

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 1, 2019
Time of Incident:	11:54 PM
Location of Incident:	160 W. 75 th St.
Date of COPA Notification:	September 19, 2019
Time of COPA Notification:	4:33 PM

On September 1, 2019 [REDACTED] (“[REDACTED]”) was arrested for driving under the influence (“DUI”), traffic infractions, and driving on a revoked driver’s license. [REDACTED] alleged to COPA that he was stopped, arrested, and charged with a DUI without justification. He also alleged that an officer used excessive force. Body Worn Camera (“BWC”) video footage refuted [REDACTED] narrative, and all allegations are Exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee # [REDACTED], Date of Appointment: [REDACTED], 2012, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1985, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED] Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2013, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1987, Male, White
Involved Officer #3:	[REDACTED], Star # [REDACTED], Employee # [REDACTED], Date of Appointment: [REDACTED], 2016, Police Officer, [REDACTED] District, Date of Birth: [REDACTED], 1991, Male, White
Involved Officer #4	[REDACTED], Star # [REDACTED], Employee # [REDACTED], Date of Appointment: [REDACTED], 2016, Police Officer, [REDACTED] th District, Date of Birth: [REDACTED], 1988, Male, White
Involved Individual #1:	[REDACTED], Date of Birth: [REDACTED], Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; and/or 3. Arrested [REDACTED] without justification, 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer [REDACTED]	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; and/or 3. Arrested [REDACTED] without justification, 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer [REDACTED]	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; 3. Arrested [REDACTED] without justification; 4. Grabbed [REDACTED] elbow; and/or 5. Grabbed [REDACTED] neck. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer [REDACTED]	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p>	

	1. Performed a traffic stop on [REDACTED] without justification;	Exonerated
	2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; and/or	Exonerated
	3. Arrested [REDACTED] without justification.	Exonerated

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.

Special Orders

1. **S04-08:** Driving While Under the Influence (DUI) and Zero Tolerance.
2. **S04-08-01:** DUI Investigations – Chemical Testing Procedures.

Federal Laws

1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

V. INVESTIGATION¹

a. Interviews²

[REDACTED]³

¹ The following is a summary of the material evidence gathered and relied upon in COPA’s analysis.

² No Department members were interviewed, as COPA was able to refute [REDACTED] allegations through body worn camera footage.

³ Att. 9

COPA interviewed the complainant [REDACTED] on September 19, 2019. [REDACTED] related that on September 1, 2019, he was about to park his motorcycle at 75th and Perry. [REDACTED] was waiting for his fiancé, [REDACTED] (“[REDACTED]”), when police arrived and told him he could not park there. Per [REDACTED], the street he was parked on, Perry, was a one-way going north, and the “No Parking” sign where he was parked was facing south. He was south of the sign and, therefore, believe he could park there. [REDACTED] pulled away but the officers remained behind [REDACTED]. [REDACTED] signaled with his hand that he was going to take a left-hand turn, and he pulled into a parking space on 75th St.⁴ When [REDACTED] got off his bike, the officers turned on their emergency lights. [REDACTED] related the officers stood very close to him and were talking over each other. An officer asked whose bike [REDACTED] was driving and who [REDACTED] was. [REDACTED] asserted the officers did not tell him why he was stopped. After about five or 10 minutes, an officer asked [REDACTED] who [REDACTED] is, and he said it was his fiancé and the motorcycle was registered to her. [REDACTED] told COPA that at this point, he gave his license to an officer. [REDACTED] began arguing with officers and thought the officers wanted to take his motorcycle. An officer then told [REDACTED] that his attitude indicated [REDACTED] was drunk. Per [REDACTED] he was confused because the officers were talking over each other. An officer asked [REDACTED] for his insurance, and before [REDACTED] had the opportunity to retrieve his insurance card, an officer grabbed [REDACTED] elbow and neck and said, “Do you think I’m fucking playing with you?”^{5 6} The officer released [REDACTED], and a supervisor, who had appeared, told [REDACTED] to calm down before laughing and walking off. An officer returned from the squad car (identified as Officer [REDACTED] via BWC), and announced [REDACTED] had a revoked driver’s license. [REDACTED] questioned how the officer learned that since the motorcycle is registered to [REDACTED]. Two officers then grabbed [REDACTED] and handcuffed him behind his back, and said he was arrested for running a stop sign, not using a left turn signal, and being drunk. [REDACTED] related that when he was handcuffed, an officer searched inside his pockets. Transport officers came, [REDACTED] was put in a squad car, and an officer drove his motorcycle. [REDACTED] was taken to the police station and went to court the next day. [REDACTED] denied that the officers offered a breathalyzer or any field sobriety tests, and he denied refusing said tests. Per [REDACTED], he did not know his license was revoked at the time. [REDACTED] believed he was being harassed and denied that he drinks alcohol or does drugs.

b. Digital Evidence

Body Worn Camera (“BWC”)

*Officers [REDACTED], [REDACTED], [REDACTED], and [REDACTED]*⁷

The officers’ BWC initiated on September 1, 2019 at approximately 11:48 PM as they approached [REDACTED]. Officer [REDACTED] and Officer [REDACTED] remained at a distance while Officers [REDACTED] and [REDACTED] spoke with [REDACTED]. [REDACTED] and his motorcycle were several feet from the curb on 75th St. The officers immediately asked [REDACTED] for license and insurance. [REDACTED] asked what the problem was, and Officer [REDACTED] responded that [REDACTED] was parked in a tow-zone and did not use his turn signal. At roughly 11:49 PM, Officer [REDACTED] asked [REDACTED] how much he had to drink, and

⁴ [REDACTED] elaborated that his motorcycle does not have turn signals.

⁵ Approximately 15:51 minute mark of [REDACTED] COPA interview.

⁶ [REDACTED] gave COPA inconsistent statements as to whether he was asked for his license and/or insurance.

⁷ Atts. “BWC and ICC”: 11, 13 - 20

█████ responded “none.” The officers continued asking █████ for his license and insurance, and █████ argued with the officers. At about 11:50 PM, █████ handed Officer █████ the vehicle registration, and the officers noted they did not ask for that. █████ argued with the officers that they should see he has SR-22 insurance when they ran his license plates. Then, at about 11:51 PM, █████ handed Officer █████ his ID and the officer noted, “Thank you for providing your Illinois identification card, and not your driver’s license.” At about 11:51 PM, Officer █████ went to the squad car and searched █████ information via in car computer. About a minute later, Officer █████ learned █████ had a revoked driver’s license and requested a transport vehicle. When Officer █████ asked for █████ to provide his SR-22 insurance, █████ continued arguing that he did not need to show proof of insurance. At roughly 11:53 PM, Officer █████ apparently terminated a phone call on █████ phone. At about 11:54 PM, a transport vehicle arrived. Officer █████ approached █████, and he and Officer █████ grabbed █████ arms. Officer █████ attempted to handcuff █████, who pulled away and argued with the officers. Once █████ was cuffed, Officer █████ got closer to █████. Based on Officer █████ BWC, Officer █████ grabbed the back of █████ neck with his right hand and the front of █████ shirt with his left hand. While doing this, Officer █████ told █████, “Do you think I’m kidding with you? Relax.”⁸ Officer █████ and another officer escorted █████ to a squad car, while a sergeant was present. █████ continued pulling away and yelling as he was escorted into a squad car. Officer █████ got █████ motorcycle keys from █████ pocket, and the officers terminated their BWCs at roughly 11:55 PM.

Officer █████ BWC resumed at approximately 12:31 AM on September 2, 2019 while at the police station. Officer █████ approached █████ in a holding cell. Officer █████ told █████ his license was revoked, which █████ denied. Officer █████ asked █████ if he wanted to participate in standardized field sobriety tests. Officer █████ elaborated that he thought █████ was intoxicated because of his attitude, odor, eyes, and speech. █████ did not want to participate and asserted the officer had no proof he was intoxicated. Officer █████ read █████ information the DUI charge and █████ seemed to fall asleep as the officer spoke. █████ refused to sign a document attesting that Officer █████ had provided him with said information. █████ then accused Officer █████ of conducting an “illegal search” of █████ “lock box.”⁹ Officer █████ responded that █████ vehicle was being impounded, so the officer could perform an inventory search.

*Officer █████*¹⁰

Officer █████ arrived on scene at approximately 11:54 PM and █████ was escorted to Officer █████ squad car. Officer █████ performed a pat down and Officer █████ removed keys from █████ pocket. █████ continued voicing his displeasure about the situation, and he was secured in the rear of Officer █████ squad car. Officer █████ remained on the street as Officer █████ attempted to start and drive █████ motorcycle. Officer █████ apparently drove away at about 12:04 AM. Officer █████ and his partner then returned to their squad car and drove off at roughly 12:05 AM. █████ continued complaining. They arrived at the police station at approximately 12:10 AM, as █████ was saying his girlfriend had given him an alcohol bottle to

⁸ Approximately T04:54:56Z timestamp of Officer █████ BWC.

⁹ Approximately T05:36:12Z timestamp of Officer █████ BWC.

¹⁰ Att. “BWC and ICC”: 12

put in his bag.¹¹ Officer ██████ terminated his BWC at about 12:12 AM, as he was bringing ██████ inside the police station.

c. Documentary Evidence

*Arrest Report*¹²

██████ was arrested on September 1, 2019, near 160 W. 75th St., at approximately 11:54 PM. ██████ was charged with felony aggravated driving under the influence (“DUI”)/no valid driver’s license. He received misdemeanor charges of driving under the influence of alcohol, driving on a revoked license, and driver’s license expired for over a year. ██████ also received traffic charges for operating an uninsured motor vehicle, parking prohibited, disregarding a stop sign, failing to signal, and improper traffic lane usage. The arresting officers saw ██████ motorcycle illegally parked near 7501 S. Perry and asked him to move. ██████ ignored the officers and about five minutes later, he drove from the “illegal parking spot,” ran a stop sign at 7500 S. Perry, and swerved “in and out of lane of traffic coming close to striking vehicles.” The officers stopped ██████ and asked for his license and insurance. ██████ “became belligerent and disregarded officer’s request.” Officers observed ██████ “had bloodshot/glassy/watery eyes, strong odor of an alcoholic beverages [sic], mumbled and confused speech, poor balance, aggressive and insulting attitude, and used profanities.” ██████ gave the officers an Illinois ID, but not proof of insurance. The officers learned, via name check, that ██████ had a revoked driver’s license and his license expired in June 2012. ██████ was taken to the █ District, where he refused chemical testing and standard field sobriety tests (“SFST”). ██████ ██████ was impounded.

*Office of Emergency Management and Communications (“OEMC”) – Event Query Report*¹³

Event Number ██████ initiated on September 1, 2019 at about 11:53 PM, with a traffic stop near 250 W. 75th St. Shortly after, officers ran ██████ information. It was reported that ██████ driver’s license was revoked on June 3, 2012. At approximately 12:05 AM on September 2, 2019, Beat ██████ reported going to the █ District with one subject. Officers also researched the motorcycle’s license plates, with were registered to ██████ at ██████. The event closed at about 5:25 AM.

*Tow & Impound*¹⁴

██████ motorcycle was impounded on September 2, 2019 at approximately 2:20 AM. Officer ██████ wrote that ██████ parked in a tow zone, disregarded a stop sign, failed to signal a turn, and failed to stay in his lane. ██████ provided his state ID and the officers learned his driver’s license was revoked. Officers observed ██████ “had bloodshot/glassy/watery eyes, strong odor of an alcoholic beverage on his breath, mumbled speech, appeared to be confused, could not follow instructions, and had poor balance.” Once at the █ District, ██████ refused field sobriety testing

¹¹ No bottle of alcohol was inventoried in relation to ██████ Arrest on September 1, 2019 (see Att. 13).

¹² Att. 5

¹³ Att. 4

¹⁴ Att. 11

and chemical testing. Documents confirmed that [REDACTED] was the vehicle's registered owner.

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

Allegation 1

The allegation the officers performed a traffic stop on [REDACTED] without justification is Exonerated. [REDACTED] COPA interview and his arrest report confirm that the officers asked him to move, which he did after about five minutes. However, the arrest report relates that after moving, [REDACTED] did not stop at a stop sign, swerved, and did not signal a turn, so the officers pulled him over. [REDACTED] was unable to articulate why the officers stopped him after he moved his motorcycle, aside from asserting he was being harassed. Equally important, per BWC, [REDACTED] was not legally parked when the officers approached him on 75th St., which taken alone provided the officers with legal justification to approach, detain, and investigate. For these reasons, this allegation is Exonerated against all four officers.

Allegation 2

The allegation that the four officers charged █████ with DUI without justification is also Exonerated. As seen on BWC, █████ was belligerent with the officers and Officer █████ announced early in the stop that he thought █████ was drunk. The officers were able to articulate several factors that lead to the suspicion █████ was intoxicated. Further, while Officer █████ escorted █████ into the police station, █████ made a comment about having a bottle of vodka, further adding to suspicions that █████ was, in fact, under the influence of alcohol. These facts constituted sufficient probable cause to justify █████ being charged with DUI. For these reasons, this allegation is Exonerated.

Allegation 3

Allegation 3, that the officers arrested █████ without justification, is Exonerated. Per █████ own admissions during his COPA interview, he did not have a valid driver’s license. Whether █████ knew his license was revoked or not during the incident is irrelevant, this is a criminal offense and this allegation is Exonerated against all four officers.

Allegation 4 - 5 – Officer █████

The allegation that Officer █████ grabbed █████ elbow and the allegation that he grabbed █████ neck are both Exonerated. While BWC shows that Officer █████ grabbed █████ by the back of the neck and the front of his shirt, █████ was actively resisting at the time by pulling away and shouting. Per CPD General Order G03-02-01, officers are authorized to use control holds and compliance techniques on active resisters. Officer █████ did not choke █████ and his actions did not extend beyond a firm grip and use of a pressure point. Accordingly, both allegations are Exonerated.

VIII. CONCLUSION

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

I. ALLEGATIONS

Officer	Allegation	Finding
Officer █████	It is alleged that on September 1, 2019, at or near 160 W. 75 th St., at approximately 11:54 PM, you:	
	1. Performed a traffic stop on █████ without justification;	Exonerated
	2. Charged █████ with driving under the influence (“DUI”) without justification; and/or	Exonerated
	3. Arrested █████ without justification,	Exonerated

<p>Officer [REDACTED]</p>	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; and/or 3. Arrested [REDACTED] without justification, 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; 3. Arrested [REDACTED] without justification; 4. Grabbed [REDACTED] elbow; and/or 5. Grabbed [REDACTED] neck. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on September 1, 2019, at or near 160 W. 75th St., at approximately 11:54 PM, you:</p> <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification; 2. Charged [REDACTED] with driving under the influence (“DUI”) without justification; and/or 3. Arrested [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

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