’s Office (“CCSAO”). Also present were Assistant State’s Attorney ██████████ and CCSAO investigators ██████████ and ██████████. COPA acknowledges the significant delay in conducting interviews in this investigation. However, this is due to the fact that Mr. ██████████ never filed a complaint. The complaint was initiated by the security staff at Jackson Park Hospital. COPA attempted numerous times to locate and interview ██████████ but he did not cooperate. The investigative team from CCSAO located ██████████ and interviewed him, while COPA was allowed to attend the interview.

⁴ Att. #59, Page 5, Line 19

⁵ Page 38 Lines 18-21

“Ya’ll see how they did me though.”⁶ [REDACTED] also said that he got beaten by the police. Although [REDACTED] recalled some of the details of the incident, he appeared to be confused about other details related to the incident. [REDACTED] stated that he had never seen Officers [REDACTED] and [REDACTED] prior to June 3, 2014.

IPRA interviewed witness [REDACTED] on October 14, 2014. During this interview she stated that on June 3, 2014, she was working at Jackson Park Hospital as the nursing supervisor. [REDACTED] observed [REDACTED] handcuffed in the emergency room, but she did not see him when he first entered the hospital. [REDACTED] was told by members of the hospital staff that [REDACTED] hit one of the officers, now known as Officer [REDACTED] [REDACTED] did not witness that portion of the incident between [REDACTED] and Officer [REDACTED]. According to [REDACTED] she heard [REDACTED] and Officer [REDACTED] having a loud confrontation, but she could not articulate what they were saying to each other. [REDACTED] further explained that [REDACTED] continuously stood up, while he was handcuffed.

[REDACTED] observed Officer [REDACTED] grab [REDACTED] quickly and hurry him into the observation room within the hospital. [REDACTED] explained that Officer [REDACTED] took [REDACTED] into the observation room without hospital staff present, which is against hospital protocol. [REDACTED] said when Officer [REDACTED] took [REDACTED] to the observation room, she briefly lost sight of them. [REDACTED] did not observe [REDACTED] acting aggressively while she was present. As [REDACTED] entered the observation room, she heard noises within the room that sounded like a hitting noise. She said that “If he [Officer [REDACTED] hit him, we couldn’t say, but I did hear like (makes sound indicating two hits) sound like, you could hear someone hitting someone.”⁸

[REDACTED] did not observe the physical contact between Officer [REDACTED] and [REDACTED]. [REDACTED] briefly had a conversation with Officer [REDACTED] after he left the room, and she told him that he should not go into the observation room without a staff member. Another nurse, Brenda, told [REDACTED] that Officer [REDACTED] called somebody, they think a Sergeant, on the phone after this. She and other staff speculated amongst each other that he must have called his supervisor because nurses suspected that he had done something. [REDACTED] did not observe any injuries to Officer [REDACTED] or [REDACTED]. [REDACTED] indicated that she did not go into the room, and she really was not looking at him to see if he had any physical injuries. [REDACTED] directed the other staff members to check on [REDACTED] physical condition.

At the time Officer [REDACTED] grabbed [REDACTED] and led him down the hall, [REDACTED] was handcuffed, being compliant, and was not acting aggressively. Officer [REDACTED] was holding him and leading him down the hall. It appeared that Officer [REDACTED] had control of [REDACTED] they were walking fast, but [REDACTED] was walking with him. As he was being escorted, [REDACTED] was not aggressive in any way.

IPRA interviewed witness [REDACTED] on August 13, 2014. During this interview she indicated that on June 3, 2014, she was working as a registered nurse at Jackson Park Hospital

⁶ Page 5 Lines. 15 – 16.

⁷ Att. 40, 41

⁸ 15:52.

⁹ Att. 34

when she observed [REDACTED] enter the hospital with Chicago Police Officers. They immediately escorted [REDACTED] to the screening area. [REDACTED] never observed the interaction between the officers and [REDACTED]. Once [REDACTED] was screened, he was taken to a room. [REDACTED] did not observe [REDACTED] being escorted to the room. [REDACTED] said that she recalled walking near [REDACTED] room and heard some kind of commotion, which prompted her to enter the room. [REDACTED] could not recall what occurred once she entered the room or if the police were inside the room during that time. [REDACTED] did recall [REDACTED] lying on the bed, but she did not recall any other details. [REDACTED] could not provide any further information related to the incident.

IPRA interviewed witness [REDACTED]¹⁰ on February 19, 2016; she stated that she did not recall any of the events that occurred on June 3, 2014.

IPRA interviewed witness Officer [REDACTED] on April 15, 2016. During this interview, he stated that on June 3, 2014, he was working patrol in the [REDACTED] District along with Officer [REDACTED]. Officer [REDACTED] was at Jackson Park Hospital with a mental health patient when he observed another patient, now known as [REDACTED] pacing back and forth in the processing area of the emergency room. According to Officer [REDACTED] was with two officers from the [REDACTED] District, Officers [REDACTED] and [REDACTED]. As [REDACTED] was pacing in the waiting area, he observed him flinch at Officer [REDACTED] and stated words to the effect of “I’m going to get you.”¹² Officer [REDACTED] explained that [REDACTED] was not handcuffed during this time. Officer [REDACTED] then observed [REDACTED] “attack” Officer [REDACTED]. Officer [REDACTED] indicated that he did not get a good look at the incident, but he knows that [REDACTED] made aggressive movements toward Officer [REDACTED] and Officer [REDACTED] fell backward. Officer [REDACTED] did not actually see [REDACTED] punch Officer [REDACTED]. Officer [REDACTED] saw [REDACTED] lunge toward Officer [REDACTED] and [REDACTED] fall back. Officer [REDACTED] believed that [REDACTED] was taken to the ground by Officer [REDACTED] and Officer [REDACTED] assisted in the handcuffing of [REDACTED]. Officer [REDACTED] recalled the hospital staff giving [REDACTED] a shot to calm him down. Officer [REDACTED] never observed Officers [REDACTED] or [REDACTED] punch [REDACTED]. Officer [REDACTED] said that, once [REDACTED] was secured, he and Officer [REDACTED] left the hospital.

IPRA interviewed witness Officer [REDACTED] on May 10, 2016. During this interview, he said that on June 3, 2014, he was assigned to the [REDACTED] District along with Officer [REDACTED]. Officers [REDACTED] and [REDACTED] were at the Jackson Park Hospital for a prisoner who needed to be detoxed. Officers [REDACTED] and [REDACTED] were ending their tour of duty, and they were speaking with relief Officers [REDACTED] and [REDACTED] when Officer [REDACTED] heard a commotion. At this time, Officer [REDACTED] observed Officer [REDACTED] fall backward and then saw Officer [REDACTED] partner, now known as Officer [REDACTED] on the ground with a man, now known as [REDACTED]. Officers [REDACTED] and [REDACTED] immediately assisted Officer [REDACTED] by grabbing [REDACTED] arms so he could be handcuffed. Officer [REDACTED] did not recall exactly what occurred after that, but he believes that [REDACTED] was administered a shot to calm him down.

Officer [REDACTED] further indicated that he never observed [REDACTED] strike Officer [REDACTED]. He just saw Officer [REDACTED] stumbling backward. Officer [REDACTED] said that, when Officers [REDACTED] and [REDACTED]

¹⁰ Att. 57, 60

¹¹ Att. 64, 81

¹² Page 8, Line 15

¹³ Att. 77

█████ first arrived at the hospital with █████ he was walking back and forth in the ER area when one of the nurses stated, “Control the prisoner”¹⁴ During that time, █████ made a physical gesture at Officer █████ as if he was going to hit him and stated words to the effect of “I’m going to steal¹⁵ on you.” Officer █████ never observed any physical interaction between Officer █████ and █████

IPRA interviewed witness Officer █████ █████ on April 28, 2016. During this interview she stated that on June 3, 2014, she was working in the █████ District along with Officer █████ Officer █████ said that she and Officer █████ went to Jackson Park Hospital to relieve Officers █████ and █████ who were watching a patient at the hospital. Officer █████ indicated that when she first arrived at the hospital, she recalls speaking with two other officers who were there watching a patient. During this time, she observed a short black male wearing a yellow hat, now known to be █████ punch Officer █████ on the face with his right hand. The officer fell back, and the other officers that were in the emergency room area took him down to the ground. Officer █████ did not know specifically who took █████ down to the ground, but she believed Officers █████ and █████ assisted in securing █████ Officer █████ indicated that she stayed with her patient and did not witness anything else that transpired between Officer █████ and █████

IPRA interviewed witness Officer █████ █████ on May 2, 2016. During this interview she said that on June 3, 2014, she was assigned to the █████ District along with Officer █████ Officers █████ and █████ transported a mental health patient to Jackson Park Hospital. As they waited for the patient to receive treatment, they observed another patient, now known as █████ who was there with two Chicago Police Officers, pacing back and forth in the waiting room area. Officer █████ did not know the officers’ names, but she described one of the officers as a black male, about 6’1” to 6’2” in height (now known as Officer █████ Officer █████ did not see the entire incident between Officer █████ and █████ but she observed Officer █████ stagger backward and then she heard someone yell, “He hit me.”¹⁸ Officer █████ and his partner immediately took █████ to the ground and handcuffed him. Officer █████ related that another officer named Officer █████ also assisted in the handcuffing of █████ Officer █████ said that █████ was immediately removed him from the ER area. Once they left the ER, Officer █████ did not have any further contact with Officer █████ or █████

IPRA interviewed witness Sergeant █████ █████ on May 12, 2016. During this interview he indicated that on June 3, 2014, he was the sector sergeant in the █████ District. Sgt. █████ said he responded to Jackson Park Hospital because his officers, (Officers █████ and █████ had used force on a patient, now known as █████²⁰ Upon arrival, Sgt. █████ was met by both Officers █████ and █████ Officer █████ told him that “[█████ stood up from a bed, sucker punched him in the face. [Officer █████ said he had to strike the guy back, they

¹⁴ Timestamp: 9:20

¹⁵ Officer █████ explained during the interview, that “steal” is a slang word for when a person is about to hit/strike another person and that person does not have prior knowledge that the hit/strike is about to happen. Timestamp 9:45

¹⁶ Att. 70

¹⁷ Att. 72, 73

¹⁸ Att. 73 at 4:44

¹⁹ Att. 79. *See also*, Att. 78 (summarizing audio interview).

²⁰ He always goes to the scene when he gets a report that force has been used by an officer. Att. 79.

wrestled him down to the ground. They eventually got him into a cot where he was sedated by hospital staff.”²¹ Officer ██████ said, “the same.”²²

Sgt. ██████ elaborated that Officer ██████ told him he struck ██████ with a closed fist and then they both wrestled him to the ground, they eventually got him into a cot.”²³ The hospital staff then came in and sedated ██████. Officer ██████ merely said that he hit ██████ but did not say how many times. When asked if Officer ██████ told him that he had to strike ██████ to get him into handcuffs, Sgt. ██████ responded that Officer ██████ “had to strike him to end the battery, to end the attack on his person, as [he] understood it,” which was when ██████ punched him in the face.²⁴ Sgt. ██████ understood that Officer ██████ punch was “immediately” after ██████ punch, which he understood because it was what Officer ██████ had reported to him.

Sgt. ██████ conducted a brief investigation, of about a half hour or forty-five minutes, including an attempt to interview ██████. According to Sgt. ██████ could not provide adequate answers to his questions because ██████ was sedated. Sgt. ██████ was told by the hospital staff that there was not video footage of the incident.²⁵

IPRA interviewed Accused Officer ██████ on May 13, 2016. During this interview he indicated that on June 3, 2014, he was working as a squadrol officer in the ██████ District along with Officer ██████. Officers ██████ and ██████ were assigned to transport ██████ from Roseland Hospital to Jackson Park Hospital. Officer ██████ said he and ██████ had a good rapport, but ██████ was very aggressive with Officer ██████ and threatened to “Knock him out.”²⁷ When they arrived at Jackson Park Hospital, ██████ was placed in the triage area. ██████ continued to be respectful towards Officer ██████ but appeared to be agitated with Officer ██████.

Officer ██████ briefly left ██████ in the triage area with Officer ██████ to sign ██████ into the hospital. When Officer ██████ returned to the area, ██████ was pacing back and forth. As ██████ was pacing, he punched Officer ██████ once on the face. Officer ██████ stumbled backward, and Officer ██████ immediately grabbed ██████ by the front of the shirt and took ██████ to the floor with the assistance of Officer ██████. Officer ██████ remained on the floor with ██████ during which time ██████ apologized for punching Officer ██████. Officer ██████ explained that he and Officer ██████ got control of ██████ and began escorting him to a room.

Officer ██████ indicated that he initially assisted Officer ██████ in escorting ██████ to the room, but had to let him go ahead, because the hallway was too narrow for all three of them. Officer ██████ stated that ██████ resisted Officer ██████ in that he kicked in his direction, moved side to side, and stiffened his body before going into the room. Officer ██████ whose, movement had been thwarted by a door he ran into, was directly behind Officer ██████ and ██████.

²¹ *Id.* at 2:55.

²² *Id.* at 3:20.

²³ *Id.* at 5:25.

²⁴ *Id.* at 8:12.

²⁵ *Id.* at 7:08

²⁶ Att. 80, 83

²⁷ Att. 83, Page 7

during this time. Officer [REDACTED] pushed [REDACTED] into the room, and Officer [REDACTED] entered behind them. At this time, Officer [REDACTED] says, "I know he struck 'em. But like I didn't see the actual contact but I know he struck 'em."²⁸ He later clarified that he knew Officer [REDACTED] had struck [REDACTED] because he heard the contact.²⁹

According to Officer [REDACTED] he never saw Officer [REDACTED] punch [REDACTED] while he was on the bed. Jackson Park Hospital staff began entering the room, and Officer [REDACTED] exited the room. Officer [REDACTED] said that he (Officer [REDACTED]) did not need to use physical force to get [REDACTED] under control, just verbal commands. [REDACTED] complied to the verbal commands, and the hospital staff strapped [REDACTED] to the bed. Officer [REDACTED] left the room, and he and Officer [REDACTED] called their sergeant. Officer [REDACTED] related that [REDACTED] was not arrested because he was a mental health patient.

Officer [REDACTED] denied the allegations of failing to intervene, because the incident occurred as he was entering the room. Officer [REDACTED] said he did not submit a false report because he documented the events that occurred before Officer [REDACTED] and [REDACTED] entered the room. Officer [REDACTED] indicated that he viewed video footage from Jackson Park Hospital, but he did not recall Officer [REDACTED] punching [REDACTED] while he was on the bed.

COPA interviewed Accused Officer [REDACTED] on July 6, 2018. During this interview he indicated that on June 3, 2014, he and his partner Officer [REDACTED] were assigned to the wagon in the [REDACTED] District. Officer [REDACTED] explained that the duties of officers assigned to a wagon include transporting arrestees and patients suffering from mental health crises to various hospitals throughout the City of Chicago. On June 3, 2014 Officers [REDACTED] and [REDACTED] were assigned to take two patients suffering from mental health crises from Roseland Hospital to Jackson Park Hospital. One of the patients was [REDACTED] and Officer [REDACTED] did not recall the name of the other patient. Officer [REDACTED] placed [REDACTED] into the wagon, while Officer [REDACTED] placed the unknown patient into the wagon. Officer [REDACTED] said that he did not have any interaction with [REDACTED] while at Roseland Hospital, nor did he speak with him on the way to Jackson Park Hospital.

When they arrived at Jackson Park Hospital, Officer [REDACTED] took [REDACTED] out the wagon. As [REDACTED] was being taken out the wagon, he stated to Officer [REDACTED] "You think you tough 'cause you tall. I'm gonna knock your big ass out."³¹ Officers [REDACTED] and [REDACTED] took the patients inside of the hospital and sat them down in the emergency room area. According to Officer [REDACTED] they were waiting for the hospital staff to take the patients' vital signs and assign them to an observation room. Officer [REDACTED] explained that the patients were not under arrest, but they have a responsibility to sign the patients in. Officer [REDACTED] indicated that they normally wait with the patients to make sure that the staff does not have issues with the patients.

As Officer [REDACTED] left to sign in [REDACTED] stood to his feet and paced back and forth in the waiting area. During this time, [REDACTED] jumped toward Officer [REDACTED] as if he was

²⁸ *Id.* at Page 14.

²⁹ *Id.* at Page 44.

³⁰ Att. 91

³¹ Att. 99, Page 23, Lines. 4-5.

going to strike him. At this time, [REDACTED] did not strike Officer [REDACTED] and Officer [REDACTED] told [REDACTED] to calm down and wait for treatment. [REDACTED] continued pacing the waiting area, and Officer [REDACTED] left to sign in the other patient. When Officer [REDACTED] returned, he began speaking with two female officers (now known as Officers [REDACTED] and [REDACTED] from the [REDACTED] District. Officer [REDACTED] back was turned to [REDACTED] when [REDACTED] approached him from behind and punched him once on the left side of the face. Officer [REDACTED] stumbled backward, and Officer [REDACTED] along with two other officers, Officers [REDACTED] and [REDACTED] took [REDACTED] down to the floor and placed him in handcuffs. Officer [REDACTED] said that the punch dazed him, and it took him seconds to gather himself.

According to Officer [REDACTED] scratched Officer [REDACTED] arm while he was handcuffing him. Officer [REDACTED] had to take control of [REDACTED] as a nurse treated Officer [REDACTED] injury. Officer [REDACTED] indicated that the hospital staff had prepared an observation room for [REDACTED]. Officer [REDACTED] began escorting [REDACTED] to the observation room, during which time [REDACTED] attempted to head-butt and kick at Officer [REDACTED] and stated, "I'm knocking your big ass out."³² Officer [REDACTED] said [REDACTED] never made contact with him, because he created enough distance between himself and [REDACTED] continued to resist Officer [REDACTED] as he was escorted to the observation room, but he never waited for Officer [REDACTED] to assist him, even though Officer [REDACTED] was directly behind Officer [REDACTED] the entire way to the observation room. When they arrived at the entrance to the observation room, [REDACTED] stiffened his body to prevent himself from entering the room. Officer [REDACTED] was able to get [REDACTED] into the room. While in the room, Officer [REDACTED] pushed [REDACTED] into the wall and attempted to "administer a stunning blow"³³ to [REDACTED]. He attempted this "stunning blow" because he believed [REDACTED] to be an assailant since he was threatening to hit Officer [REDACTED] and he kept trying to kick and headbutt Officer [REDACTED] as they led him down the hallway.

Officer [REDACTED] stated that the stunning blow never connected because [REDACTED] flopped on the nearby bed just as Officer [REDACTED] fist got near [REDACTED] face. While [REDACTED] was on the bed Officer [REDACTED] attempted to deliver two stunning blows to [REDACTED] body; one of the stunning blows connected with [REDACTED] and the other stunning blow hit the bed.

At this time, the hospital staff and Officer [REDACTED] were able to strap [REDACTED] to the bed. Officer [REDACTED] informed COPA that he attempted to use a stunning blow against [REDACTED] so he could remove his handcuffs. Subsequently, Officer [REDACTED] did not remove the handcuffs from [REDACTED] and the handcuffs were removed by Officer [REDACTED]. Officer [REDACTED] said that he left the observation room once the hospital staff entered the room. Officer [REDACTED] said he contacted his sergeant and explained what had occurred.

Officer [REDACTED] denied making contact when he swung at [REDACTED] face, stating that he tried, but [REDACTED] purposely flopped onto the bed to avoid getting hit. Officer [REDACTED] admitted to punching [REDACTED] at least once about the body, he was not sure where exactly on his body, while he was on the bed. Officer [REDACTED] denied the allegation of submitting an inaccurate Department report, indicating that he believed that his Tactical Response Report is an accurate reflection of what occurred.

³² Att. 99, Page 25, Lines. 19-20.

³³ Att. 99, Page 60, Line 3; Page 26, Line 20-21. Officer [REDACTED] described a stunning blow as a closed hand strike. *Id.*

COPA conducted a follow-up interview with the Accused Officer [REDACTED] on July 18, 2018 in response to an additional allegation under Rule 14. During Officer [REDACTED] prior interview with COPA on July 6, 2018, he stated that he did not make contact with [REDACTED] face or head when he attempted to use a closed hand stunning blow or punch on [REDACTED]. According to Officer [REDACTED] ducked to the bed right before he made contact with [REDACTED] face. At the July 18 statement, Officer [REDACTED] was provided an opportunity to view the video of the physical altercation between him and [REDACTED]. After viewing the video, Officer [REDACTED] again said he did not make contact with [REDACTED] when he attempted to punch [REDACTED] on the face while at Jackson Park Hospital. He stated that just prior to the July 18 interview he re-watched the video of the incident and that the security video supported his assertion that he did not make contact with [REDACTED] “we just watched camera angle 6 where you can clearly see that my fist never made contact with his head.”³⁵

Digital Evidence

The **Evidence Technician photographs**³⁶ of [REDACTED] depicted an abrasion on the left side of his head near his left eye. The photographs did not depict any other visible injuries.

The evidence technician photographs of Officer [REDACTED] depicted a scratch mark to his right arm. The evidence technician photographs of Officer [REDACTED] did not depict any visible injuries.

The **Video Footage from Jackson Park Hospital**³⁷ depicts what occurred on June 3, 2014. Camera 10, depicting a hallway between the triage room and the observation room captures a black male in a white a T-Shirt, now known as [REDACTED] being escorted by a tall black, male officer, now known as Officer [REDACTED]. The video also depicts a bald male officer with a full beard, now known to be Officer [REDACTED] following behind Officer [REDACTED] and [REDACTED] who was handcuffed behind his back. The three then proceeded out the view of camera 10.

At approximately forty seconds into the recording, cameras 5 and 6 capture Officer [REDACTED] and [REDACTED] enter the observation room. Officer [REDACTED] is still leading [REDACTED] by the arm with Officer [REDACTED] right behind. The video depicts Officer [REDACTED] push [REDACTED] into the wall, and then Officer [REDACTED] punch [REDACTED] once on the left side of the face with his right hand (See Figure 1 below). The video shows [REDACTED] falling to the bed, and Officer [REDACTED] appears to punch [REDACTED] three times about the body near the stomach and chest area (See Figure 2 below). From the time that Officer [REDACTED] shoved Mr. [REDACTED] into the wall and through all the punches, Officer [REDACTED] is in the room, with Officer [REDACTED] between him and Mr. [REDACTED]. While Officer [REDACTED] and [REDACTED] are on the bed, the hospital staff enters the room. Officer [REDACTED] and the

³⁴ Att. 97

³⁵ Att. 100. Page 9, Line 6-7.

³⁶ Att. 30

³⁷ Atts. 26, 27, 71

hospital staff help ██████ sit up in the bed, and Officer ██████ exits the room with no further incident.



Figure 1



Figure 2

b. Physical Evidence

Medical Records³⁸ from Jackson Park Hospital show that the hospital admitted ██████ on June 3, 2014, at 10:45 pm where ██████ was treated for psychiatric issues. ██████ was displaying signs of agitation and hallucinations. ██████ was diagnosed with schizoaffective disorder. ██████ was described as hostile, and uncooperative. The reports further indicate that Mr. ██████ had a laceration on his left eye.³⁹

The **Chicago Fire Department – Ambulance Report**⁴⁰ indicated that ██████ was in police custody and standing on the sidewalk of 145 W. 119th Street. ██████ had minor lacerations/bleeding to his left fingers. Chicago Police Officers reported that ██████ was involved in a domestic altercation and refused to answer any questions in regard to the incident or how he obtained the injury. ██████ was not in distress during the call.

c. Documentary Evidence

The **Tactical Response Report (TRR)**⁴¹ authored by Officer ██████ on June 3, 2014, indicates ██████ did not follow verbal direction, stiffened, pulled away, presented an imminent threat of battery, and attacked without a weapon. Officer ██████ responded with member presence, verbal commands, escort holds, wristlock, armbar, open hand strike, take down/emergency handcuffing, and closed hand strike/punch.

An **Officer's Battery Report**⁴² authored by Officer ██████ documents ██████ ambushed Officer ██████ without warning. The manner of attack was struck/blunt force (including actual

³⁸ Att. 36

³⁹ *Id.* at p. 23.

⁴⁰ Att. 23

⁴¹ Att. 13

⁴² Att. 14

attempt) with the type of weapon/threat being hands/fists. The report describes the type of injury to the officer as non-fatal minor injury (Bruises/Swelling Minor Abrasions).

The **Tactical Response Report (TRR)**⁴³ authored by Officer [REDACTED] on June 3, 2014, indicates [REDACTED] did not follow verbal direction, stiffened, pulled away, presented an imminent threat of battery, and attacked without a weapon. Officer [REDACTED] responded with member presence, verbal commands, wristlock, armbar, and pressure sensitive areas.

An **Officer's Battery Report**⁴⁴ authored by Officer [REDACTED] documents [REDACTED] manner of attack as struck/blunt force and other (including verbal threats). The report describes the type of injury to the officer as non-fatal minor injury (Bruises/Swelling Minor Abrasions).

The **Investigative Report from Cook County State's Attorney's Office Investigations Bureau**⁴⁵, was materially consistent in reference to the interview of Officer [REDACTED]

The **Civil Complaint for Northern District of Illinois Case 16cv [REDACTED]** filed on May 29, 2016 names the City of Chicago, Officer [REDACTED] and Officer John Doe as Defendants and alleges four counts for (1) excessive force pursuant to 42 U.S.C. 1983 against the two officers; (2) a *Monell* claim for improper policies and practices against the City of Chicago; (3) a state law claim of *Respondent Superior* against the City of Chicago; and (4) a state law claim pursuant to 745 ILCS 10/9-102 to hold the City of Chicago liable for the conduct of the two officers. The case was settled pursuant to an agreement between the parties on April 11, 2018.⁴⁶ The case was settled for \$175,000. Prior to settling, the only deposition taken was of Plaintiff [REDACTED]

COPA obtained a transcript of the **Deposition of [REDACTED]** taken on September 5, 2017⁴⁷ as part of 16cv [REDACTED]. In this deposition, [REDACTED] said he was taken to Jackson Park Hospital by police on that date. He denies that he was taken due to having a physical altercation with any of his family members, but he did recall his cousin asking the officers to take him in for a psych evaluation. In the drive to the hospital the officers were disrespecting him, and they grabbed him aggressively when they took him inside the hospital.

He said that in the waiting room, he got agitated when a nurse gave him a shot and poked him with a needle. He started pacing around so officers took his chair away and handcuff him. He says that in the waiting room he "got to wrestling with [Officer [REDACTED] and that Officer [REDACTED] then took him to the ground and stepped on his head."⁴⁸ He denies that he yelled at officers or that he fought them.

He says that as officers walked him back to the observation room⁴⁹ he did not physically resist the officers, instead they drug him and pushed him into corners. He also denied ever trying to stop walking or to kicking the officers.

⁴³ Att. 15

⁴⁴ Att. 16

⁴⁵ Att. 61

⁴⁶ Att. 99

⁴⁷ Att. 100

⁴⁸ Att. 100, p. 82.

⁴⁹ This room was referred to throughout [REDACTED] deposition as "the room with the camera."

He says that once they entered the room, Officer ██████ hit him in the jaw. He says that Officer ██████ hit him two or three times before he got on the bed. He says that Officer ██████ did not swing and miss, that the punch “landed.”⁵⁰

He then viewed pictures of himself taken just after the incident.⁵¹ He identified injuries to his face in the pictures and differentiated which occurred during the scuffle in the waiting room and which occurred from being punched in the observation room. He identifies an injured a split lip as what stemmed from the punch.⁵²

The **Docket Report** from Cook County Criminal case 16CR ██████ shows that Officer ██████ was charged by indictment with two counts of Official Misconduct (720 ILCS 5/33-3(B)[sic]) on June 13, 2016. On June 20, 2019, the charges were dismissed, due to ██████ failure to appear in court.

VI. LEGAL STANDARD

a. Use of Force⁵⁴

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.⁵⁵ Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) the severity of the crime at issue; (2) whether the subject was posing an imminent threat to the officer or others and (3) whether the subject is actively resisting arrest or attempting to evade arrest by flight.⁵⁶ Department members will use an amount of force reasonably necessary to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.⁵⁷ Department members are required to “modify their selection of [force] options as the subject offers less or greater resistance.”⁵⁸

Additionally, all Department Members are required to ensure that department regulations are followed.⁵⁹ “If a member knows that another Department member is using excessive force against a subject, the member will take appropriate action. The action required by the member will depend upon the circumstances of the incident” and may include “verbal or physical intervention, immediate notification to a supervisor, or a direct order by a supervisor.”⁶⁰

b. Rule 14

⁵⁰ *Id.* at p. 96.

⁵¹ Att. 100.

⁵² Att. 100. P. 102, 108, Att. YYY, Ex. 1-3 (deposition exhibits)

⁵³ Att. 99

⁵⁴ This investigation applies the version of the Use of Force Guideline, G03-02, which went into effect of October 1, 2002.

⁵⁵ General Order G03-02(III)(C)

⁵⁶ *Id.*

⁵⁷ General Order G03-02(III)(B).

⁵⁸ General Order G03-02-02(II)(c).

⁵⁹ General Order G03-02(III)(E).

⁶⁰ *Id.*

Chicago Police Department Rules and Regulations, Rule 14 prohibits officers from “making a false report, written or oral.” Pursuant to the Bill of Rights within the officers’ Collective Bargaining Agreement, officers may not be charged with a Rule 14 violation unless “(1) the officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.”⁶¹ Moreover, in cases where there is video evidence relevant to the matter under investigation, officers may only be charged with a Rule 14 violation if they are either given the opportunity to view the video before giving the statement or given the opportunity to clarify and amend the original statement after viewing the video.⁶²

A “material fact” is a fact that is “crucial . . . to the determination of an issue at hand.”⁶³ A false statement is made “willfully” if it is done intentionally.⁶⁴

c. Rules 2 and 3

In combination, Rules 2 and 3 serve the principal that sworn officers are held to standard of truthfulness:

Department Rule 2 and 3 require that Chicago police officers provide a complete and accurate accounting of what they observe while on duty. Officers may not offer misleading statements which emphasize certain facts to the exclusion of others. And they are not permitted to pick and choose facts in order to support a pre-determined conclusion. Instead, officers must provide a complete accounting without embellishment, exaggeration, or spin.⁶⁵

d. Standard of Proof

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.

⁶¹ Agreement Between Fraternal Order of Police Chicago Lodge No. 7 and the City of Chicago, July 1, 2012-June 30, 2017, at p. 5.

⁶² *Id.*

⁶³ Black’s Law Dictionary, (Online, 2nd Edition, accessed Nov. 18, 2019), available at <https://thelawdictionary.org/material-fact/>.

⁶⁴ Black’s Law Dictionary, (Online, 2nd Edition, accessed Nov. 18, 2019), available at <https://thelawdictionary.org/willfully/>.

⁶⁵ *In re Franko et. al.*, 16 PB 2909-2912, Findings and Decisions, July 18, 2019, at pp. 5-6.

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.⁶⁶ 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. Clear and Convincing is 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."⁶⁷

VII. ANALYSIS

A. Allegations Against Officer [REDACTED]

1. **Officer [REDACTED] Shoving of [REDACTED] Into a Wall While Handcuffed was Not An Objectively Reasonable Use of Force.**

Officer [REDACTED] admitted to COPA that he shoved Mr. [REDACTED] against the wall when he brought him into the observation room.⁶⁸ He says that he did so as a "stunning technique" to be able to remove Mr. [REDACTED] handcuffs to allow hospital staff to administer sedation. Officer [REDACTED] says this technique was necessary because the entire time he was walking Mr. [REDACTED] from the waiting room to the observation room, Mr. [REDACTED] was stiffening up, trying to kick and headbutt Officer [REDACTED] despite the fact that Officer [REDACTED] was behind him, and verbally threatening to "knock [Officer [REDACTED] out."⁶⁹ He thus classified Mr. [REDACTED] as an assailant.

However, Officer [REDACTED] assertion that Mr. [REDACTED] was an active assailant as he was being walked down the hallway and as he was taken into the observation room is not supported by the video.⁷⁰ In the brief moment that they are seen in video camera 10, Mr. [REDACTED] is not kicking or headbutting the officers, nor does he appear to be resisting. Additionally, the two officers appear calm and in control. They do not display concern that he is trying to batter them or in any distress in leading him down the hallway. In fact, Officer [REDACTED] also says that Mr. [REDACTED] was only "kicking and acting a fool" when they were exiting the emergency room, not as he was being transported down the hallway.⁷¹

⁶⁶ 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 been found to be more probably true than not).

⁶⁷ See *e.g., People v. Coan*, 2016 IL App (2d) 151036 ¶ 28 (2016).

⁶⁸ Incidents with Mr. [REDACTED] occurred in two rooms at the hospital. The first room is referred to with differing names by witnesses and is referred to in this report alternatively as "waiting room", "triage room", and "emergency room." The second room, which is visible on cameras 5 and 6, and contains only a cot, is referred to as the "observation room."

⁶⁹ Att. 99 at pp. 24-25.

⁷⁰ Officer [REDACTED] also did not say that Mr. [REDACTED] was an assailant while they were in the observation room. Att. 83, p. 49.

⁷¹ Att. 83, p. 24.

Additionally, the statement of Nurse Supervisor [REDACTED] does not support Officer [REDACTED] assertion that Mr. [REDACTED] was being aggressive. She said that she saw them walk the entire way down the hallway, and Mr. [REDACTED] was not aggressive at all.

The video further depicts that, once they arrived in the observation room, Mr. [REDACTED] actions still do not support Officer [REDACTED] explanation. Officer [REDACTED] shoves him into the doorframe, but it does not appear that Mr. [REDACTED] was stiffening or resisting, nor was he kicking or headbutting the officers. Once he is fully into the room, Mr. [REDACTED] appears to be attempting to plant his feet a bit, but that is more because Officer [REDACTED] is pushing him into the room (and eventually into the wall) at such an aggressive pace. Additionally, once he ends up on the cot (whether from “ducking” or from being punched) Mr. [REDACTED] is immediately compliant. This is not consistent with his alleged aggressiveness walking down the hallway.

Therefore, COPA finds that, at most, Mr. [REDACTED] was a passive resister, defined by G03-02-02 as “a person who fails to comply (non-movement) with verbal or other direction,” at the time Officer [REDACTED] shoved him into the wall. For Mr. [REDACTED] to be treated as an active resister, his actions must have been done to “create distance between [himself] and the member’s reach with the intent to avoid physical control and/or defeat the arrest.”⁷² Mr. [REDACTED] was not attempting to create distance, and was, at most, failing to fully comply with Officer [REDACTED] leading him into the room and was, therefore, a passive resister. Also, since video and the statements of nurse [REDACTED] refute that he was attempting to headbutt or kick Officer [REDACTED] COPA finds that he was not an assailant.

Because he was only a passive resister, “stunning” was not even a permissible force option to Officer [REDACTED].⁷³ Assuming arguendo that Officer [REDACTED] were permitted to “stun” Mr. [REDACTED] shoving Mr. [REDACTED] against the wall is not a “stunning” technique under Chicago Police Directives which allows diffused-pressure strikes or slaps.

Moreover, the shove into the wall was not a reasonable use of force under the totality of the circumstances. Mr. [REDACTED] was handcuffed at the time. The two officers seemed to have a fairly firm control of the situation, despite Mr. [REDACTED] prior actions in the waiting room. Officer [REDACTED] could have, and should have, at least attempted to successfully remove the handcuffs prior to making the assumption that this attempt would be unsuccessful and therefore resorting to shoving Mr. [REDACTED] into the wall. Officer [REDACTED] also did not wait for Officer [REDACTED] to offer assistance in uncuffing Mr. [REDACTED]. Officer [REDACTED] and Officer [REDACTED] both spoke about how Mr. [REDACTED] was seemingly antagonistic to Officer [REDACTED] but highly responsive and receptive to Officer [REDACTED]. This included Officer [REDACTED] sitting on the floor of the emergency room with Mr. [REDACTED] for almost ten minutes to redevelop a rapport after [REDACTED] had punched Officer [REDACTED] in the face. The most logical and reasonable approach would have been for Officer [REDACTED] to take the lead in uncuffing Mr. [REDACTED] which likely would have eliminated the need for such any uses of force.

⁷² G03-02-02.III.B.2.

⁷³ G03-02-02.III.B.1.

Additionally, the role of the police officers is to assist hospital staff in their securing of patients to the cots. Officer ██████ said that he had done so “many times” without issues.⁷⁴ Yet, in this instance, he did not wait for hospital staff to even enter the room, let alone attempt to secure Mr. ██████ prior to this “stunning technique.” In fact, Ms. ██████ said that the officers violated hospital protocol by going into the room without staff.

Therefore, Officer ██████ used a type of force that was not permitted by the Directives and additionally his use of force was objectively unreasonable based upon the totality of the circumstances. Allegation 1 is therefore **Sustained**.

2. Officer ██████ Punching of ██████ About the Face and Body While He Was Handcuffed was Not An Objectively Reasonable Use of Force.

a. Officer ██████ Punched Mr. ██████ in the Head and Body.

Officer ██████ admitted that he punched Mr. ██████ about the body, after Mr. ██████ had fallen to the bed. He denied, however, that he punched Mr. ██████ in the head. He claims that he *attempted* to strike Mr. ██████ in the face as a “stunning technique,” but that Mr. ██████ ducked out of the way before the punch connected. COPA finds that Officer ██████ punched Mr. ██████ both in the head and in the body.

First, the video depicts a scene that is inconsistent with Officer ██████ explanation of the event. Admittedly, due to the frame rate of the video, the moment where Officer ██████ makes contact with Mr. ██████ face is not captured on video. However, Mr. ██████ head appears to snap to the side, as if he has been punched. Officer ██████ body language is also not consistent with someone who has swung and missed; instead, he maintains his balance and composure and immediately jumps on top of Mr. ██████ for additional punches to the stomach. It would also not seem logical for Officer ██████ to believe that a punch to the face was necessary to subdue Mr. ██████ but then immediately abandon an additional attempt to punch his face for punches to the body, if Mr. ██████ had ducked the punch. Officer ██████ then walked away after the blows to the body, while Mr. ██████ is still in handcuffs. These are not actions consistent with attempting to stun an assailant so that you can remove his handcuffs. Instead, it is consistent with an officer who has been punched making retaliatory punches out of the view of hospital staff.

Other aspects of the video also call into question the accuracy of Officer ██████ account. He also exaggerated the resistance that Mr. ██████ was displaying. Officer ██████ claims that ██████ was attempting to headbutt, and kicking backwards at, Officer ██████ as he walked down the hallway, but this is not depicted on camera 10. To the contrary, both Officers seem to be calm and in control of the situation as they walk down the hallway. Officer ██████ also claims that Mr. ██████ continued to attempt to kick and headbutt inside the observation room, when video from the room shows that he was merely planting his feet. In sum, Officer ██████ exaggerated his accounts of the trip down the hallway and the observation room to support his version of the

⁷⁴ Att. 99 p. 21.

narrative. His explanation is both non-sensical and unsupported by the evidence, as explained above.

Moreover, on the night of the incident, prior to Officer ██████ knowing there was video, Officer ██████ told his supervisor that he had hit ██████ with a closed hand strike. According to Sgt. ██████ explanation of Officer ██████ report to him, the strike was with a closed fist, it occurred in the observation room (Officer ██████ said the punch occurred when ██████ stood up from a bed, which was only present in the observation room), and it came in sequence before ██████ was taken down and to the bed. Thus, Officer ██████ report to Sgt. ██████ indicates that Officer ██████ originally admitted to striking ██████ prior to changing his story when he met with COPA.

Second, even Officer ██████ believed that Officer ██████ punched Mr. ██████ in the head prior to Mr. ██████ falling to the bed. He says that he did not see the actual contact being made, but he heard some contact.⁷⁵ Thus, even with his blocked vantage point he was able to judge whether Officer ██████ swung and missed, or whether he connected on the punch, and it was his belief, with absolute certainty,⁷⁶ that Officer ██████ did strike Mr. ██████

Third, Mr. ██████ himself says that Officer ██████ punched him in the head. While his account of the incident lacks credibility and accuracy in some ways,⁷⁷ he is able to identify the injuries that he incurred from being punched by Officer ██████ as opposed to injuries he incurred in the scuffle in the emergency room and in other incidents that evening.⁷⁸ Thus, even though he is wrong about how many times he was punched in the head, he is still positive that he was in fact punched in the head while standing in the observation room.

Fourth, Nurse Supervisor ██████ testified that she heard contact which she described as sounding like someone hitting someone. Ms. ██████ also further contradicted Officer ██████ account of the incident because she said that Mr. ██████ was not aggressive at all while walking down the hallway.

Therefore, the preponderance of the evidence shows that Officer ██████ did make contact when he swung at Mr. ██████ face, while he was standing and handcuffed behind the back.

⁷⁵ Att. 83, p. 44.

⁷⁶ Att. 83, p. 14 (“I didn’t see the actual contact, but I know he struck ‘em.”); *id.* at p. 38 (“I said I see ‘em, I see ‘em swing and I know he hit ‘em . . . I know he hit ‘em but I don’t know if his fist was balled.”); *id.* (“I know he hits ‘em”); *id.* at p. 44 (“I knew he connected I just didn’t see it.”).

⁷⁷ Mr. ██████ was not the most reliable witness about this encounter. When interviewed on February 5, 2016 when he was incarcerated at Cook County Jail on an unrelated charge, he had difficulty recalling the incident until he saw video to refresh his memory. Att. 59. When he was deposed as part of his civil suit, he gave an account of the incident that is clearly contradicted by the video, most glaring of which is that he was punched 2-3 times by Officer ██████ before he fell to the bed. Att. 100, p. 96.

⁷⁸ *See*, Att. 100, p. 87 (document injuries he already had prior to entering observation room); *id.* at pp. 101-107 (viewing photos to show what injuries he sustained and how); and Att. 100 (depicting photos exhibits from Mr. ██████ deposition where he circled his injuries).

b. Officer [REDACTED] Punches to the Head and Body were Not Appropriate Based on the Resistance that Mr. [REDACTED] was Making at the Time.

Officer [REDACTED] justified both the attempted punch to the head and the punches to the body as necessary to remove Mr. [REDACTED] handcuffs because Mr. [REDACTED] was an active assailant by trying to headbutt and kick Officer [REDACTED].

First, as discussed above, COPA finds that Mr. [REDACTED] was not an assailant and was more properly classified as a passive resister, and “stunning techniques” were not appropriate. Also similar to above, even if “stunning techniques” were permitted, COPA finds that these were not appropriate stunning techniques as defined by the General Order.

Second, COPA finds that even if these could be considered stunning techniques, they were not reasonable under the totality of the circumstances. As with the analysis above, Officer [REDACTED] knew his role was to assist hospital staff in securing Mr. [REDACTED]. He had done so numerous times with no incidents. Yet in this occasion, he made no effort to uncuff Mr. [REDACTED] prior to using force, either by having his partner who had a far better rapport with Mr. [REDACTED] help him or by them both waiting for hospital staff.

Third, officers are mandated to modify their selection of force options as the subject offers less or greater resistance.⁷⁹ Officer [REDACTED] did not do so. He immediately went from shoving Mr. [REDACTED] against the wall, to punching him (or attempting to punch him, as Officer [REDACTED] claimed) in the face, to punching him in the stomach. Even if you accept Officer [REDACTED] claim that Mr. [REDACTED] laid himself on the bed, Officer [REDACTED] should have lessened his force to account for the now more compliant subject. He did not do so but continued his unreasonable use of force which treated Mr. [REDACTED] as an assailant.

Moreover, COPA finds that Officer [REDACTED] explanation that he merely attempted to strike Mr. [REDACTED] but failed to make contact, is implausible, and finds by a preponderance of the evidence that Officer [REDACTED] did strike him.

Therefore, COPA finds by a preponderance of the evidence that Allegations 2 and 3 are **Sustained.**

3. Officer [REDACTED] Departmental Reports Omitted Critical Information and Did not Constitute a Complete and Accurate Accounting of the Incident.

Officer [REDACTED] completed a Tactical Response Report (“TRR”) which omitted pertinent information and, when coupled with the Officer Battery Report signed by him, it created a misleading account of what occurred.⁸⁰

⁷⁹ G03-02-02.11.C.

⁸⁰ The Original Incident Case Report [REDACTED] Att. 11 also omitted pertinent information. However, this was authored by Officer [REDACTED] and Officer [REDACTED] denied involvement in completing it.

Officer ██████ completed a TRR after this incident occurred. In that report, he checked boxes related to Mr. ██████ actions, which included checking the “Imminent threat of battery” and “Attack without weapon” boxes.⁸¹ It then lists the Member’s Response, his own, as “closed hand strike/punch.”⁸² The TRR then references that an Officer Battery Report was completed. This report lists that Mr. ██████ attacked Officer ██████ by “struck/blunt force (including actual attempt)” with the weapon of “hands/fists.”⁸³

Taken as a whole, these reports give the impression of one incident. Officer ██████ references ██████ actions that occurred only in the waiting room, such as Mr. ██████ attack without a weapon, Mr. ██████ use of hands and fists to strike, and the officers’ emergency handcuffing, to explain the threat, but lists them directly alongside Officer ██████ conduct, his use of a closed hand strike, which only occurred in the observation room. This gives the false impression that Officer ██████ struck Mr. ██████ in response to Mr. ██████ attack. However, Officer ██████ says that he did not physically respond to Mr. ██████ punch in the waiting room at all, instead he said in his statement to COPA that Officer ██████ and another officer subdued Mr. ██████ after he punched Officer ██████

Crucially, the TRR omits the fact that Mr. ██████ was handcuffed at the time Officer ██████ struck him. The TRR includes a narrative box labeled “additional information” where this could have been added. There is also room in the supervising officers’ section where the supervisor could have documented this fact, if Officer ██████ had accurately provided the facts. But no such documentation exists. Even the Original Incident Case Report, authored by Officer ██████ based upon the facts as provided by Officer ██████ fails to include the fact that Mr. ██████ was handcuffed when Officer ██████ struck him.

Moreover, Officer ██████ verbal report to his supervisor regarding his use of force similarly blurred the incidents together to make it appear that Officer ██████ strike was reasonable, proportionate, and justified. According to Sgt. ██████ Officer ██████ told him that, immediately after Mr. ██████ punched Officer ██████ Officer ██████ responded with a strike (or strikes).⁸⁴

Pursuant to Rules 2 and 3, sworn officers are held to a standard of completeness and accuracy in their reporting.⁸⁵ Officer ██████ did not fulfill that standard. His report writing, coupled with his report to Sgt. ██████ blended together the incident in the waiting room and Officer ██████ response in the observation room, even though there was a separation of both distance and time between the incidents. This gave an impression that was highly misleading. While there is nothing factually inaccurate in Officer ██████ TRR and Officer Battery Report (Mr. ██████ did strike Officer ██████ with a closed hand, and Officer ██████ did document that he struck Mr. ██████ with closed fists.), the reports blur together the two incidents to make Officer ██████

⁸¹ Att. 13 p. 1, Sec. 38.

⁸² *Id.*

⁸³ Att. 14.

⁸⁴ Sgt. ██████ did not give any indication that Officer ██████ told him that Mr. ██████ was handcuffed when Officer ██████ punched him.

⁸⁵ 16 PB 2909-2912, *supra*, at pp. 5-6.

conduct appear justified. The reports would reasonably be interpreted to communicate that Officer [REDACTED] punch and strikes were in direct and immediate response to [REDACTED] singular punch. They also fail to include, despite the fact that the TRR has ample room for additional information, the most aggravating and significant fact, that Mr. [REDACTED] was handcuffed behind his back at the time Officer [REDACTED] punched him in the face, shoved him into the wall, and struck him multiple times in the body.

Therefore, because Officer [REDACTED] departmental reports both omitted pertinent material information and created a misleading impression of what occurred, Allegation 4 is **Sustained**.

i. Officer [REDACTED] Knowingly Provided Materially False Information During His Statement to COPA on July 6, 2018.

1. Officer [REDACTED] Provided False Information to COPA.

As discussed previously, COPA finds by a preponderance of the evidence that Officer [REDACTED] did punch [REDACTED] in the face, while Mr. [REDACTED] was still standing and while he was handcuffed behind his back. On July 6, 2018, Officer [REDACTED] made the following statement related to this portion of the incident:⁸⁶

MCS [REDACTED] . . . And my question to you is that you said you never connected.

Off. [REDACTED] I didn't.

MCS [REDACTED] Okay. Let me finish. You never connected when you threw you [sic] stunning technique or your punch at Mr. [REDACTED]

Off. [REDACTED] At his head.

MCS [REDACTED] At his head.

Off. [REDACTED] I never connected.⁸⁷

On July 18, 2018, Officer [REDACTED] was brought back in for a second interview, after having been served with a Rule 14 allegation related to this statement.⁸⁸ He was shown the video again and given the opportunity to amend this statement but chose to not make any changes to his July 6, 2018 statement.⁸⁹

2. Officer [REDACTED] Provided the False Information Knowingly.

A preponderance of the evidence in this case shows that Officer [REDACTED] knew that his statement was false. First, it is clear from the context that he was aware of which punch or strike was being discussed. Second, it is clear that he knew or should have known that he did, in fact, make contact when he threw the punch.

He describes the strike in question as occurring after he had walked Mr. [REDACTED] down the hallway and into the room to be sedated. Indeed, his purported justification for his attempt to punch

⁸⁶ Immediately preceding this question and answer, Officer [REDACTED] was shown the video of the incident as required by the Officers' Bill of Rights contained in the Collective Bargaining Agreement. Att. 99 p. 69.

⁸⁷ Att. 99, pp. 69-70.

⁸⁸ Att. 100.

⁸⁹ *Id.* at 8.

Mr. [REDACTED] is that [REDACTED] attempted to kick and head butt him as [REDACTED] was being walked down the hallway. It is clear that Officer [REDACTED] was not talking about events that occurred in the waiting room when he said that he “never connected” on his attempted stunning technique.

Additionally, it is clear Officer [REDACTED] was not confusing the “attempted” strike while Mr. [REDACTED] was standing with the multiple strikes to the body used against Mr. [REDACTED] while lying on the hospital bed. He described this punch as an attempt at a “stunning technique” and made clear that he used it after he had pushed Mr. [REDACTED] into the wall, but before Mr. [REDACTED] ended up on the bed.⁹⁰ In fact, he says numerous times that this “attempted” strike came immediately before Mr. [REDACTED] “ducked” onto the bed.⁹¹ Therefore, it is clear that the particular strike in which Officer [REDACTED] denies making contact is the same that is depicted on Figure 1.

Second, it is not plausible that Officer [REDACTED] could make contact with Mr. [REDACTED] as part of the “stun” technique, but not know that he did so. Officer [REDACTED] swung fairly hard, and the contact was loud enough that nurse [REDACTED] was able to hear it from in the hallway. Additionally, Officer [REDACTED] believed from his vantage point that Officer [REDACTED] struck Mr. [REDACTED] at this time. All evidence circumstantially supports that Officer [REDACTED] struck [REDACTED] about his head or face, but for Officer [REDACTED] own statement to COPA. This included the statements of an independent witness, [REDACTED] and an officer, in addition to the video and photographs of [REDACTED] injury. Therefore, in addition to finding that Officer [REDACTED] did in fact strike Mr. [REDACTED] at this time, COPA finds that it would not be plausible for Officer [REDACTED] to have done so unknowingly. He even told Sgt. [REDACTED] on that night that he struck Mr. [REDACTED] with his closed fist.

3. The False Information Related to a Matter that Was Material to the Underlying Investigation.

Finally, it is clear that the false statements were about a matter that was material to the investigation. The purpose of the July 6, 2018 interview was to explore allegations that Officer [REDACTED] had used excessive force in this encounter. This included two allegations that Officer [REDACTED] had punched Mr. [REDACTED] without justification, which were served upon Officer [REDACTED] prior to his interview. Therefore, Officer [REDACTED] was made aware precisely which incident and which actions were being investigated.

Thus, it was integral to the investigation to determine (1) the specific force that was used, and, if any force was used, (2) whether each use of force was justified. This determination was not only material, but the issue upon which the entire investigation revolved.

Therefore, Officer [REDACTED] knowingly made a false statement about a matter that was material to the investigation, in violation of Rule 14, and Allegation 5 is **Sustained**.

B. Allegations Against Officer [REDACTED]

⁹⁰ Att. 99, p. 59.

⁹¹ See, e.g., *Id.* at pp. 59, 65.

1. **Officer ██████ Failed to Take Appropriate Action in Response to a Situation Where a Reasonable Officer Knew or Should Have Known that Officer ██████ Used Excessive Force.**

As discussed above, Officer ██████ use of force was excessive when he punched a subject that was handcuffed behind his back despite the fact that the subject was not resisting at the time. Officer ██████ admits that he was aware of the punch. Even though he stated that, due to the size of Officer ██████ and his positioning with respect to Officer ██████ and Mr. ██████ he could not specifically see the strike, he admitted that he knew that Officer ██████ struck Mr. ██████⁹²

Officer ██████ explained that he believes that he appropriately intervened in this situation. He says that he only noticed Officer ██████ strike Mr. ██████ while ██████ was still standing and did not recall the strikes to the body on the bed. Nonetheless, he “rushed” in to tell Officer ██████ that he would deal with Mr. ██████ so that Officer ██████ did not have to continue to do so.⁹³ The officers, as well as Mr. ██████ indicated that Officer ██████ had a better rapport with Mr. ██████ than Officer ██████ did, so Officer ██████ stepping in would in fact ease some tension.

However, Officer ██████ duties to intervene go beyond merely physically or verbally intervening to stop the incident. He also has a duty imposed by G03-02.III.E to take appropriate action in response to a fellow department member’s use of excessive force. A duty which can include providing a report of the incident to a supervisor. While a supervisor, Sgt. ██████ did become aware of the incident, Officer ██████ did not accurately and completely inform the Sergeant of what had occurred or report Officer ██████ misconduct.

Sgt. ██████ was told consistent stories by both Officer ██████ and Officer ██████. These stories led the sergeant to believe, that Officer ██████ “strike” occurred right after Mr. ██████ had punched Officer ██████. Officer ██████ also did not appear to inform Sgt. ██████ that the strike occurred while Mr. ██████ was handcuffed. Officer ██████ (not to mention Officer ██████) was obligated by G03-02.III.E to notify a supervisor of the event in such a manner that it would be equivalent to an intervention. In this case, that would require informing the supervisor of the full magnitude of Officer ██████ strike, including the fact that Mr. ██████ was handcuffed behind his back at the time. Since (as discussed below) the paperwork required of Officer ██████ did not include an accurate and complete accounting for Officer ██████ actions, Officer ██████ should have made this report verbally.

Moreover, sworn officers are required to be complete and accurate in their reporting and may not emphasize certain positive facts at the exclusion of others. That is what Officer ██████ did in this instance by allowing Sgt. ██████ to believe that Officer ██████ struck Mr. ██████ immediately after Mr. ██████ had punched him—and that Mr. ██████ was not handcuffed behind his back at the time. Even if Officer ██████ did not outright lie to his supervisor, his report was insufficient in spite of the duty to be fully candid. Officer ██████ had the obligation to be accurate, complete, and precise in his explanations to Sgt. ██████. Whether through his written

⁹² Att. 83, p. 14.

⁹³ Att. 83, p. 16.

reports, oral reports, or the combination of both, his duty to report to his supervisor was not fulfilled when he chose to be incomplete in all of these modes of communication.

Since Officer ██████ failed to adequately advise his supervisor of the full extent of Officer ██████ excessive force, Allegation 1 against Officer ██████ is **Sustained**.

2. Officer ██████ Omitted Information from his Original Incident Case Report But Did not Provide False Information.

Officer ██████ completed the Original Incident Case Report for this matter. The report included a narrative section which stated, in pertinent part, “While transporting ██████ [sic] to a bed he began struggling and kicking and the officers had to use force to gain control again.”⁹⁴

Initially, COPA finds that it is true that Mr. ██████ began struggling while being transported to a bed and that officers used force to gain control again. However, it is not clear from the video that Mr. ██████ “kicked” while being transported. Officer ██████ explained that the kicking occurred as Mr. ██████ was being led out of the emergency room section of the hospital,⁹⁵ which is not caught on camera and also appears to be prior to nurse supervisor ██████ being able to see them and refute the claim that Mr. ██████ was struggling. Moreover, unlike Officer ██████ account, Officer ██████ does not claim that the “kicking” was an attempt to be an assailant but, instead, it was part of a struggle to not be led down the hallway. Therefore, COPA is unable to find by the preponderance of the evidence that Mr. ██████ did not “kick.” Without determining that this kick did not occur, COPA cannot show that the Original Incident Case Report was objectively false.

However, COPA finds that the report was deficient in describing the particularity of the “force to gain control again.” The fact that Mr. ██████ was handcuffed behind his back when force was used and that the force was slamming him against the wall, punching him in the face, and punching him multiple times in the stomach, is not mentioned in the report. To be thorough and complete, Officer ██████ should have specified this amount of force used and that it was used while ██████ was handcuffed behind his back.

As discussed above, Rules 2 and 3 require Officer ██████ to provide information that is complete and accurate. They also prevent officers from selectively choosing facts to highlight the positive and ignore the negative. Officer ██████ Original Incident Case Report was selective in its content; however, it is not “false” and thus not a violation of Rule 14.

Due to the fact that Officer ██████ did not provide any information that was “false,” COPA does not find by a preponderance of the evidence that Officer ██████ violated Rule 14. However, due to the fact that Officer ██████ did not make a complete and accurate report of the incident, COPA does not find, by clear and convincing evidence, that this allegation was unfounded or exonerates Officer ██████ with regards to this report. Therefore, COPA finds that Allegation 2 is **Not Sustained**.

⁹⁴ Att. 11, p.2. The complete narrative discusses the entire incident from when they picked Mr. ██████ up at Roseland Hospital, through the incident in the waiting room, and leading up to notifications to their sergeant.

⁹⁵ Att. 83, pp. 34-35.

3. Officer ██████ Did Not Knowingly Provide False Information in His Tactical Response Report.

Officer ██████ filled out a Tactical Response Report (“TRR”) related to this incident.⁹⁶ He checked boxes indicating that Mr. ██████ did not follow verbal direction, stiffened, pulled away, was an imminent threat of battery, and attacked without a weapon. He also checked boxes for his own response including member presence, verbal commands, wristlock, armbar, and pressure to sensitive areas. He did not select that he had conducted a “take down/emergency handcuffing.”

As to the first part of allegation 3, that Officer ██████ failed to document that Mr. ██████ struck Officer ██████ with a closed fist, COPA finds that Officer ██████ did in fact accurately report that information by checking the box for attack without a weapon. Therefore, while lacking in specificity, Officer ██████ did report ██████ use of force on Officer ██████. Officer ██████ alleged failure to document is not proven, by a preponderance of the evidence.

As to the second part of allegation 3, that Officer ██████ failed to document that he employed takedown/emergency handcuffing to restrain Mr. ██████. COPA finds that Officer ██████ did in fact fail to document that information. Moreover, Officer ██████ admitted to COPA that he did take down Mr. ██████ just after Mr. ██████ had punched Officer ██████.⁹⁷ His description of the encounter, that after Mr. ██████ punched Officer ██████ he grabbed Mr. ██████ along with another officer, took ██████ down and cuffed him, is consistent with the description of an emergency takedown.

However, COPA finds that Officer ██████ did not *knowingly* provide false information in this report. He provided an explanation to COPA that he intentionally did not include this information in his report, due to his training.⁹⁸ He said that, at this time, they were directed not to document solely the use of handcuffs, so he did not think he even needed to do a TRR, until his sergeant told him to do one.⁹⁹ He did not consider his use of handcuffs in this incident to be an emergency takedown and, therefore, did not describe it as such in his TRR. Throughout his statement to COPA, Officer ██████ presented as a credible witness, including that he admitted the times when he had been wrong (including this failure to document the takedown) and that he provided details as to why he believed Officer ██████ had struck Mr. ██████ even though he did not see the contact, thus COPA finds him to be credible in this explanation for failure to document the emergency takedown.

COPA finds that this explanation for his failure to document the takedown is plausible and therefore does not find by a preponderance of the evidence that Officer ██████ knowingly provided false information such that this allegation can be sustained. However, due to the fact that he did in fact fail to document the takedown, COPA does not by clear and convincing evidence conclude that he should be exonerated. Therefore, Allegation 3 is **Not Sustained**.

⁹⁶ Att. 13.

⁹⁷ Att. 83, p. 31.

⁹⁸ Att. 83, p. 15

⁹⁹ *Id.*

VIII. CONCLUSION

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

Officer	Allegation	Finding/ Recommendation
Officer ██████████ ██████████	<ol style="list-style-type: none"> 1. It is alleged that on June 3, 2014, at approximately 11:16 p.m., at the location 7531 S. Stony Island Avenue, Officer ██████████ shoved ██████████ into a wall while he was handcuffed behind his back, without justification; 2. Punched ██████████ about the face and body while he was handcuffed behind his back; 3. Punched ██████████ while he was handcuffed behind his back without justification; 4. It is alleged that between the dates of June 3 and June 4, 2014, Officer ██████████ failed to truthfully and accurately document the physical action between him and ██████████ in the Department reports; 5. It is alleged that on July 6, 2018 at 8:35 A.M., during his audio-recorded interview with COPA at 1615 W. Chicago Ave. – 4th Floor, Officer ██████████ provided false information during his interview, when he stated that he did not make contact with ██████████ face or head, when he performed a closed hand strike, in violation of Rule 14. 	<p>Sustained/Separation</p> <p>Sustained/Separation</p> <p>Sustained/Separation</p> <p>Sustained/Separation</p> <p>Sustained/Separation</p> <p>Sustained/Separation</p>
Officer ██████████ ██████████	<ol style="list-style-type: none"> 1. It is alleged that on June 3, 2014, at approximately 11:16 p.m., at the location 7531 S. Stony Island Avenue (Jackson Park Hospital), Officer ██████████ failed to perform any duty in 	<p>Sustained/Separation</p>

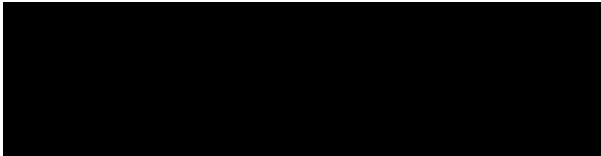
	<p>violation of Rule 5, in that he failed to intervene and/or ensure the safety of [REDACTED] during a physical confrontation between Officer [REDACTED] and [REDACTED] who was handcuffed behind his back at the time of the physical confrontation.</p> <p>2. It is alleged that on June 4, 2014, at approximately 1:36 A.M., Officer [REDACTED] made a false report, written or oral, when he stated in his Chicago Police Department Original Case Incident Report [REDACTED] that Mr. [REDACTED] “began struggling and kicking and the officers had to use force to gain control gain.”</p> <p>3. It is alleged that on June 4, 2014, at approximately 1:06 A.M., Officer [REDACTED] made a false report, written or oral, when he failed to document in his Tactical Response Report that Mr. [REDACTED] struck Officer [REDACTED] on the face/head with a closed fist and that Officer [REDACTED] employed takedown/emergency handcuffing to restrain Mr. [REDACTED]</p>	<p>Sustained/45-day Suspension</p> <p>Not Sustained</p> <p>Not Sustained</p>
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IX. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

Officer [REDACTED] complimentary history includes one complimentary letter and five Honorable Mentions. Officer [REDACTED] has no disciplinary history. Given the serious nature of these findings COPA recommends **S** for each Allegation individually.

Officer [REDACTED] has no reported complimentary or disciplinary history. Given the seriousness of Officer [REDACTED] misconduct COPA recommends that he receive a 45-day suspension for Allegation 1.

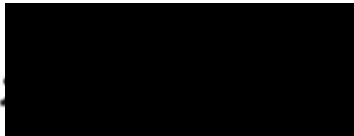
Approved:



Angela Hearts-Glass
Deputy Chief Administrator

12-31-19

Date



Sydney R. Roberts
Chief Administrator

12-31-19

Date

Appendix A

Assigned Investigative Staff

Squad#:



Major Case Specialist:

Supervising Investigator:

Deputy Chief Administrator:



Angela Hearts - Glass