

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	November 2, 2017/ 0945 AM – 1130 AM/ 3200 S. Calumet Avenue
Date/Time of COPA Notification:	December 5, 2017/ 2:24 PM
Involved Officer #1:	██████████ Employee # ██████ Date of Appointment: ██████ 1990; Sergeant; Unit of Assignment: ██████ DOB: ██████ 1966; Male Black
Involved Officer #2:	██████████ # ██████ Employee # ██████ Date of Appointment: ██████ 2017; Police Officer; Unit of Assignment ██████ DOB: ██████ 1992; Male Black
Involved Officer #3:	██████████, ██████ Employee # ██████ Date of Appointment: ██████, 2004; Detective; Unit of Assignment: ██████ DOB: ██████, 1972; Female Black
Involved Individual #1:	██████████ DOB: ██████, 1986; Male Black
Involved Individual #2:	██████████ DOB: ██████ 2008; Male Black
Involved Individual #3:	Inv. ██████████ on behalf of COPA
Case Type:	Inattention to duty

I. ALLEGATIONS

Officer	Allegation	Finding
	It is alleged that on November 2, 2017, at approximately 0945 AM – 1130 AM, in the vicinity of 3200 S Calumet Avenue (Pershing Magnet School)	

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.

² At the time of the incident ██████████ was an officer. ██████████ was promoted to detective in July 2018.

Sgt. ██████████	1. Sgt. ██████████ failed to obtain copies of ██████████ ██████████ special education and disciplinary records during his arrest.	Exonerated
Officer ██████████	1. Officer ██████████ failed to obtain copies of ██████████ ██████████ special education and disciplinary records during his arrest.	Exonerated
Det. ██████████	1. Det. ██████████ failed to obtain copies of ██████████ ██████████ special education and disciplinary records during his arrest.	Exonerated

II. SUMMARY OF EVIDENCE

On December 5, 2017, ██████████ contacted the Civilian Office of Police Accountability via telephone. In his statement to COPA, ██████████ alleged that Sgt. ██████████ Officer ██████████ and Detective ██████████ falsely arrested and charged his son, ██████████ with battery.³

COPA interviewed the responding officers and ██████████ COPA also reviewed arrest report, case reports, OEMC event queries, OEMC Transmissions and the body worn cameras. COPA makes the following findings of fact.

On November 2, 2017 Sgt. ██████████ Officer ██████████ and Detective ██████████ responded a call regarding a battery victim at Pershing Elementary School, located at 3200 S. Calumet Avenue. Sgt. ██████████ Officer ██████████ and Detective ██████████ were informed by school officials that two minor children, now known as ██████████ and ██████████ were involved in a physical altercation. ██████████ struck ██████████ with a padlock causing a laceration to ██████████ head. ██████████ was transported to Mercy Hospital by EMS for medical treatment. The parent of ██████████ now known as ██████████ informed Officer ██████████ and Detective ██████████ that she wanted to sign a complaint against ██████████⁴

While at Pershing Elementary School, ██████████ informed Sgt. ██████████ that ██████████ had a special need and had an Individualized Educational Program (IEP) at the school. Sgt. ██████████ spoke with ██████████ who informed Sgt. ██████████ and Det. ██████████ that ██████████ was not enrolled in a special needs program, but had a learning disability with the schoolwork, which had no impact on his behavior or the situation.

³ ██████████ did not want ██████████ to be interviewed by COPA Investigators.

⁴ COPA did not serve allegations against the officers related to the arrest of ██████████ There were no allegations the officers were present at the time of the incident; the victim was not present because he was seeking treatment and his mother requested to sign complaints. Therefore, COPA did not address allegations of the arrest with the officers.

III. 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 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 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.

IV. ANALYSIS

COPA recommends a finding of **Exonerated** for **Allegations #1** against **Sgt. [REDACTED] Officer [REDACTED] and Det. [REDACTED]**. It is alleged that Sgt. [REDACTED] Officer [REDACTED] and Det. [REDACTED] failed to obtain copies of [REDACTED] special education and disciplinary records during his arrest. [REDACTED] informed COPA and the arresting officers that [REDACTED] has a special need and an IEP. However, BWC shows Sgt [REDACTED] ask [REDACTED] about [REDACTED] IEP plan and [REDACTED] specified that he was not enrolled in special education.

According to Special Order 06-04⁵, Section 18, the arresting officers will accept any packet of information regarding special education status and disciplinary records that the administrator at the school or agency provides. COPA was unable to determine whether an educational plan for [REDACTED] does exist because [REDACTED] refused to sign a release form. However,

⁵ S06-04 – Processing of Juveniles and Minors Under Department Control

based on video evidence Sgt. ██████ requested the school administrator provide the proper information in response to the ██████ statements. The school administrator failed to provide any documentation and denied ██████ had an educational plan, therefore the officers did not violate department policy when ██████ failed to provide any documentation. By clear con convincing evidence, the allegation against all three officers is Exonerated.

V. CONCLUSION

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

Officer	Allegation	Finding
Sgt. ██████	2. It is alleged that on November 2, 2017, at approximately 0945 AM – 1130 AM, in the vicinity of 3200 S Calumet Avenue (Pershing Magnet School) Sgt. ██████ failed to obtain copies of ██████ special education and disciplinary records during his arrest.	Exonerated
Officer ██████	2. It is alleged that on November 2, 2017, at approximately 0945 AM – 1130 AM, in the vicinity of 3200 S Calumet Avenue (Pershing Magnet School) Officer ██████ failed to obtain copies of ██████ special education and disciplinary records during his arrest.	Exonerated
Det. ██████	2. It is alleged that on November 2, 2017, at approximately 0945 AM – 1130 AM, in the vicinity of 3200 S Calumet Avenue (Pershing Magnet School) Det. ██████ failed to obtain copies of ██████ special education and disciplinary records during his arrest.	Exonerated

Approved:

████████████████████

March 30, 2020

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	Andrea Kersten