

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / Time of Incident:	August 26, 2018, approximately 1:53 a.m.
Location of Incident:	1931 East 75th Street, Chicago, Illinois,
Date / Time of COPA Notification:	August 27, 2018, approximately 11:21 a.m.

██████████ complained to COPA about her August 26, 2018 arrest, contending that an officer grabbed her by the back of her hair and threw her into a police vehicle. COPA conducted a preliminary investigation, which included the review of body-worn camera footage depicting ██████████ arrest. That footage provides clear and convincing evidence showing that ██████████ complaint did not occur as alleged: that none of the arresting officers grabbed ██████████ by her hair nor did any of them use any other excessive force in arresting her or in placing her into a police vehicle.

II. INVOLVED PARTIES

Involved Officer #1:	Daniel J. Szalko, Star #19291, Employee ID# ██████████, Date of Appointment: December 14, 2015; Rank: Police Officer; Unit of Assignment: 004/143; DOB: ██████████, 1984; M/WHI
Involved Individual #1:	██████████ DOB: ██████████, 1998, F/B

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Szalko	On August 26, 2018, at approximately 1:53 a.m., at or near 1931 E. 75 th Street, Chicago, Illinois, Officer Daniel J. Szalko committed misconduct through the following acts or omissions: Officer Szalko used excessive force in effecting the arrest of ██████████	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules
<ol style="list-style-type: none"> 1. Rule 1, CPD Rules of Conduct (prohibiting the violation of any law) 2. Rule 8, CPD Rules of Conduct (prohibiting disrespect to or maltreatment of any person) 3. Rule 9, CPD Rules of Conduct (prohibiting unjustified verbal or physical altercations)
General Orders

1. G03-02-02 Force Options (effective October 15, 2017)

Federal Laws

1. United States Constitution, Fourth Amendment

State Laws

1. 720 ILCS 5/7-5(a) (“A peace officer ... is justified in the use of any force which he reasonably believes to be necessary to effect [an] arrest”).

V. INVESTIGATION¹

Summary of Alleged Misconduct Under Review

An arrestee alleges that an arresting officer grabbed her by the back of her hair and threw her into a police vehicle.

Interview of ██████████

COPA initiated our preliminary investigation of the events on August 27, 2018, when ██████████ appeared at COPA and provided us with an audio-recorded interview.² ██████████ then informed COPA that she had been arrested by CPD officers at about 1:00 a.m. on August 26, 2018, purportedly because she fit the description of a person who had been involved in a car accident.³

██████████ complained that one of the officers grabbed both of her arms, put them behind her back, “pushed them all the way up,” and handcuffed her.⁴ ██████████ said that she then asked that officer to let her go, but that he refused, and that the officer then held her tighter.⁵ ██████████ said that she then yanked away from the officer, that the officer then grabbed the back of her hair, and that the officer then threw her into the back of a police vehicle “face-first.”⁶ ██████████ described that officer as white.⁷

██████████ stated that she then complained of wrist pain, that CPD officers called for a CFD ambulance, and that she was then transported to ██████████ by that ambulance.⁸ According to ██████████ hospital staff then took x-rays, they informed her that she had sustained a wrist fracture, they wrapped her wrist, and they gave her a prescription for pain medication.⁹ According to

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 Attachment #4 is an audio recording of that interview; Attachment #5 is a transcription of that recording.

³ See Attachment #5, p. 5, line 8, through p. 9, line 4.

⁴ See *id.*, p. 6, lines 14 - 19.

⁵ See *id.*, p. 6, line 20, through p. 7, line 1.

⁶ See *id.*, p. 7, lines 2 - 5.

⁷ See *id.*, p. 15, lines 17 - 19. COPA has discerned from body-worn camera footage that the CPD member who handcuffed ██████████ and who is the subject of ██████████’ complaint is Officer Daniel J. Szalko. See Attachment #12, Item 6, at T06:52:13z and immediately following.

⁸ See *id.*, p. 7, line 13, through p. 8, line 1.

⁹ See *id.*, p. 26, line 21, through p. 27, line 17.

██████████ she was then returned to CPD custody and she was then released on bond.¹⁰ ██████████ provided COPA with a written release permitting us to access copies of her medical records.¹¹
CPD Arrest Report

COPA reviewed the relevant CPD Arrest Report, which confirms that CPD officers did in fact arrest ██████████ on August 26, 2018.¹² According to that report, ██████████ was arrested at 1:53 a.m. that day at 1931 East 75th Street in Chicago after she had been seen fleeing from a vehicle that had been involved in a nearby traffic accident.¹³ The report indicates that the vehicle was determined by CPD to have previously been reported as stolen.¹⁴

OEMC Audio Recordings

COPA reviewed OEMC audio recordings relating to ██████████ arrest, which show that at about 1:27 a.m. on the morning of ██████████ arrest, OEMC broadcasted a description of a person reported to have been seen fleeing from an auto accident: “Female Black, all white clothing, brown hair, black purse, hit a parked car”¹⁵ The recordings further show that at about 1:37 a.m., OEMC broadcasted a report that a female who had been involved in the accident, dressed in all white, was reported to be standing with a group three blocks from the accident scene.¹⁶ About a minute later, the recordings show that an officer broadcasted a report that the group had left that location in two separate vehicles, including a dark sedan having an out-of-state license plate.¹⁷ Then, at about 1:41 a.m., the recordings show that another officer broadcasted a report stating that he had stopped such a vehicle at the arrest site.¹⁸

Body-worn Camera Video Footage

COPA reviewed body-worn camera footage recorded by CPD officers at the time and place of ██████████ arrest, as well as body-worn camera footage recorded by one of the CPD officers who had been assigned to investigate the related traffic accident.¹⁹ That footage depicts the vehicle stop that preceded ██████████ arrest²⁰ and the arrival of assisting officers at the arrest scene.²¹ The footage then shows Officer Martin J. Mangan taking a photograph of ██████████ using a wireless phone; ██████████ is shown to be dressed in all white.²² See Figure #1 below. Officer Daniel Szalko is then shown transmitting that photo by phone from the arrest scene to Officer Imelda Morones,

¹⁰ See *id.*, p. 27, line 18, through p. 28, line 11.

¹¹ Attachment #8 is a copy of that release.

¹² See Attachment #9, p. 1.

¹³ See *id.*, pp. 1 - 3. Attachment #10 is an image of the relevant Traffic Crash Report.

¹⁴ See Attachment #9, pp. 1 - 3. Attachment #11 is an image of an Original Case Incident Report relating to the reportedly stolen motor vehicle.

¹⁵ See Attachment #16, Item 6, at 33:32 and immediately following. See also Attachment #17, p.1 (an OEMC Event Query Report relating to that broadcast).

¹⁶ See Attachment #16, Item 6, at 42:16 and immediately following.

¹⁷ See *id.* at 43:27 and immediately following.

¹⁸ See *id.* at 47:12 and immediately following.

¹⁹ See Attachment #12, Items 1 - 6.

²⁰ See Attachment #12, Item 3.

²¹ See Attachment #12, Items 1, 4, and 6.

²² See Attachment #12, Item 4, at T06:46:50z and immediately following.

who is at the accident scene.²³ Officer Morones is then depicted showing the photo to a witness to the accident; that person is shown to positively identify ██████████²⁴ Footage then shows Officer Morones relaying that confirmation to Officer Szalko.²⁵



Figure #1²⁶

Officer Szalko is then shown handcuffing ██████████ behind her back without using force and without ██████████ offering any resistance.²⁷ Officer Szalko is then shown holding ██████████ by her left arm as ██████████ pulls away forcefully, shouting “Let me the f*ck go.”²⁸ Officer Szalko and Officer Timothy Andersen are then shown walking ██████████ a few feet to the back door of a CPD vehicle, lifting ██████████ handcuffed arms up to her mid-back as they do so.²⁹ Footage then shows ██████████ being ordered to get into the vehicle, followed by her failure to immediately comply.³⁰ Officers Szalko and Andersen are then shown to push ██████████ into the vehicle’s back seat, with ██████████ offering passive resistance.³¹ Footage shows that neither officer grabbed ██████████ by her hair.³²

Tactical Response Reports

COPA has reviewed Tactical Response Reports submitted by Officers Szalko and Andersen.³³ In those reports, the officers wrote, in substance, that they used an escort hold to transport ██████████ to a CPD vehicle after ██████████ had attempted to pull away from them upon her handcuffing.³⁴ The reports further state that ██████████ was transported to ██████████ post-arrest after having

²³ See Attachment #12, Item 6, at T06:47:45z and immediately following.

²⁴ See Attachment #12, Item 5, at T06:51:02z and immediately following.

²⁵ See Attachment #12, Items 5 and 6, at T06:51:09z and immediately following of each.

²⁶ Derived from Attachment #12, Item 4, at T06:46:50z.

²⁷ See Attachment #12, Item 6, at T06:52:13z and immediately following.

²⁸ See Attachment #12, Items 4 and 6, at T06:52:44z and immediately following of each.

²⁹ See Attachment #12, Item 4, at T06:52:44z and immediately following.

³⁰ See *id.*

³¹ See *id.*

³² See *id.*

³³ See Attachments ## 13 - 14.

³⁴ See Attachments ## 13 - 14, at pp. 1 and 2 of each.

complained of wrist pain.³⁵ The reports show that they were reviewed by a CPD sergeant and a CPD lieutenant, both of whom reportedly viewed body-worn camera footage depicting [REDACTED] arrest.³⁶ The reports also show that the reviewing lieutenant interviewed [REDACTED] after she had returned from the hospital, and that he then asked her about her wrist.³⁷ [REDACTED] then reportedly denied that her wrist was injured and she reportedly stated that “it just hurt a little” and that “the doctor said it would be fine in two days and gave [her] some ice to make it feel better.”³⁸ The reports conclude with the reviewing lieutenant’s determination that the officers’ actions appeared to him to have been in compliance with CPD policy and directives, based on the information that he had reviewed.³⁹

Medical Records

COPA reviewed records of [REDACTED] relating to its August 26, 2018 treatment of [REDACTED] which we obtained via written release provided to us by [REDACTED].⁴⁰ Those records show that hospital staff took x-rays, which did not reveal any evidence of a wrist fracture, and that hospital staff discharged [REDACTED] after diagnosing a wrist sprain.⁴¹

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.⁴² 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.

³⁵ See Attachments ## 13 - 14, at pp. 1 and 2 of each.

³⁶ See Attachments ## 13 - 14, at pp. 2 and 3 of each.

³⁷ See Attachments ## 13 - 14, at p. 3 of each.

³⁸ See Attachments ## 13 - 14, at p. 3 of each.

³⁹ See Attachments ## 13 - 14, at p. 3 of each.

⁴⁰ Attachment #15 comprises those records; Attachment #8 is a copy of that release.

⁴¹ See Attachment #15, at pp. 11 - 12.

⁴² 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).

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. 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.”⁴³

VII. ANALYSIS

██████ account of the events under review is proven to be false by video footage and medical records. Her claimed that an officer grabbed her and that she sustained a wrist fracture in not corroborated by video evidence. In contrast, COPA finds that the accounts provided by Officers Szalko and Andersen in their Tactical Response Reports are substantially confirmed by video footage, which clearly and convincingly shows that Officer Szalko and other officers involved in ██████ arrest did not use force prohibited by law⁴⁴ or CPD policy⁴⁵ in handcuffing ██████ in escorting her to a CPD vehicle, or in pushing her into that vehicle as ██████ offered passive resistance. That video evidence shows that the officers employed means that were objectively reasonable, necessary, and proportional to ██████’ resistance. Officer Szalko is accordingly EXONERATED with respect to ██████ allegation.

VIII. FINDINGS

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

Officer	Allegation	Finding
Officer Szalko	On August 26, 2018, at approximately 1:53 a.m., at or near 1931 E. 75 th Street, Chicago, Illinois, Officer Daniel J. Szalko committed misconduct through the following acts or omissions: Officer Szalko used excessive force in effecting the arrest of ██████	Exonerated

⁴³ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

⁴⁴ *Graham v. Connor*; *See also* 720 ILCS 5/7-5(a) (“A peace officer ... is justified in the use of any force which he reasonably believes to be necessary to effect [an] arrest”).

⁴⁵ *See CPD General Order G03-02-02 Force Options* (effective October 15, 2017) (“Department members’ use of force must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a subject.”).

Approved:



1/19/2021

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date