

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 29, 2019
Time of Incident:	1:49 AM
Location of Incident:	4400 W. Diversey/ [REDACTED]
Date of COPA Notification:	September 3, 2019
Time of COPA Notification:	7:41 AM

On August 29, 2019, the complaint, [REDACTED] (“[REDACTED]”), was subjected to a traffic stop, when Officer [REDACTED] (“Officer [REDACTED]”) and Officer [REDACTED] (“Officer [REDACTED]”) learned he had a suspended driver’s license. [REDACTED] was taken to the police station and his vehicle was impounded. [REDACTED] alleged that he was handcuffed too tightly, causing injury to his wrist. After interviewing [REDACTED] and reviewing relevant evidence, including Body Worn Camera (“BWC”), COPA determined [REDACTED] allegations were Exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2017, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1991, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2018, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1991, Female, Hispanic
Involved Individual #1:	[REDACTED], Date of Birth: [REDACTED], Male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	On August 29, 2019, at approximately 1:49 AM, at or near 4400 W. Diversey, Officer [REDACTED] committed misconduct through one or more of the following acts or omissions: 1. Cited [REDACTED] for driving without insurance without justification.	Exonerated

	<p>On August 29, 2019, at approximately 2:30 AM, at or near the Chicago Police Department's [REDACTED] District, located at [REDACTED], Officer [REDACTED] committed misconduct through one or more of the following acts or omissions:</p> <p>2. Handcuffed [REDACTED] too tightly.</p>	<p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>On August 29, 2019, at approximately 1:49 AM, at or near 4400 W. Diversey, Officer [REDACTED] committed misconduct through one or more of the following acts or omissions:</p> <p>1. Cited [REDACTED] for driving without insurance without justification.</p> <p>2. Handcuffed [REDACTED] too tightly.</p>	<p>Exonerated</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. **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.
2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
3. **Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. **G03-02:** Use of Force.
 2. **G03-02-01:** Force Options.
-

V. INVESTIGATION¹**a. Interviews²**

██████████ (“██████████”)³

COPA interviewed ██████████ on September 6, 2019. On August 29, 2019, ██████████ was driving his truck with two acquaintances when officers pulled ██████████ over for driving without headlights.⁴ ██████████ provided his license and insurance to Officer ██████████ and told the officer his insurance information was in his window. Officer ██████████ told ██████████ his license was expired, removed ██████████ from the vehicle, and Officer ██████████ handcuffed him. ██████████ told COPA that that he later learned his identity was being used by his cousin, which had caused ██████████ license to be suspended. Per ██████████, his left wrist hurt slightly when Officer ██████████ initially cuffed him, and the handcuffs were uncomfortable as he was transported to the police station. Once at the station, Officer ██████████ uncuffed ██████████ right hand, cuffed ██████████ left hand to a bar, and tightened the cuff. After about 15 minutes, Officer ██████████ removed ██████████ handcuff and ██████████ wrist was purple. ██████████ denied that his wrist hurt prior to this and related that this was because he was too upset to notice.⁵ ██████████ posted bond then returned to his vehicle via a Lyft. The arresting officers were already at ██████████ vehicle, waiting for a tow truck. ██████████ and his acquaintances removed boxes from ██████████ truck. ██████████ acquaintances took a Lyft, and ██████████ took a walk. After the walk, ██████████ had his father pick him up and his father brought him to ██████████ l.⁶ ██████████ told COPA that he did not tell the officers about his wrist, but he believed Officer ██████████ saw his wrist at the station.⁷

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 Officer ██████████ and Officer ██████████ were not interviewed at this time, as BWC unfounded the present allegations and interviews were rendered unnecessary.

³ Att. 15

⁴ COPA identified the male acquaintance as ██████████, born ██████████ (Att. 28). ██████████ related his female acquaintance is named ██████████, but the name she gave to Officer ██████████ and Officer ██████████ was “██████████.”

⁵ During his COPA interview, ██████████ related that he noticed his wrist was purple and swollen right after he was uncuffed, but also that he did not notice he was injured until after he left the police station (see approximately 5:31, 16:45, 18:20, 19:20, and 25:11 minute marks of ██████████ COPA interview [Att. 15]).

⁶ ██████████ COPA interview was inconsistent as to whether ██████████ walked all the way home, or if he had his father pick him up mid-walk (see approximately 7:08 and 21:30 minute marks of ██████████ COPA interview [Att. 15]).

⁷ While ██████████ denied telling the officers about his injury, he also alleged that he asked Officer ██████████ to go to the hospital upon his release on bond, and Officer ██████████ denied the request (see approximately 6:08 minute mark of ██████████ COPA interview [Att. 15]).

b. Digital Evidence

The following relevant body worn camera (“BWC”) and in car camera (“ICC”) footage was obtained pertaining to [REDACTED] allegations.

*Officer [REDACTED] and Officer [REDACTED]*⁸

The officers approached [REDACTED] pickup truck at about 1:50 AM. Officer [REDACTED] told [REDACTED] he needed his headlights on, and [REDACTED] related his proof of insurance was an item on his windshield. The officers returned to their squad car shortly after and learned [REDACTED] license was suspended. The officers again approached [REDACTED] and ordered him out of the vehicle. Officer [REDACTED] handcuffed [REDACTED] behind his back at approximately 1:55 AM and Officer [REDACTED] performed a pat down, before [REDACTED] was escorted to the squad car.

The officers drove from the scene at about 2:18 AM with [REDACTED]. While escorting [REDACTED] into the [REDACTED] District, his fists were clenched, and he seemed to have tension in his arms as he walked. His hands were red/purple and seemed to be swelling (see photo 1 below, from Officer [REDACTED] BWC).⁹ [REDACTED] was very upset that his truck was being impounded. At approximately 2:28 AM, Officer [REDACTED] uncuffed [REDACTED] right hand and handcuffed [REDACTED] left hand to a metal bar.

Both officers’ BWC resumed at roughly 3:26 AM, while waiting by [REDACTED] truck, along with [REDACTED] and his two acquaintances. [REDACTED] argued with Officer [REDACTED] and Officer [REDACTED] accused [REDACTED] of trying to remove the Tow Notice sticker. [REDACTED] was seen moving boxes from his truck. A car arrived and all three civilians left in it.

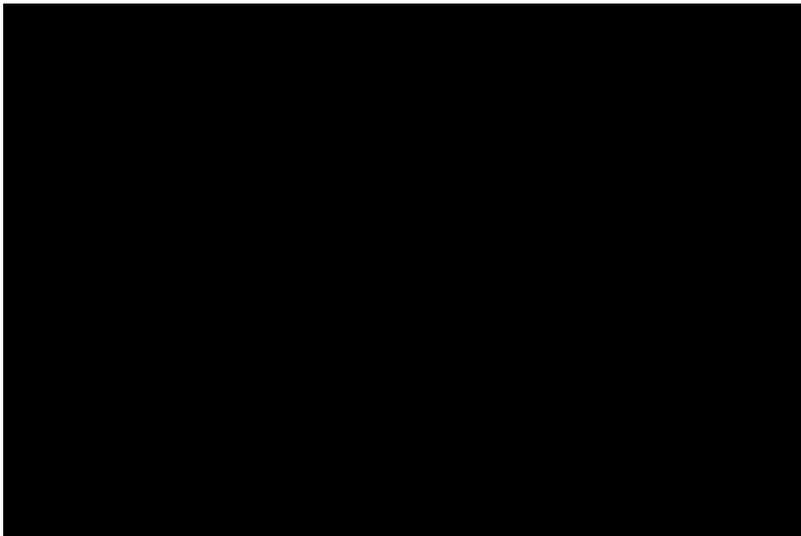


Photo 1

⁸ Atts. 18, 19, 20, 21, 22, 23

⁹ Approximately 7:26:10Z timestamp of Officer [REDACTED] BWC.

ICC - Officer ██████ and Officer ██████¹⁰

The ICC for the vehicle occupied by Officers ██████ and ██████ began and ██████ drove past the officers in his truck shortly after. The officers performed their stop and took ██████ into custody.

Photographs

A COPA Evidence Specialist took photographs of ██████ on September 6, 2019.¹¹ ██████ left arm was in bandages spanning from his thumb, to just below his wrist. No obvious injury, bruising, redness, etc. was visible in these photos.

██████ also provided COPA with photos that he took related to his allegations.¹² The photos showed CPD Car # ██████, Officer ██████, Officer ██████, ██████ left wrist (see photo 2 below), and ██████ proof of insurance (see photo 3 below).

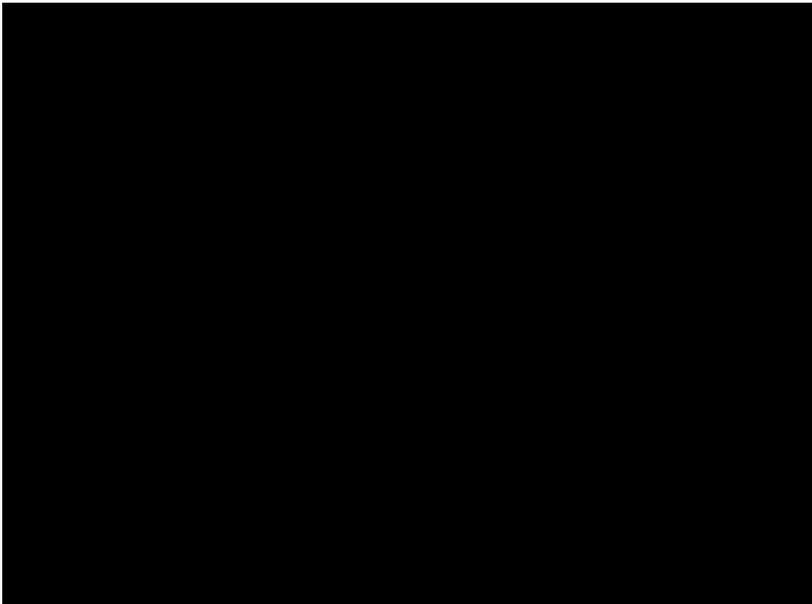


Photo 2

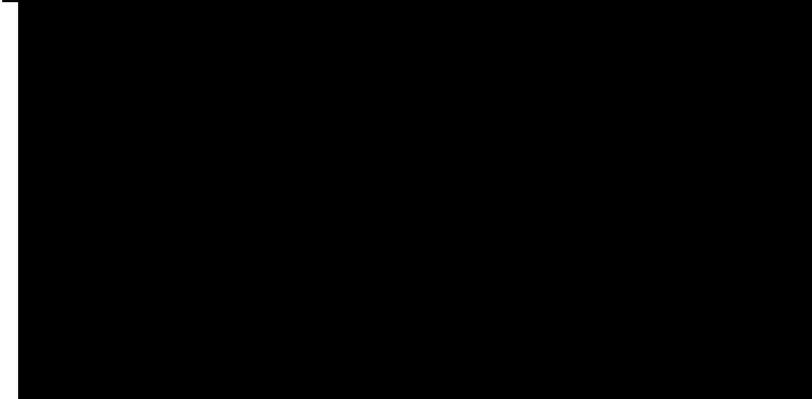


Photo 3

¹⁰ Att. 24

¹¹ “Photographs taken by Evidence Specialist ██████,” #1 – 26.

¹² “██████ provided photographs,” #1 – 7.

c. Physical Evidence

Medical Records

██████████ provided COPA with Discharge Instructions related to his treatment at ██████████ ██████████ on August 29, 2019.¹³ ██████████ arrived at the hospital at about 5:41 AM. Upon discharge, ██████████ was instructed to seek a hand surgeon within one – three days, for a scaphoid fracture and wrist pain/swelling.

COPA also obtained ██████████ medical records from ██████████ ██████████.¹⁴ The reason for ██████████ visit on August 29, 2019 was pain and swelling on his wrist. X-rays were done on ██████████ left wrist and hand, with a finding of “[s]oft tissue swelling about the wrist and proximal hand,” and “[n]o evidence of acute fracture or gross malalignment.” ██████████ was advised to follow up with ██████████, a hand surgeon, due to a possible scaphoid fracture. ██████████ medical history included diabetes, heart failure, hypertension, liver failure, and high cholesterol. ██████████ told hospital staff “that he was in handcuffs earlier that were on too tight,” and when the cuffs were removed, ██████████ “had a lot of pain to his left wrist, mostly around his left thumb.”

A representative from ██████████ office related that they had no record of ██████████, and ██████████ told COPA in a September 26, 2019 phone call that he had not received follow-up treatment for his wrist, and he would notify COPA if he did.¹⁵

d. Documentary Evidence

*Traffic Citations*¹⁶

██████████ was cited for driving without headlights, driving on a suspended or revoked driver’s license, and operating an uninsured motor vehicle. ██████████ was stopped near 4400 W. Diversey at approximately 1:49 AM, for not having two headlights illuminated.¹⁷

Office of Emergency Management and Communications (“OEMC”) – Event Query Reports

Event Number ██████████ was initiated on August 29, 2019 at about 1:49 AM, with Beat ██████████ reporting a traffic stop near 4400 W. Diversey.¹⁸ At approximately 1:52 AM, the officers searched ██████████ driver’s license, in addition to ██████████ driver’s license and the name “██████████.” At roughly 2:18 AM, Beat ██████████ reported going to the ██████████ District with one subject for a traffic bond violation. The event was closed at about 3:19 AM.

¹³ Att. 9

¹⁴ Att. 26

¹⁵ See Investigator Notes

¹⁶ Att. 30

¹⁷ Att. 14

¹⁸ Att. 8

Event Number [REDACTED] initiated at about 3:31 AM on August 29, 2019, with a disturbance reported at 4400 W. Diversey.¹⁹ Beat [REDACTED] cleared and closed the call at approximately 4:27 AM.

*Tow Report*²⁰

[REDACTED] was driving a white [REDACTED] bearing [REDACTED] license plates [REDACTED]. The vehicle was towed from 4400 W. Diversey Ave., after officers stopped [REDACTED] for driving with no headlights and learned that he had a suspended license. The vehicle was owned by [REDACTED], who was notified on August 30, 2019 that the vehicle was impounded. The vehicle was released to [REDACTED] on August 31, 2019, after he paid roughly \$1,210 in fees and fines.

*Initiation Report*²¹

[REDACTED] told Sergeant [REDACTED] that on August 29, 2019, at approximately 3:30 AM, Officer [REDACTED] and Officer [REDACTED] arrested [REDACTED] and brought him to the [REDACTED] District. [REDACTED] asserted that he was handcuffed behind his back and did not experience pain or discomfort during transportation. Once at the [REDACTED] District, Officer [REDACTED] handcuffed [REDACTED] left hand to a metal bar. [REDACTED] reported, "that he was in custody in [REDACTED] for not more than 20 minutes and experienced neither pain nor discomfort due to the handcuffing and he did not alert any Department member of any issue with the handcuffing." [REDACTED] received a traffic citation for driving on a suspended license, posted bond, and left. While exiting the station, [REDACTED], "observed marks on his left wrist and began to experience discomfort," and he "immediately sought medical attention at [REDACTED], where he was treated for an injury to his left hand." Sergeant [REDACTED] noted that [REDACTED] was "wearing a cast and a bandage on his left wrist and hand."

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.

¹⁹ Att. 27

²⁰ Att. 25

²¹ Att. 3

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

Allegation 1

Allegation 1 against Officer [REDACTED] and Officer [REDACTED], that they cited [REDACTED] for driving without insurance without justification, is unfounded. While [REDACTED] told COPA that he provided insurance to the officers, this claim is not supported by BWC. Additionally, the proof of insurance [REDACTED] provided to COPA fails to include all details necessary to confirm its validity, including vehicle information. Per BWC, [REDACTED] never provided the officers with any insurance, aside from stating something on his windshield was his proof of insurance. When Officer [REDACTED] was speaking with his partner, he did not know what this supposed document was, and the officers joked that it was not proof of insurance and did not include a policy number. Based on Illinois motor vehicle code, drivers must carry proof of insurance that, "shall be legible and sufficient to demonstrate that the motor vehicle currently is covered by a liability insurance policy as required." [REDACTED] generally asserted that something in his windshield was proof of insurance, but he failed to produce sufficient insurance documentation. As such, the officers were justified in issuing [REDACTED] a citation for no insurance, and this allegation is Unfounded.

Allegation 2

The allegations that Officer [REDACTED] handcuffed [REDACTED] too tightly when [REDACTED] was arrested and that Officer [REDACTED] handcuffed [REDACTED] too tightly at the police station are unfounded. For Officer [REDACTED], both officers' BWC captured her handcuffing [REDACTED]. Officer [REDACTED] was not seen doing anything excessive or inappropriate, and [REDACTED] never complained that he was in pain or that the cuffs were too tight. In fact, Officer [REDACTED] advised [REDACTED] to stop moving during the handcuffing, explicitly so she would not injure him. With regards to Officer [REDACTED], his BWC showed him handcuffing [REDACTED] left hand to a bar at the police station. As with Officer [REDACTED], Officer [REDACTED] did not do anything excessive or inappropriate, and [REDACTED] never complained that he was in pain or the cuffs were too tight. Before Officer [REDACTED] did this, [REDACTED] hands were already swollen and discolored. It appeared that [REDACTED] was pulling his hands/shoulders/arms so that the cuffs were taut between his wrists as he was escorted into the station, meaning his injuries were possibly self-inflicted. Additionally, medical records indicate [REDACTED] has chronic health conditions that can affect his blood circulation and aggravate swelling,

Approved:



February 25, 2020

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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