

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	August 12, 2019/ 1:15 PM/ [REDACTED]
Date/Time of COPA Notification:	August 12, 2019/ 2:50 PM
Involved Officer #1:	Michael Chlebek, #19912; Employee # [REDACTED]; Date of Appointment: March 15, 2013; Police Officer; Unit of Assignment: 012/ DTL 721; DOB: [REDACTED], 1988; Male White
Involved Officer #2:	Joseph Montesdeoca, #2247; Employee # [REDACTED]; Date of Appointment: June 4, 2007; Sergeant; Unit of Assignment: 022; DOB: [REDACTED], 1983; Male Hispanic
Involved Officer #3:	Andrew Kociolek, #11116; Employee # [REDACTED]; Date of Appointment: July 15, 2013; Police Officer; Unit of Assignment: 012; DOB: [REDACTED], 1985; Male White
Involved Individual #1:	[REDACTED], [REDACTED] 1964; Male Black
Case Type:	Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Michael Chlebek	1. It is alleged that on or about August 12, 2019, at approximately 1:15 PM, in the vicinity of [REDACTED], Officer Michael Chlebek, detained [REDACTED] without justification.	Exonerated
	2. Handcuffed [REDACTED] too tightly.	Unfounded
	3. Searched [REDACTED] without justification.	Exonerated
	4. Removed [REDACTED] house keys from his person and entered his residence to obtain his credentials without his permission.	Unfounded
Sgt. Joseph Montesdeoca	1. It is alleged that on or about August 12, 2019, at approximately 1:15 PM, in the vicinity of [REDACTED], Sgt. Joseph Montesdeoca, stated words to the effect of, "Shut the fuck up and get the fuck out of here."	Unfounded

<p>Officer Andrew Kociolek</p>	<p>2. Removed [REDACTED] house keys from his person and entered his residence to obtain his credentials without his permission.</p>	<p>Unfounded</p>
	<p>1. It is alleged that on or about August 12, 2019, at approximately 1:15 PM, in the vicinity of [REDACTED], Officer Andrew Kociolek, detained [REDACTED] without justification.</p>	<p>Exonerated</p>
	<p>2. Handcuffed [REDACTED] too tightly.</p>	<p>Unfounded</p>
	<p>3. Searched [REDACTED] without justification.</p>	<p>Exonerated</p>
<p>4. Removed [REDACTED] house keys from his person and entered his residence to obtain his credentials without his permission.</p>	<p>Unfounded</p>	

II. SUMMARY OF EVIDENCE

On August 12, 2019, Complainant [REDACTED] telephoned the Civilian Office of Police Accountability (COPA) and alleged that on August 12, 2019, at approximately 1:15 PM, in the vicinity of [REDACTED], Officer Michael Chlebek and Officer Andrew Kociolek detained him without justification, handcuffed him too tightly and searched him without justification. [REDACTED] also alleged that Sgt. Montesdeoca stated words to the effect of, “Shut the fuck up and get the fuck out of here.” [REDACTED] added that Sgt. Montesdeoca and Officers Chlebek and Kociolek removed his house keys from his person and entered his residence to obtain his credentials without permission.

During his statement with COPA on August 14, 2019, [REDACTED] essentially related the same information as in the allegation section of this report. [REDACTED] added that prior to leaving his residence, he telephoned 911 twice to report individuals selling drugs in the vicinity of the alleged incident and provided a physical description of the individuals. [REDACTED] stated that as he was walking in the vicinity of the alleged incident, two male white civilian dressed officers drove towards him. [REDACTED] related that the driver officer¹ exited the vehicle, approached [REDACTED] and grabbed his arm.

[REDACTED] related that he pulled back and away from Officer Kociolek and asked why he grabbed him. Officer Kociolek explained that they received calls of individuals selling drugs in the area and that he matched the description. [REDACTED] stated that the passenger officer² exited the vehicle and approached him as well. [REDACTED] related that he informed Officers Chlebek and Kociolek that he was not selling drugs and that he was a retired Chicago Police Officer. [REDACTED] stated that upon inquiry, he informed Officers Chlebek and Kociolek that his firearm was in his pocket. [REDACTED] related that one of the officers (NFI) grabbed his pocket and both officers placed him in handcuffs.

¹ Later identified via body worn camera as Officer Andrew Kociolek

² Later identified via body worn camera as Officer Michael Chlebek

█████ related that he informed the officers that he left his identification in his residence, which was across the street from location of the alleged incident. █████ stated that at some point additional officers along with a civilian dressed sergeant³ arrived at the location of the alleged incident. █████ stated that an officer who identified himself as Officer Sepcot informed Sgt. Montesdeoca that █████ was a police officer. █████ related that Sgt. Montesdeoca replied, “Shut the fuck up and get the fuck out of here.”

█████ stated that he informed Sgt. Montesdeoca that the handcuffs were too tight. █████ related that Sgt. Montesdeoca informed him that the handcuffs were on the last notch. █████ stated that later during the interaction, one of the officers (NFI) removed his house keys from his pocket. Sgt. Montesdeoca, Officers Chlebek and Kociolek escorted █████ to his residence and entered his residence along with him. █████ related that the officers located his wallet in the immediate area and observed his credentials. █████ stated that the officers removed the handcuffs and left his residence without further incident. Upon inquiry, █████ denied giving Sgt. Montesdeoca, Officers Chlebek and Kociolek permission to enter his residence. █████ also stated that the officers never removed his firearm from his person. (Att. #3)

According to Event Query Reports on August 12, 2019, three calls were received from █████⁴ regarding three (3) Black men selling narcotics in the vicinity of █████. The caller described the first male Black wearing a black shirt and brown pants. The second Black man was described as wearing a black shirt and gray shorts/pants. The third Black man was described as wearing a blue/white striped shirt and blue jeans.

COPA obtained and reviewed available Body Worn Camera footage of officers involved in the interaction with █████. According to the BWC footage, Officers Chlebek and Kociolek observed █████ and an unidentified man (NFI) in the vicinity of the alleged incident. The unidentified Black man wore a blue shirt and tan colored shorts. █████ wore a black shirt and gray shorts. (See. Figure 1).

Officer Kociolek exited the vehicle and directed █████ to come to him. Officer Kociolek attempted to grab █████ arm and █████ stated words to the effect of, “I ain’t doing shit.” Officer Chlebek walked over to assist and explain why █████ was being stopped. Officer Kociolek asked █████ if he had anything on him and █████ replied that he had a gun in his possession. Officer Kociolek asked █████ if he had a “Conceal to Carry,” and █████ replied that his “Conceal to Carry” was in his house.

³ Later identified via body worn camera as Sgt. Joseph Montesdeoca

⁴ Complainant, █████ gave this number as his contact number during his statement.



Figure 1

Officer Chlebek told ██████ that they would go to his house to obtain his license but explained that ██████ would be handcuffed until they could verify his information. As Officers Kociolek and Chlebek placed ██████ in handcuffs, ██████ pulled away while asking Officers Kociolek and Chlebek not to handcuff him. As ██████ was being handcuffed, he informed Officers Kociolek and Chlebek that he was a police officer and that the handcuffs were causing him pain. ██████ continued to move around and pull away as Officers Kociolek and Chlebek directed him to relax.

As ██████ continued to resist, Officer Kociolek requested additional units for an assist. When additional units arrived at the location of the alleged incident, ██████ was handcuffed and Officer Chlebek removed ██████ gun from his right pocket. ██████ explained that his credentials were inside his house and invited the officers on scene to go to his house to retrieve his credentials.



Figure 2

Sgt. Montesdeoca arrived at the scene and Officer Kociolek along with Officer Chlebek explained the circumstances to Sgt. Montesdeoca. Officer Sepcot approached Sgt. Montesdeoca and explained that several years ago he saw ██████ working as Superintendent McCarthy's detail. Sgt. Montesdeoca explained to Officer Sepcot that he needed to see ██████ credentials because he needed to verify ██████ information. Officer Kociolek conducted a search via PDT and could not retrieve "Conceal to Carry" information.

██████ continued to complain about the handcuffs being too tight and Sgt. Montesdeoca explained that the handcuffs were on the last notch. ██████ stated that he just wanted the handcuffs removed. Sgt. Montesdeoca, Officer Kociolek and Chlebek escorted ██████ to his residence and received directions from ██████ on which keys to use to enter his residence. After the Department members entered ██████ residence and retrieved his credentials, they left ██████ residence without further incident. Officers Kociolek and Chlebek later returned and placed an ISR receipt in ██████ mailbox. (Atts. #14 – 21)

Based on the allegations and available evidence interviews of the involved Department members were not conducted as COPA found that the involved Department members' actions were within Department policies.

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 finds that **Allegations #1 and #3** against **Officers Michael Chlebek and Andrew Kociolek** be **Exonerated**. ██████ alleged that Officers Chlebek and Kociolek detained ██████ without justification and searched ██████ without justification. Officers Chlebek and Kociolek responded to the location of alleged incident regarding several Black men selling narcotics in the area. One of the descriptions given was a Black man wearing a black shirt and gray shorts/pants. ██████ is a Black man, in the vicinity of the location wearing a black shirt and gray shorts. When Officers Chlebek and Kociolek approached ██████ ██████ became upset and began pulling away.

Upon inquiry, ██████ informed Officer Chlebek and Kociolek that he was in possession of a firearm. ██████ was unable to provide Officers Chlebek and Kociolek with any form of identification and notified Officers Chlebek and Kociolek that his identification was inside his residence. Chlebek and Kociolek explained the circumstances to ██████ placed him in handcuffs and retrieved ██████ firearm from his pocket. Based on the available evidence, Officers Chlebek's and Kociolek's actions were proper and within Departments policies.

COPA finds that **Allegations #2 and #4** against **Officers Chlebek and Kociolek** be **Unfounded**. ██████ alleged that Officers Chlebek and Kociolek handcuffed him too tightly. ██████ also alleged that Officers Chlebek and Kociolek took his keys from his person and entered his residence to obtain his credentials without his permission. On the BWC footage, ██████ is seen pulling away from the officers and refusing to be handcuffed. Once handcuffed, ██████ insisted that the involved officers remove the handcuffs. The BWC footage from Sgt. Montesdeoca's camera depict that the handcuffs on ██████ wrists were not tight on his wrists. (See Figure 3).

██████ further alleged that Officers Chlebek and Kociolek removed his keys from his person and entered his residence to obtain his credentials without his permission. On the BWC footage ██████ is heard offering Sgt. Montesdeoca Officers Chlebek and Kociolek to go to residence to obtain his credentials. Based on the available evidence the acts did not occur as alleged by ██████



Figure 3

COPA finds that **Allegations #1 and #2** against **Sgt. Joseph Montesdeoca** be **Unfounded**. [REDACTED] alleged that during his contact with Sgt. Montesdeoca, Sgt. Montesdeoca stated words to the effect of, “Shut the fuck up and get the fuck out of here.” [REDACTED] also alleged that Sgt. Montesdeoca took his keys from his person and entered his residence to obtain his credentials without his permission. According to the BWC footages obtained by COPA, neither Sgt. Montesdeoca nor any Department member was heard stating the words to the effect of, “Shut the fuck up and get the fuck out of here.”

[REDACTED] further alleged that Sgt. Montesdeoca removed his keys from his person and entered his residence to obtain his credentials without his permission. On the BWC footage [REDACTED] is heard inviting Sgt. Montesdeoca, Officers Chlebek and Kociolek to go to residence to obtain his credentials. Based on the available evidence the acts did not occur as alleged by [REDACTED]

Approved:

[REDACTED]

4-28-2021

 Angela Hearts-Glass
 Deputy Chief of Investigations

 Date

Appendix A

Assigned Investigative Staff

Squad#:	8
Investigator:	Lakeisha Davis
Supervising Investigator:	Sherry Daun
Deputy Chief Administrator:	Angela Hearts-Glass