

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	March 28, 2018
Time of Incident:	2:46 p.m.
Location of Incident:	2909 W. Warren Blvd.
Date of COPA Notification:	March 28, 2018
Time of COPA Notification:	9:45 p.m.

On March 28, 2018 at approximately 2:34p.m. Officers [REDACTED] and [REDACTED] attempted to conduct a street stop at 2900 W. Madison. As they approached the subject (now known to be [REDACTED]), he immediately began fleeing on foot, disregarding the officers' verbal commands. [REDACTED] ran through an alley, through a backyard, and into the front yard where he was stopped by the officers when he was unable to open the front gate. Officer [REDACTED] conducted an emergency takedown, at which point [REDACTED] was faced toward the ground with both hands concealed underneath his body. The officers repeatedly ordered [REDACTED] to relinquish his hands. While still struggling to get [REDACTED] arms, Officer [REDACTED] used hand stuns and kned [REDACTED] about his body.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2013, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1984, Male, Hispanic
Involved Officer #2:	[REDACTED], Star [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2013, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1985, Female, Hispanic
Involved Individual #1:	[REDACTED], DOB: [REDACTED], Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
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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.

<p>Officer [REDACTED]</p>	<p>It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer [REDACTED]:</p> <ol style="list-style-type: none"> 1. Threw [REDACTED] to the ground without justification in violation of Rules 2 and 9. 2. Struck [REDACTED] about the body without justification in violation of Rules 2 and 9. 3. Called [REDACTED] a "Motherfucker" in violation of Rule 8. 4. Stopped [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6. 5. Arrested [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6. 6. Improperly deactivated his Body Worn Camera in violation of Rule 6. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer [REDACTED]:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6. 2. Arrested [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6. 	<p>Not Sustained</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

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

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

Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.

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

Special Orders

S03-14: Body Worn Cameras

General Orders

G03-02: Use of Force

G03-02-01: Force Options

V. INVESTIGATION²

a. Interviews

COPA conducted an **audio recorded interview** of ██████████³ on April 23, 2018. During that interview, ██████████ stated that, on March 28, 2018, he was talking to his friend ██████████ and ██████████ uncle. They were standing behind ██████████ uncle's car which was parked next to the curb. ██████████ stated that a police car drove up and stopped near where they were standing. ██████████ stated that he suffers from Schizophrenia and is not always in his "right mind"⁴. For that reason, he sometimes fears the police. When the police officers (now known to be Officers ██████████ and ██████████) opened the door to exit the vehicle, ██████████ ran. ██████████ stated that Officer ██████████ ran after him and the chase ended in the front yard at 2909 W. Warren when ██████████ gave up and stopped running. At that point Officer ██████████ caught up with ██████████, punched him, and threw him to the ground. Officer ██████████ then told ██████████ to put his arm behind his back, but he was in a position where he was unable to do so. ██████████ told Officer ██████████, "I can't. I can't. I'm tryin'. I'm tryin'."⁵ Eventually, the officers were able to place ██████████ in handcuffs. ██████████ stated that, once he was placed in handcuffs, Officer ██████████ kned him in the head, neck, and back, and repeatedly punched him in the ribs. While this was happening, ██████████ was laying with his stomach on the ground. ██████████ stated that, during this struggle, Officer ██████████ was standing next to Officer ██████████ and did not participate in the struggle or the arrest. ██████████ stated that Officer ██████████ was the only one who put hands on him and "the female officer didn't do anything wrong"⁶.

During the interview, ██████████ stated, "I can't remember everything because I take meds."⁷ When asked about his medications, ██████████ indicated that he had not taken any that day or for nearly a week prior. ██████████ also stated that he went to the doctor two weeks after the arrest to check the injuries that he suffered during the arrest. He indicated that he had been suffering headaches and a sore shoulder. ██████████ stated that he waited to go to the doctor because he thought he could deal with the injuries on his own.

██████████ alleged that Officer ██████████ chased him for no reason and then used excessive force on him once he was already in handcuffs. ██████████ said that Officer ██████████ claimed he found a small bag of drugs over where ██████████ had been standing prior to the chase. However, ██████████ was never charged with possession of any drugs.

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. 3.

⁴ *Id.* at 6:26.

⁵ *Id.* at 8:29.

⁶ *Id.* at 18:25.

⁷ *Id.* at 12:01.

COPA conducted an **audio recorded interview of the witness Officer ██████**⁸ on August 22, 2018. Officer ██████ stated that on March 28, 2018 he was working as a tactical officer with his partner Officer ██████. They responded to a radio call of a foot chase that culminated at 2909 West Warren Boulevard. When they arrived on scene, Officer ██████ saw Officers ██████ and ██████ standing inside a fenced-in yard next to a male black subject (now known to be ██████) who was in handcuffs. Officer ██████ assisted Officers ██████ and ██████ while Officer ██████ ran to retrieve the police vehicle that they had abandoned during the chase.

When Officer ██████ returned with the police vehicle, ██████ had already been placed into a squad car. Officer ██████ observed a handful of officers, including Officer ██████, who were surveying the location looking for something ██████ may have tossed during the chase. Officer ██████ stated that he did not see any officer recover anything. Officer ██████ did not know if Officer ██████ recovered anything. Officer ██████ stated that he did not have any personal interaction with ██████. Officer ██████ did not witness any of the allegations made by ██████ in this complaint.

COPA conducted an **audio recorded interview of the witness Officer ██████**⁹ on August 21, 2018. Officer ██████ account substantially corroborates Officer ██████ account. However, (presumably while Officer ██████ went to retrieve the police vehicle) Officer ██████ stayed with ██████ for a few minutes until the transport vehicle showed up, at which point Officer ██████ walked ██████ to the car, patted him down, and placed him in the vehicle. Officer ██████ and other officers, including Officer ██████, looked around the area for something ██████ may have tossed. Officer ██████ did not find anything. When asked if he witnessed Officer ██████ retrieve anything, Officer ██████ stated that he did not witness it, “but I’m guessing he did because the subject got arrested.”¹⁰ Officer ██████ did not witness any of the allegations made by ██████ in this complaint.

COPA conducted an **audio recorded interview of the accused Officer ██████**¹¹ on October 11, 2018. Officer ██████ stated that on March 28, 2018, he was on patrol with his regular partner, Officer ██████, when they saw ██████ standing in the street impeding traffic. Specifically, Officer ██████ stated that ██████ was standing near the corner talking with an older black male who was on the sidewalk. There were no vehicles parked in ██████ immediate vicinity. Officer ██████ got out of his vehicle to conduct a field interview of ██████ “to see what was going on”¹². However, before Officer ██████ could explain the reason for the stop, ██████ immediately took off running. Officer ██████ ran after ██████ because, based on his experience, “when a person takes off on you, it’s either because he has narcotics or he has a gun”¹³.

⁸ Att. 33.

⁹ Att. 32.

¹⁰ Att. 50, pg. 13.

¹¹ Att. 42.

¹² Att. 51, p. 17.

¹³ Att. 51, p. 20.

Officers ██████ and ██████ chased ██████ and eventually caught up with him in the front yard of an apartment building at 2909 West Warren. At that point Officer ██████ performed an emergency takedown of ██████. Officer ██████ stated, "That's when I come from behind Officer ██████, and then I take a -- I do an emergency takedown. So if she's in fear of receiving a battery¹⁴, then I do what I do, and I have to protect my partner and do an emergency takedown."¹⁵ After Officer ██████ took ██████ down, ██████ continued to disobey repeated verbal commands to present his hands¹⁶. In order to gain control, Officer ██████ struck ██████ in the stomach with his knee and hands while on top of ██████.¹⁷ Eventually, ██████ was placed in handcuffs and Officer ██████ conducted a search of ██████ person, but did not find anything on him. Subsequently, ██████ was placed in a squad car.

Officer ██████ retrieved his flashlight and baton which had fallen during the foot chase and then deactivated his body-worn camera because, "at that time he was already in custody"¹⁸. However, Officer ██████ then retraced his steps to search for anything ██████ may have dropped, which Officer ██████ admitted was considered law enforcement activity. During his search, Officer ██████ located a bag of suspect heroin located approximately one to two feet from where ██████ had been standing prior to the foot chase. However, Officer ██████ stated that ██████ was not charged with any drugs because they did not see ██████ actually throw anything and it was possible that, given that the area was a high drug activity area, the recovered drugs were from some unrelated transaction.

When asked if he had called ██████ a "motherfucker", Officer ██████ admitted that he said, "Now you're going to jail, motherfucker."¹⁹ Officer ██████ explained that he made this comment in the heat of the moment and that he had been upset. Officer ██████ also stated, "I'm getting better, and I am controlling myself."²⁰

COPA conducted an **audio recorded interview of the accused Officer ██████**²¹ on October 11, 2018. Officer ██████ stated that on March 28, 2018, she was working with her normal partner, Officer ██████, when they observed ██████ standing in the middle of the street talking to another individual on the sidewalk. Officers ██████ and ██████ stopped to conduct an investigatory stop because ██████ was impeding the flow of traffic. However, as soon as they got out of the vehicle, ██████ took off running. The chase ended at 2909 W. Warren when ██████ ran from the alley, through the backyard, into the front yard, and was trying to exit the front gate as

¹⁴ Officer ██████ conceded that Officer ██████ did not indicate that she was in fear of receiving any battery (see Att. 51, p.27) and Officer ██████ did not see ██████ commit any assault on Officer ██████ (see Att. 51, p.25). However, later in the interview, Officer ██████ explained that he saw ██████ facing Officer ██████ and "he had a stance. He had like a fighting stance, like a boxer stance". (see Att. 51, p.26).

¹⁵ Att. 51, p. 24.

¹⁶ Officer ██████ indicated that ██████ was on the ground lying in his stomach and his hands were "inside by his lower waist area". (see Att. 51, p.28).

¹⁷ When asked if it was possible that ██████ was unable to present his hands because he was constrained under Officer ██████ body weight, Officer ██████ replied, "No". (see Att. 51, p.30).

¹⁸ Att. 51, p.35.

¹⁹ Att. 51, p.32.

²⁰ Att. 51, p.31.

²¹ Att. 41.

Officer [REDACTED] caught up with him. At that point, [REDACTED] turned to face Officer [REDACTED] and it looked like he was going to punch her. When asked if [REDACTED] balled his fists, Officer [REDACTED] initially did not affirm that she saw him ball his fists. However, after her attorney whispered into her ear instructing her to say that [REDACTED] balled his fists up, Officer [REDACTED] stated that [REDACTED] balled his fists up in an aggressive manner towards her.²²

Approximately five seconds after Officer [REDACTED] reached [REDACTED], Officer [REDACTED] also caught up and conducted an emergency takedown of [REDACTED] in an effort to place him into custody. When asked to describe the takedown, Officer [REDACTED] stated that Officer [REDACTED] grabbed [REDACTED] and pulled him to the ground. Once on the ground, Officers [REDACTED] and [REDACTED] attempted to place [REDACTED] in handcuffs but they had difficulty because [REDACTED] disregarded their orders to give them his hands.

Officer [REDACTED] stated that other than trying to place handcuffs on [REDACTED], she did not use any force during this encounter. Additionally, due her to positioning, she did not witness Officer [REDACTED] use any force on Mr. [REDACTED] other than the takedown. Officer [REDACTED] did not recall hearing Officer [REDACTED] call [REDACTED] a "motherfucker" during the encounter.

After [REDACTED] was placed in handcuffs, he was searched²³ and placed into a squad car²⁴. Officer [REDACTED] stayed near the car while Officer [REDACTED] returned to where the stop initiated because he had dropped some of his equipment during the chase.

At some point Officer [REDACTED] came to learn that a bag of suspect drugs had been recovered. However, she did not recall who found the bag. Officer [REDACTED] stated that [REDACTED] did not face any drug charges because the drugs were never actually seen on his person.

b. Digital Evidence

Body Worn Camera footage from Officer [REDACTED]²⁵ on March 28, 2018 begins with Officer [REDACTED] in the front passenger seat of a vehicle as it is driving around. The driver (now known to be Officer [REDACTED]) stops the vehicle. Officer [REDACTED] exits and immediately begins chasing a male black subject (now known to be [REDACTED]). The video depicts Officer [REDACTED] also chasing after [REDACTED] as [REDACTED] runs across the street and through an alley. After running after them for approximately 15 seconds, Officer [REDACTED] stops and runs back to the police vehicle. Officer [REDACTED] begins to get in the driver seat of the vehicle and then she screams "Get over here!". She exits the vehicle and begins chasing after [REDACTED] who returned to the street where the chase began. Officer [REDACTED] continues chasing [REDACTED], screaming "Get down!" numerous times. [REDACTED] does not stop running. Officer [REDACTED] chases [REDACTED] through an alley and screams, "Taser, taser, taser". Officer [REDACTED] chases [REDACTED] as he runs into a back yard, through a gangway to the front yard of a residence.

²² See Att. 41 at 15:07; COPA considered bringing an additional Rule 14 Allegation against Officer [REDACTED] for this statement, as it is inconsistent with body worn camera footage and it is not supported by any police reports. Instead, COPA is addressing the issue through the FOP, as there appears to be possible attorney interference in Officer [REDACTED] answer to this question.

²³ Officer [REDACTED] did not recall by whom.

²⁴ Officer [REDACTED] did not recall by whom.

²⁵ Att. 34 (contains files for all relevant BWC footage).

█████ attempts to open the front gate, at which point she stops him and tells him to "Get down". Officer █████ arrives almost immediately behind Officer █████.

The video depicts Officer █████ take █████ to the ground, pushing his head down. The camera is blocked as a struggle seemingly ensues between the officers and █████. Officer █████ orders █████ to give her his hands and to put his hands up. A few seconds later, you can hear the sound of handcuffs being tightened and you see Officer █████ place handcuffs on █████ right wrist. At this point █████ is face down on the ground. Officer █████ then says, "Give us your fucking hand". Both Officers █████ and █████ repeatedly yell at █████ to give them his hand. Approximately 15 seconds after the right wrist is placed in cuffs, you can see █████ left hand appear as the officers struggle to place that wrist in the cuffs as well. Once █████ is successfully handcuffed, Officer █████ is heard stating, "We got him in custody." The video shows █████ still face down on the ground and Officer █████ kneeling next to him. Officer █████ asks █████ why he was running. █████ responds, "I'm scared of the police." Officer █████ responds, "I don't give a fuck. Now you're going in motherfucker." █████ yells, "I'm scared! My brother got killed by the police."

Moments later █████ is seen sitting on the ground with handcuffs on. Officer █████ asks if somebody can watch █████ while he goes to grab his "shit". As another officer enters through the gate into the front yard, Officer █████ drags █████ out of the way, screaming, "Move motherfucker! Move!" At this point another officer stands over █████ while Officer █████ walks away.

At this point there are three male officers standing around █████, in addition to Officer █████. One of these officers asks Officer █████ (in Spanish) if █████ threw something. Officer █████ replies, "I didn't... █████ ran right after him and I was far behind."

A few minutes later, Officer █████ goes to a police vehicle to do a CLEAR search on █████. A sergeant comes to the car window and asks if she is okay. Officer █████ responds, "Yeah, no we're fine. We were going to do a street stop in him and this other guy. Then as soon as we jump out, this guy took off." Afterwards, another officer walks up and asks Officer █████, "Was he holding his waistband or anything?" Officer █████ responded, "No, and you know what's funny? Cuz' I was jumping out this way and I just see my partner take off after somebody. So I didn't even see. Not in the beginning."

Officer █████ continues trying to look up █████ information. A few minutes later, Officer █████ returns and walks up to Officer █████ showing her a small baggie with a powdery substance inside. Officer █████ stated, "When we were wrestling to the ground, I coulda' sworn, I thought he swallowed something, maybe." Officer █████ responded, "I don't know. We got this though" as he held up the baggy. Officer █████ then stated that her hand was bleeding, "cause he wouldn't give us his hand. I was trying to scrape it." Officer █████ responded, "That's why I hit his fucking rib."

Officers █████ and █████ approached the police vehicle where █████ was in the back seat. Officer █████ asked █████ if he swallowed anything. He then holds up the baggy and states, "Here's your pop, son. That's why you ran." He then says to █████, "We'll talk in the

station. Right now I'm upset. You know what I'm saying? I'm upset. I gotta put my hands on you. You know what I'm saying? You're resisting arrest, I could throw all these charges."

A few minutes later, Officers [REDACTED] and [REDACTED] are talking with two other officers on the sidewalk. One of the officers asks Officer [REDACTED] if she cut herself. The officer then jokes that he is disappointed she didn't use her MMA moves. Officer [REDACTED] then states, "Oh I stuck him!"

Body Worn Camera footage from Officer [REDACTED]²⁶ starts while a chase is already underway. Officer [REDACTED] is behind a female officer (now known to be Officer [REDACTED]) who is chasing a male subject (now known to be [REDACTED]) down an alley. Officer [REDACTED] body worn camera footage largely captures the same events as Officer [REDACTED]. Only additional footage will be summarized here.

During the struggle to place [REDACTED] second (left) hand in cuffs, Officer [REDACTED] is seen kneeling [REDACTED] in the neck while ordering him to give him his hand. Immediately after this you hear what sounds like another blow to [REDACTED], although the contact is not captured on video. A few seconds later, you hear handcuffs being tightened.

After Officer [REDACTED] walks away from the scene of the arrest, he retraces his steps through the backyard and the alley until he finds his asp lying on the ground. He picks it up and then walks back to the scene of the arrest. He says to another officer, "We saw him right on the corner of Madison and Francisco. That's where we saw him. And as soon as we went to go stop him, he took off." A few seconds later, Officer [REDACTED] stated that he was going "to go backtrack" and he starts walking toward the backyard. At that point Officer [REDACTED] turned off his body worn camera.

c. Physical Evidence

Medical reports for [REDACTED] from [REDACTED], provide a list of prescriptions for [REDACTED]. The record indicates that on April 11, 2018, [REDACTED] was prescribed the following medications:

- Sertraline 100mg (commonly used to treat depression)
- Divalproex sodium sprinkles 125mg (commonly used to treat bipolar disorder)
- Risperidone 2mg (commonly used to treat schizophrenia)
- Acetaminophen 500mg (commonly used to treat pain)
- Ibuprofen 800mg (commonly used to treat pain)

d. Documentary Evidence

In Officer [REDACTED] **Tactical Response Report²⁷**, he indicated that, on March 28, 2018, while he and his partner (Officer [REDACTED]) attempted to conduct a street stop at 2900 W. Madison, [REDACTED] made a "quick motion with his arms to the side" consistent with Officer [REDACTED] experience "as if to possibly discard a narcotics item." [REDACTED] immediately began fleeing on foot

²⁶ *Id.*

²⁷ Att. 9.

disregarding Officer [REDACTED] verbal commands. Following a foot pursuit, [REDACTED] ran into a yard and then turned toward Officer [REDACTED] in an aggressive manner, placing her in fear of receiving a battery. Officer [REDACTED] then conducted an emergency takedown in order to gain custody of [REDACTED]. At this time, [REDACTED] was faced toward the ground and both hands were concealed underneath his body. Officers [REDACTED] and [REDACTED] were unable to detect if [REDACTED] was armed or attempting to reach for a weapon. Officer [REDACTED] verbally commanded [REDACTED] to relinquish his hands, at which time [REDACTED] refused, stiffened up and continued to pull his arms toward the center of his body. Both officers were in fear for their safety and continued efforts to gain control of [REDACTED] arms. Officer [REDACTED] utilized control tactics to gain control of [REDACTED] whose hands were not visible. [REDACTED] continued to resist and ignore verbal commands. Officer [REDACTED] subsequently gained control of offender by using hand stuns, knee strikes, body pinning, and verbal commands.

In Officer [REDACTED] Tactical Response Report²⁸, she indicated that, on March 28, 2018, while she and her partner (Officer [REDACTED]) attempted to conduct a street stop at 2900 W. Madison, [REDACTED] made a “quick motion with his arms to the side and immediately began fleeing on foot”, disregarding Officer [REDACTED] verbal commands. Following a foot pursuit, [REDACTED] turned towards Officer [REDACTED] in an aggressive manner, placing Officer [REDACTED] in fear of receiving a battery. Officer [REDACTED] then conducted an emergency takedown in order to gain custody of [REDACTED]. Officer [REDACTED] utilized control tactics to gain control of the offender while Officer [REDACTED] performed emergency handcuffing.

Supervising Sergeant [REDACTED] noted that [REDACTED] did not report any physical injuries at the time of the report. Reporting Lieutenant [REDACTED] interviewed [REDACTED] who stated that he was standing with two other individuals when Officers [REDACTED] and [REDACTED] “jumped out on him” causing him to get scared and run because he thought there was a warrant out on him. [REDACTED] stated to Lt. [REDACTED] that he could not initially comply while on the ground because he was previously shot in the midsection and has ongoing shoulder problems. [REDACTED] also stated that “if the officers were going to ‘not play fair’ and charge him with Narcotics for ‘1 bag’, then he ‘wouldn’t play fair’ and would want a Complaint against Officer [REDACTED].” Based on his complaint that Officer [REDACTED] struck him in his ribs for no reason, a log number was created. Lt. [REDACTED] found that Officer [REDACTED] use of force in this incident was in compliance with department policy and directives.

In the Original Case Incident Report²⁹, Officer [REDACTED] stated that she and Officer [REDACTED] observed [REDACTED] standing in the road impeding the flow of traffic in an area known for high amounts of narcotics activity. The officers approached [REDACTED] to conduct a street stop, at which point [REDACTED] made “a quick motion with his arms to the side, which is consistent with officers’ knowledge of possibly discarding an item” and immediately fled on foot. [REDACTED] ignored numerous verbal commands to stop. [REDACTED] eventually ran into a yard and Officer [REDACTED] performed an emergency takedown. Officers [REDACTED] and [REDACTED] ordered [REDACTED] to give them his hands, at which point [REDACTED] stiffened up. Officer [REDACTED] used knee strikes and hand stuns to eventually gain control of [REDACTED] hands and place him into custody. Officers [REDACTED] and

²⁸ Att. 12.

²⁹ Att. 10.

█████ backtracked to the original location where █████ had been standing and recovered one plastic bag containing a .1 grams of white powder-like substance suspect heroin. █████ was searched and transported for processing. █████ had no complaint of injury and refused medical attention.

An **Arrest Report**³⁰ and an **Investigatory Stop Report**³¹ were also completed by Officer █████ and contained the same information as included in the Original Case Incident Report.

An **Initiation Report**³² states that █████ complained that Officer █████ “used excessive force” when striking him in the ribs during the course of his arrest.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proven by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

VII. ANALYSIS

³⁰ Att. 11.

³¹ Att. 16.

³² Att. 8.

a. Allegation that Officer ██████ threw ██████ to the ground without justification is Exonerated.

After reviewing the body worn camera footage, the TRR and Arrest Report, COPA finds that what ██████ describes as being thrown to the ground by Officer ██████ is actually a takedown, as described in General Order G03-02-01(IV)(B)(2).³³ Since ██████ had fled from police and was still trying to escape at the time Officer ██████ took him down, ██████ was an Active Resister. When faced with an Active Resister, officers are authorized to conduct a takedown. Therefore, Officer ██████ was acting within policy when he took down ██████. COPA finds by clear and convincing evidence that this allegation is Exonerated.

b. Allegation that Officer ██████ called ██████ a “motherfucker” is Sustained.

Officer ██████ can clearly be heard yelling and calling ██████ a “motherfucker” multiple times on both officers’ body worn camera footage. Since calling a person a “motherfucker” is disrespectful in violation of Rule 8, COPA finds this allegation to be Sustained.

c. Allegation that Officer ██████ improperly deactivated his body worn camera is Sustained.

According to Special Order S03-14(III)(A)(2), an officer must activate his body worn camera “at the beginning of an incident and will record the entire incident for all law-enforcement-related activities.” Law-enforcement-related activities include, among other things, “searches, including searches of people, items, vehicles, buildings, and places” and “seizure of evidence”. In this case, Officer ██████ turned off his body worn camera after ██████ was placed in custody, but right before he began backtracking to search for anything ██████ may have dropped during the chase. When asked why he deactivated his camera prior to searching for evidence, Officer ██████ said he turned it off because “at that time [██████] was already in custody”.

During his interview with COPA, Officer ██████ admitted that the search for evidence constituted law-enforcement-related activity. This is consistent with the Special Order. Since the Special Order prohibits an officer from deactivating his body worn camera while still conducting law-enforcement-related activity, and Officer ██████ admittedly continued to engage in law-enforcement-related activity after deactivating his camera, COPA finds this allegation to be Sustained.

d. Allegation that Officer ██████ struck ██████ about the body without justification is Exonerated.

In his statement to COPA, ██████ alleges that Officer ██████ repeatedly punched and kneed ██████ about the body once he was already placed in handcuffs. The body worn camera footage, however, shows that Officer ██████ does not use any knee or hand strikes on ██████ once he is in handcuffs.

³³ A takedown is “the act of directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject”. See General Order G03-02-01(IV)(B)(2).

In his Tactical Response Report, Officer ██████ admits to using a knee strike and hand stuns in an attempt to gain control of ██████ who was resisting and ignoring verbal commands. This account is supported by Officer ██████ interview as well as the body worn camera footage.

Since ██████ actions classified him as an Active Resister, Officer ██████ was justified in using stunning techniques (including striking and slapping), pursuant to General Order G03-02-01(IV)(B)(2). As such, COPA finds this allegation to be Exonerated.

e. Allegation that Officers ██████ and ██████ stopped ██████ without justification is Not Sustained.

An Investigatory Stop can be made when an officer has reasonable articulable suspicion that the person is committing, is about to commit, or has committed a criminal offense. In this case, Officers ██████ and ██████ stated that they initially attempted to stop ██████ because he was standing in the road impeding the flow of traffic. It is a violation of the Municipal Code of Chicago to obstruct or interfere with traffic.³⁴

██████ denies that he was in the road. ██████ insists that he was along the side of the curb behind a parked vehicle. COPA was unable to locate any witnesses or third party video footage to verify one way or another. In-car camera did not exist for the officers' vehicle and the officers' body worn camera footage does not capture anything prior to the stop. Therefore, COPA finds that there is insufficient evidence to determine whether ██████ was in fact obstructing traffic. COPA finds this allegation to be Not Sustained.

f. Allegation that Officers ██████ and ██████ arrested ██████ without justification is Exonerated.

An officer may arrest an individual when, based on the totality of the circumstances, the officer has probable cause to believe that the person apprehended has committed a crime. In the Arrest Report, it states that Officer ██████ and ██████ initially stopped ██████ because he was impeding traffic. Once they approached ██████ and he ran, Officer ██████ stated that she saw ██████ make a quick motion with his arms to the side. When Officers ██████ and ██████ caught up with ██████ and Officer ██████ took ██████ down, ██████ resisted while the officers attempted to place him in handcuffs. This struggle can be seen and heard on body worn camera.

██████ denies that he was ever in the street or obstructing traffic. COPA already found that, based on available evidence, it cannot be determined by a preponderance of the evidence whether or not ██████ was in fact obstructing traffic. However, just because a stop may not be justified does not mean that a resulting arrest is not justified.

In this case, ██████ was arrested for Resisting/Obstructing a Police Officer, Obstructing Traffic, and Assault. Since the body worn camera footage supports both officers' statements that ██████ was resisting while being placed in handcuffs, COPA find probable cause existed to arrest

³⁴ MCC 9-80-180.

██████████. As such, COPA need not determine if Officers ██████████ and ██████████ had any additional justification for arresting ██████████. COPA recommends that this allegation be Exonerated.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS³⁵

a. Officer ██████████

i. Complimentary and Disciplinary History

Officer ██████████ Complimentary History consists of 64 awards, including 51 Honorable Mention, 3 Complimentary Letters and 1 Department Commendation. Officer ██████████ has no prior disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. 3

Officer ██████████ admitted that his language was not appropriate and further, admitted to ██████████ the night of the incident that he was angry he had to get physical with ██████████. While not appropriate ██████████ emotions got the best of him. COPA recommends a reprimand.

2. Allegation No. 6: Violation Noted

IX. CONCLUSION

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

Officer	Allegation	Finding
Officer ██████████	<p>It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer ██████████:</p> <ol style="list-style-type: none"> 1. Threw ██████████ to the ground without justification in violation of Rules 2 and 9. 2. Struck ██████████ about the body without justification in violation of Rules 2 and 9. 3. Called ██████████ a "Motherfucker" in violation of Rule 8. 4. Stopped ██████████ ██████████ without justification in violation of Rules 2 and 6. 5. Arrested ██████████ ██████████ without justification in violation of Rules 2 and 6. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p>

³⁵ Only include this section for investigations with at least one sustained allegation.

	6. Improperly deactivated his Body Worn Camera in violation of Rule 6.	Sustained
Officer [REDACTED]	It is alleged that on March 28, 2018 at approximately 2:35p.m., at or near 2909 W. Warren Boulevard, Chicago, Illinois, Officer [REDACTED]: 1. Stopped [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6. 2. Arrested [REDACTED] [REDACTED] without justification in violation of Rules 2 and 6.	Not Sustained Exonerated

Approved:

[REDACTED]

March 31, 2020

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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