

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 1, 2019
Time of Incident:	7:38 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	June 4, 2019
Time of COPA Notification:	9:23 am

Officers [REDACTED] and [REDACTED] were in the alley standing near their CPD vehicle conducting a narcotics investigation when Mr. [REDACTED] approached them. [REDACTED] attempted to pass the officers, but their vehicle and actions were blocking part of the alley. Officer [REDACTED] informed [REDACTED] that he could not pass, and that [REDACTED] could wait until they completed their investigation or find an alternative path. [REDACTED] responded by attempting to push past the vehicle and pushed the open passenger door closed with his bicycle. Officer [REDACTED] again advised [REDACTED] that he could not pass and if he continued his attempts he would be arrested. [REDACTED] again attempted to push past the officers and vehicle. [REDACTED] was arrested, transported to the [REDACTED] District Station and processed.

During his statement to COPA [REDACTED] alleged that he was falsely arrested, and several Department members failed to respond to his request for medical treatment. During our investigation COPA determined that the allegations are **exonerated**.

II. INVOLVED PARTIES

Involved Sergeant #1:	Sergeant [REDACTED] / Star # [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 1990 / Unit: [REDACTED] / DOB: [REDACTED], 1964 / Male / White
Involved Officer #1:	Officer [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2014 / Unit: [REDACTED] / DOB: [REDACTED], 1985 / Male / White
Involved Officer #2:	Officer [REDACTED] / Star # [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2014 / Unit: [REDACTED] / DOB: [REDACTED], 1984 / Male / White.
Involved Officer #3:	Officer [REDACTED] / Star # [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2013 / Unit: [REDACTED] / DOB: [REDACTED], 1985 / Male / Hispanic

Involved Officer #4: Officer [REDACTED] / Star # [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2005 / Unit: [REDACTED] / DOB: [REDACTED], 1966 / Male / Hispanic

Involved Detention Aide #1: Detention Aide [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2005 / Unit: [REDACTED] / DOB: [REDACTED], 1966 / Male / Black

Involved Individual #1: [REDACTED] / DOB: [REDACTED], 1982 / Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	1. Failing to respond to Mr. [REDACTED] request for medical treatment, in violation no Rule 6.	Exonerated.
Officer [REDACTED]	1. Arresting Mr. [REDACTED] without justification, in violation of Rule 6. 2. Failing to respond to Mr. [REDACTED] requests for medical treatment, in violation of Rule 6.	Exonerated. Exonerated.
Officer [REDACTED]	1. Arresting Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
Officer [REDACTED]	1. Failing to respond to Mr. [REDACTED] request for medical treatment, in violation of Rule 6.	Exonerated.
Officer [REDACTED]	1. Failing to respond to Mr. [REDACTED] request for medical treatment, in violation of Rule 6.	Exonerated.
Detention Aide [REDACTED]	1. Failing to respond to Mr. [REDACTED] request for medical treatment, in violation of Rule 6.	Exonerated.

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 6: Prohibits disobedience to any order or directive, whether written or oral.
General Orders
1. G06-01-01 – Field Arrest Procedure – effective December 8, 2017 to current.
Special Orders

1. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

V. INVESTIGATION¹

a. Interviews

In a statement to COPA² on June 14, 2019, Mr. ██████ stated was headed to a restaurant at ██████ to pick up a food order. As he traveled down an alley towards the restaurant, he encountered a CPD vehicle and Officers ██████ and ██████ with a handcuffed male in the alley. ██████ asked Officer ██████ if he could pass but was told no and that he needed to “go around.”³ ██████ disregarded Officer ██████ instruction and attempted to pass the open door of the vehicle; however Officer ██████ grabbed ██████ bicycle told him to “go around.”⁴ Instead of changing his direction ██████ continued his attempts to pass the officers and vehicle. Officer ██████ informed ██████ he was interfering with an investigation.⁵ ██████ responds with “the hell with your investigation, I am just trying to feed my family” while attempting to get past the vehicle and the officers.⁶ Officer ██████ again ordered ██████ to take a different path.⁷ ██████ refused Officer ██████ order and again attempted to continue to pass the officers.⁸ Officer ██████ grabbed ██████ handcuffed him, placed him in the rear of a CPD vehicle, and he was transported to the ██████ District Station.⁹

Upon arrival at the station, ██████ asked Officer ██████ for medical attention and was told he would not receive medical attention until he entered the station. Additionally, ██████ informed an officer that his handcuffs were too tight and causing him pain. An unidentified officer attempted to loosen the handcuffs; however, was unable to and asked ██████ to exit the vehicle so the handcuffs can be loosened. ██████ refused to exit the vehicle until he received medical attention. The officers, left ██████ in the rear of the vehicle for 2-hours. Upon the officers’ return, ██████ exited the vehicle, entered Lockup and threw himself to the ground all the while demanding medical attention. ██████ was informed, by Detention Aide ██████ that he would not receive medical attention until after he was processed. ██████ was placed in a holding cell for more than 10-hours and was never provided medical treatment.

██████ explained he did not seek an alternate path, because he wanted to take the shortest route to the restaurant, which was directly down the alley. ██████ explained he suffers from hypertension and asked for medical attention to ensure that his blood pressure was checked, and that he would receive his medication. ██████ alleged that the members’ actions in this incident are a result of an interaction with Department members that occurred on May 28, 2019.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Atts. 8 and 9.

³ Att. 8 at 04:15.

⁴ Att. 8 at 04:30.

⁵ Att. 8 at 14:45.

⁶ Att. 8 at 14:55.

⁷ Att. 8 at 15:05.

⁸ Att. 8 at 15:10.

⁹ Att. 8 at 05:00.

b. Digital Evidence

Body Worn Camera¹⁰ (BWC) footage and **In-Car Camera**¹¹ (ICC) footage details the officers actively conducting a narcotics investigation in the alley on the passenger side of their parked vehicle when [REDACTED] approaches on a bicycle.¹² Officers [REDACTED] informs [REDACTED] to “go around” and Officer [REDACTED] tells [REDACTED] “to get out of here.”¹³ [REDACTED] responds by excusing himself and attempting to force his way past the CPD vehicle.¹⁴ Officer [REDACTED] grabs [REDACTED] bicycle while telling [REDACTED] he needs to turn around.¹⁵ [REDACTED] explains that he is attempting to go to a restaurant and that officers are not permitted to block his path.¹⁶ Officer [REDACTED] informs [REDACTED] that he is interfering with their investigation and needs to take a different path or he may be arrested.¹⁷ Officer [REDACTED] orders [REDACTED] to back up.¹⁸ [REDACTED] does not comply and tells Officer [REDACTED] to “call your sergeant and tell him I’m tryin’ to go to the restaurant.”¹⁹ Officer [REDACTED] grabs [REDACTED] left arm, and handcuffs him while informing [REDACTED] that he is interfering with an investigation. [REDACTED] explains that he does not care about the investigation.²⁰ [REDACTED] asks why he is being arrested and Officer [REDACTED] explains he is interfering with an investigation.²¹ Officer [REDACTED] searches [REDACTED]²² during which [REDACTED] asks Sergeant [REDACTED] if he was the sergeant, which Sgt. [REDACTED] confirms. [REDACTED] makes no further attempts to speak to Sgt. [REDACTED]²³ As Officer [REDACTED] is searching [REDACTED] requests his name and star number. Officer [REDACTED] provides his name and points to and identifies his star number, which [REDACTED] recites.²⁴ [REDACTED] is escorted to a marked CPD vehicle and placed in the rear seat.²⁵

Once in the vehicle, [REDACTED] is transported to the [REDACTED] District Station. While being transported, [REDACTED] protests his arrest but does not request medical treatment.²⁶

Upon arrival at the station, Officer [REDACTED] asks [REDACTED] to exit the vehicle; however, he refuses and asks for an ambulance.²⁷ Officer [REDACTED] informs [REDACTED] that medical treatment can be requested inside the station.²⁸ Officer [REDACTED] walks away from

¹⁰ Atts. 18 to 26 and 30.

¹¹ Atts. 27 and 28.

¹² The CPD was parked in the alley with the doors open. The positioning of the vehicle essentially made the alley impassable. Additionally, the officers are clearly identifiable as peace officers. Att. 18 at 02:15 and Att. 19 at 02:18

¹³ Att. 18 at 02:18 and Att. 19 at 02:18.

¹⁴ Att. 19 at 02:22.

¹⁵ Att. 19 at 02:24.

¹⁶ COPA notes that during this exchange, citizens are depicted passing the CPD vehicle on the driver’s side without issue. Att. 19 at 02:28

¹⁷ Att. 19 at 02:30.

¹⁸ Att. 19 at 02:38.

¹⁹ Att. 19 at 02:42.

²⁰ Att. 19 at 02:47.

²¹ Att. 19 at 03:08.

²² Att. 19 at 04:40.

²³ Att. 19 at 04:43.

²⁴ Att. 19 at 04:54.

²⁵ Att. 19 at 08:30.

²⁶ Att. 26 from 02:30 to 10:31.

²⁷ Att. 26 at 10:58.

²⁸ Att. 26 at 11:10.

the vehicle, approaches Officer [REDACTED] informs him that [REDACTED] does not want to get out of the vehicle.²⁹ Officer [REDACTED] approaches the vehicle and asks [REDACTED] to exit. [REDACTED] again requests medical treatment and complains his handcuffs are too tight.³⁰ Officer [REDACTED] attempts to loosen [REDACTED] handcuffs; however, [REDACTED] refuses to exit the vehicle or allow Officer [REDACTED] access to the handcuffs.³¹ Officer [REDACTED] asks [REDACTED] if he wants the handcuffs loosened, and [REDACTED] informs him he does not.³² [REDACTED] requests that Officer [REDACTED] contact his attorney, to which Officer [REDACTED] offers [REDACTED] access to the telephone inside the station.³³ [REDACTED] again refuses to exit the vehicle and requests an ambulance.³⁴ Officer [REDACTED] explains to [REDACTED] that he must enter the station to receive medical treatment.³⁵ [REDACTED] explains he will remain in the vehicle until a supervisor comes and tells him he has to enter the station to receive medical treatment.³⁶ Officer [REDACTED] closes the door and walks away from the vehicle and appears to place a phone call.³⁷ Officer [REDACTED] returns to the vehicle and informs [REDACTED] that he has called his sergeant, who is on the way.³⁸ Officer [REDACTED] closes the vehicle door, walks away, and informs Officer [REDACTED] and [REDACTED] that he is going to complete [REDACTED] arrest paperwork and that Sgt. [REDACTED] is on his way.³⁹ Sgt. [REDACTED] arrives at the vehicle and requests [REDACTED] to exit the vehicle.⁴⁰ [REDACTED] refuses to exit the vehicle and requests medical attention.⁴¹ Sgt. [REDACTED] acknowledges the request and informs [REDACTED] that he needs to come inside to receive treatment.⁴² [REDACTED] finally exits the vehicle under his own power and walks into the station.⁴³

At no point does any Department member tell [REDACTED] he cannot receive medical treatment, rather he is told that he needed to enter the District Station to be provided with medical treatment. Additionally, during the interaction at the station [REDACTED] reasons for requesting medial treatment were arm pain from the handcuffs, weak and swollen legs, shortness of breath, and fear of being attacked in Lockup or the county jail. At no time did [REDACTED] ever display any signs of injury or distress during the entire interaction.

c. Documentary Evidence⁴⁴

[REDACTED] Arrest Report⁴⁵ and an Original Case Incident Report⁴⁶ detail that while the officers were investigating an unrelated criminal incident, [REDACTED] approached the officers and

²⁹ Att. 26 at 13:33.

³⁰ Att. 26 at 11:56 and 13:38.

³¹ Att. 26 at 12:13.

³² Att. 26 at 12:11.

³³ Att. 26 at 13:07.

³⁴ Att. 26 at 13:24.

³⁵ Att. 26 at 14:25.

³⁶ Att. 26 at 14:32.

³⁷ Att. 26 at 14:45.

³⁸ Att. 26 at 16:27.

³⁹ Att. 26 at 18:30.

⁴⁰ Att. 26 at 26:35.

⁴¹ Att. 26 at 28:13.

⁴² Att. 26 at 23:14.

⁴³ Att. 26 at 32:45.

⁴⁴ An Investigatory Stop Report and Arrest Report were generated to document the criminal investigation [REDACTED] was interfering with. Atts. 2 and 3.

⁴⁵ Att. 1.

⁴⁶ Att. 4.

attempted to pass the officers causing interference with the ongoing investigation. ██████ was informed that he would not be permitted to pass and that he needed to wait until the officers completed their investigation or take a different path to get past the officers. ██████ did not comply with the instruction and instead pushed the passenger door of the CPD vehicle closed with the front wheel of his bicycle. ██████ was again informed he was interfering with an ongoing criminal investigation and that he needed to leave the area, or he would be arrested. ██████ refused to leave and was arrested and charged with obstructing a peace officer in performance of their official duties. ██████ bicycle was impounded. ██████ and his bicycle were transported to the ██████ District Station. ██████ arrest report details that he had no visible signs or complaints of injury, pain, or infection and that he did not disclose any medical conditions.⁴⁷ Finally, ██████ arrest report details that ██████ was not taking any medication for any medical conditions.⁴⁸

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 occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

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

VII. ANALYSIS

a. Arrest

⁴⁷ Att. 1, pg. 4.

⁴⁸ Att. 1, pg. 4.

COPA finds that Allegations #1 against Officers [REDACTED] and [REDACTED] are **exonerated**. An officer must have probable cause to arrest a subject.⁴⁹ Probable cause exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it.⁵⁰ In Illinois “[a] person who knowingly resists or obstructs the performance by one known to the person to be a peace officer ... act[ing] within his or her official capacity commits a ... misdemeanor.”⁵¹

Here, it is undisputed that Officers [REDACTED] and [REDACTED] were readily identifiable as police officers and were acting in their official capacity when [REDACTED] approached and attempted to pass the officers. Further, it is undisputed that [REDACTED] was informed, numerous times, by both Officer [REDACTED] and [REDACTED] that he needed to wait until they were done completing their investigation or find an alternate path because his attempts to pass were interfering with their investigation. [REDACTED] refused either suggestion and instead repeatedly attempted to pass the officers. Therefore, the decision to arrest and charge [REDACTED] with obstruction was reasonable and based on probable cause.

b. Request for Medical Treatment

COPA finds that Allegation #1 against Sgt. [REDACTED] Officers [REDACTED] and [REDACTED] and Detention Aide [REDACTED] and Allegation #2 against Officer [REDACTED] are **exonerated**. Only inattention to serious injury, or signs of serious injury amount to a constitutional violation.⁵² Additionally, courts have held that an objectively serious medical need is “one that has been diagnosed by a physician as a mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor’s attention.”⁵³ Further, Department members are only required to transport arrestees who require *immediate* medical care to the nearest emergency room.⁵⁴

Here, despite [REDACTED] request for medical attention, there were no indications that he required *immediate* treatment. Further, [REDACTED] actions, in their totality, demonstrate that he did not require immediate medical care: (a) actions immediately prior to his arrest, riding a bicycle; (b) self-admitted need for treatment was related to a pre-existing medical issue, specifically hypertension; (c) arrest, during which the only force used was handcuffing; (d) refusal to allow officers to assist in loosening his handcuffs, despite that being one of the many justifications he was requested medical treatment; (e) lack of shortness of breath, despite his claims to the contrary; (f) his ability to walk unassisted from the CPD into the station, despite his claim his legs were weak and swollen; and (g) the overall lack of any visible injuries or trauma. Based on the above,

⁴⁹ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964).

⁵⁰ S04-13-09 II(D).

⁵¹ 720 ILCS 5/31-1(a).

⁵² *Davis v. Jones*, 936 F.2d 971, 972 (7th Cir. 1991); *Martin v. Tyson*, 845 F.2d 1415, 1457 (7th Cir. 1988); *Matzker v. Herr*, 748 F.2d 1142, 1147 n.3 (7th Cir. 1984).

⁵³ *Zentmyer v. Kendall County, Ill.*, 220 F.3d 805, 801 (7th Cir. 2000), citing *Gutierrez v. Peters*, 111 F.3d 1364, 1373 (7th Cir. 1997.)

⁵⁴ G06-01-01 (IX)(A) (emphasis added.)

COPA finds that despite ██████ request for treatment, the members' response was reasonable, proper and in accordance with Department policy; therefore, the allegations are **exonerated**.^{55 56}

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant ██████	1. Failing to respond to Mr. ██████ request for medical treatment, in violation no Rule 6.	Exonerated.
Officer ██████	1. Arresting Mr. ██████ without justification, in violation of Rule 6. 2. Failing to respond to Mr. ██████ requests for medical treatment, in violation of Rule 6.	Exonerated. Exonerated.
Officer ██████	1. Arresting Mr. ██████ without justification, in violation of Rule 6.	Exonerated.
Officer ██████	1. Failing to respond to Mr. ██████ request for medical treatment, in violation of Rule 6.	Exonerated.
Officer ██████	1. Failing to respond to Mr. ██████ request for medical treatment, in violation of Rule 6.	Exonerated.
Detention Aide ██████	1. Failing to respond to Mr. ██████ request for medical treatment, in violation of Rule 6.	Exonerated.

Approved:

████████████████████
████████████████████

4/29/30

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

⁵⁵ COPA notes that no Department member refused ██████ request for medical treatment, but instead informed ██████ that he would receive treatment once inside the station.

⁵⁶ COPA determined that accused officer interviews were not necessary, due to the known facts supporting a finding of exoneration.

Appendix A

Assigned Investigative Staff

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