

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	August 13, 2019/ 11:40 pm/ 7047 S. Indiana Avenue
Date/Time of COPA Notification:	December 6, 2019/ 3:20 pm
Involved Officer #1:	Artavius Mitchell, star# 4689, emp.# [REDACTED], DOA: March 5, 2013, Officer, Unit 003, DOB: [REDACTED], 1983, Male, Black
Involved Officer #2:	Malcolm Brogsdale, star# 5508, emp.# [REDACTED], DOA: March 5, 2013, Officer, Unit 003/376, DOB: [REDACTED], 1980, Male, Black
Involved Officer #3:	Alvaro Carrasco, star# 6816, emp.# [REDACTED], DOA: September 18, 2017, Officer, Unit 189, DOB: [REDACTED], 1980, Male, White Hispanic
Involved Officer #4:	David Kachiroubas, star# 19334, emp.# [REDACTED], DOA: May 16, 2018, Officer, Unit 003, DOB: [REDACTED], 1994, Male, White
Involved Officer #5:	Jeffery Shafer, star# 17177, emp.# [REDACTED], DOA: February 18, 2014, Officer, Unit 003/376, DOB: [REDACTED], 1986, Male, White
Involved Officer #6:	Christoph Ware, star# 21593, emp.# [REDACTED], DOA: May 6, 1996, Detective, Unit 610, DOB: [REDACTED], 1970, Male, Black
Involved Officer #7:	Elbert Thomas, star# 2672, emp.# [REDACTED], DOA: October 4, 1999, Sergeant ¹ , Unit 002, DOB: [REDACTED], 1971, Male, Black
Involved Individual #1:	[REDACTED], 1985, Male, Black
Case Type:	Excessive Force, False Arrest, and Denial of Counsel

¹ Sergeant Thomas was a detective at the time of the incident. He was promoted to sergeant effective January 16, 2022.

I. ALLEGATIONS

Officer	Allegation	Finding
Officers Mitchell, Brogsdale, Carrasco, Kachiroubas, and Shafer	It is alleged by ██████████ that on or about August 13, 2019, at approximately 11:40 pm, at or near 7047 S. Indiana Avenue, the accused committed misconduct through the following acts or omissions: 1. Arrested ██████████ without justification.	Exonerated
Officer Shafer	It is alleged by ██████████ that on or about August 13, 2019, at approximately 11:40 pm, at or near 7047 S. Indiana Avenue, Officer Shafer committed misconduct through the following acts or omissions: 2. Forcefully grabbed ██████████ and injured his shoulder without justification.	Unfounded
Detective Ware and Sergeant Thomas	It is alleged by ██████████ that on or about August 14, 2019, at approximately 5:30 am, at or near Area Central, the accused committed misconduct through the following acts or omissions: 1. Continued to question ██████████ after he requested an attorney.	Exonerated

II. SUMMARY OF EVIDENCE²

The complainant, ██████████ was interviewed by COPA on June 26, 2020.³ On the night of the incident, officers responded to 70th and Indiana following reports of shots fired. When they arrived at the scene, ██████████ approached the officers and told them ██████████ had a gun and shot him in his head. Two officers approached ██████████ who was sitting on a nearby porch, and one of the officers grabbed him to place handcuffs on him. According to ██████████ when the officer⁴ grabbed him, the officer caused something in ██████████ right shoulder to rip. The officer escorted ██████████ to a marked squad vehicle and he was subsequently transported to Area Central.

Once ██████████ arrived at Area Central, detectives swabbed his hands for gunshot residue. Two detectives⁵ then came to speak with ██████████ about the incident. The detectives asked ██████████ some questions, but ██████████ informed them he was not going to answer any questions and wanted his lawyer. According to ██████████ the detectives continued to ask him questions even though he had requested a lawyer. ██████████ also asked the detectives for medical

² COPA conducted a full investigation of this matter, including the interview of all pertinent civilians and the collection and review of digital, documentary, and medical evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation.

³ Att. 32.

⁴ ██████████ described this officer as a white male, approximately 6 ft. tall.

⁵ ██████████ described both detectives as black males. One detective was older with glasses and a low haircut, approximately 5'9 to 5'10 tall; the other detective was heavy set with longer hair, approximately 6 ft. tall.

attention,⁶ and they arranged for officers to transport ██████ to ██████. ██████ denied having a gun the night of the incident and denied shooting ██████

COPA obtained Department reports (arrest report⁷, case report⁸, and case supplementary report⁹) regarding ██████ arrest. According to the **arrest and case reports**, officers responded to a call of shots fired in the area of 7043 S. Indiana Avenue. Upon arrival, they observed ██████ with a graze gunshot wound to the rear left side of his head. ██████ related that he got into a verbal altercation with ██████ at which time ██████ displayed a handgun and fired multiple shots at him. Officers approached ██████ placed him under arrest, and transported him to Area Central for processing. ██████ refused medical treatment at the scene and fled to an unknown location.

The **case supplementary report** restates essentially the same information but provides additional details regarding the case. According to the report, which was authored by Detective Christoph Ware, detectives searched the area where the shooting occurred and located several cameras at 130 E. 71st Street (Fuel Zone gas station). They obtained a video capturing both the incident and the arrival of responding officers. According to report, the video shows ██████ fire a handgun in the direction of ██████ falls to the ground, and ██████ approaches him and strikes him with the gun. While detectives were recovering the video from the gas station, ██████ returned to the scene and asked to speak to them. Detective Ware stepped outside the gas station and spoke with ██████ who was very apprehensive about talking to the police. ██████ and the detectives then relocated to a safer location.

██████ informed the detectives that he and ██████ were involved in a heated argument that turned violent. ██████ retrieved a handgun from a bag that was on the porch, walked toward ██████ and fired a shot. ██████ fell to the ground, and ██████ approached him and started to beat him in the head with the gun. ██████ then fired a shot at ██████ head and several more shots around the perimeter of ██████ body before walking away. After the interview, Detective Ware returned to Area Central and attempted to obtain ██████ identifying information, but he refused to provide it. ██████ then requested medical treatment, reporting that he was experiencing chest pain and shortness of breath. An ambulance was called and ██████ was transported to the hospital.

COPA requested and reviewed **body worn camera (BWC) footage** from the responding officers. The videos begin as Officer Jeffrey Shafer and his partner, Officer Dimar Vasquez, are driving to the scene.¹⁰ When they arrive at the location, Officer Vasquez approaches ██████ who appears to be bleeding from the head, and their conversation is captured on the officer's BWC video.¹¹ ██████ tells Officer Vasquez that ██████ shot him, then points in the direction of ██████ who is standing on a nearby porch. ██████ also tells several other officers on scene that

⁶ The first time ██████ asked for medical attention was at the Area; he never asked any officers on scene for medical attention.

⁷ Att. 3.

⁸ Att. 2.

⁹ Att. 7.

¹⁰ Atts. 12 & 13.

¹¹ Att. 13 at 2:30 minutes.

██████████ shot him, including Officer Stephanie Penkala¹² and her partner, Officer Joseph Kwiatkowski.¹³ As Officer Vasquez speaks to ██████████ Officer Shafer approaches ██████████ and places him into handcuffs.¹⁴ ██████████ is compliant and allows Officer Shafer to handcuff him without incident. Officer Shafer then escorts ██████████ to a marked squad vehicle and places him inside. The BWC videos of Officers Alvaro Carrasco¹⁵ and David Kachiroubas¹⁶ show ██████████ sitting in their vehicle, waiting to be transported to the Area. ██████████ waits inside the vehicle for more than an hour, but he never requests medical attention or mentions that his shoulder is injured.

COPA also obtained and reviewed **video from Area Central** of the interview room where ██████████ was held.¹⁷ The video shows Officers Carrasco and Kachiroubas escorting ██████████ into the holding room, where Detective Town asks him several demographic questions. Another male detective enters the room and administers a gunshot residue test to ██████████ hands. Officers Carrasco and Kachiroubas re-enter the room and pat down ██████████ while both his hands and arms are extended against the wall. ██████████ is then escorted out of the room to use the bathroom, and he appears to fall to sleep upon his return. At approximately 4:43 am, ██████████ gets up and kicks the door, and he subsequently tells an officer he needs to go to the hospital because his chest hurts. The officer responds that he will call an ambulance.

At 4:54 am, Detective Ware and Sergeant Thomas enter the room. Detective Ware tells ██████████ that he wants to ask him some questions, and ██████████ responds that he wants his lawyer. Detective Ware then asks ██████████ for his name, age, birthday, and address. ██████████ says they already have all his information and asks what the charges are. Detective Ware responds that he is just returning from the field and still has to review the video evidence, but he needs to know who he is talking to. ██████████ then tells the detective he is having chest pains and wants to go to the hospital. The detectives leave the room, and Detective Ware returns with a medical professional at 5:38 am. The medical professional asks ██████████ what is wrong, and ██████████ responds that his chest hurts and he cannot take a deep breath. ██████████ then asks Detective Ware if he is under arrest and the reason for his arrest. He requests to speak to a lawyer and asks to be transferred to a cell. Detective Ware reads ██████████ his *Miranda* rights, and ██████████ leaves for the hospital at 5:50 am.

COPA obtained and reviewed ██████████ **medical records** from ██████████.¹⁸ ██████████ complained of pain to his left ribs, but he denied experiencing any trauma or other pain. The records note ██████████ had no swelling or tenderness in his left ribs, and he had a normal range of motion in his extremities. A doctor diagnosed ██████████ with musculoskeletal pain and discharged him back into the custody of officers.

¹² Att. 18.

¹³ Att. 16. COPA also obtained and reviewed video of ASA ██████████ interview with ██████████ on August 15, 2019. During that interview, ██████████ again identifies ██████████ as the person who shot him. Att. 11.

¹⁴ Att. 12 at 01:30 minutes.

¹⁵ Att. 20.

¹⁶ Att. 21.

¹⁷ Att. 24.

¹⁸ Att. 36.

III. ANALYSIS AND CONCLUSION

COPA finds Allegation 1, that Officers Mitchell, Brogsdale, Carrasco, Kachiroubas and Shafer arrested ██████████ without justification, is exonerated. The Fourth Amendment protects people from unreasonable searches and seizures by the government. In the absence of an arrest warrant, officers must have probable cause to arrest a subject.¹⁹ Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime.²⁰ In this case, the officers arrested ██████████ for the assault and battery of ██████████. The evidence shows the officers responded to reports of shots fired, and when they arrived on scene, ██████████ identified ██████████ as the person who shot him. The BWC footage captured ██████████ sitting in the street with what appeared to be a graze wound to the head. ██████████ repeatedly identified ██████████ by name and even pointed him out as the person who shot him. Based on this information, the officers took ██████████ into custody pending further investigation. COPA finds that ██████████ injury, coupled with his video-recorded identification of ██████████ constitutes clear and convincing evidence the officers had probable cause to arrest ██████████. Therefore, Allegation 1 against Officers Mitchell, Brogsdale, Carrasco, Kachiroubas and Shafer is **exonerated**.

COPA finds Allegation 2 against Officer Shafer, that the officer forcefully grabbed ██████████ and injured his shoulder, is unfounded. Rule 8 prohibits officers from disrespecting or maltreating any person, while Rule 9 prohibits officers from engaging in unjustified verbal or physical altercations with any person, while on or off duty. According to ██████████ when Officer Shafer grabbed him to place handcuffs on him, he felt pain and a tearing sensation in his right shoulder. ██████████ alleged that he was diagnosed with a torn rotator cuff. However, this claim is refuted by Officer Shafer's BWC video and ██████████ medical records. The video captured the handcuffing of ██████████ and does not depict Officer Shafer forcefully grabbing ██████████ or ██████████ complaining of pain. Further, ██████████ was in police custody for a number of hours before he requested medical attention. When he did finally ask to go to the hospital, he stated he was experiencing chest pains, and never mentioned pain in his shoulder. Medical records from ██████████ document that ██████████ complained of pain to his left ribs, but he denied experiencing any trauma or other pain. COPA finds the video footage and medical records constitute clear and convincing evidence that Officer Shafer did not forcefully grab ██████████ and injure his shoulder. As such, COPA finds Allegation 2 against Officer Shafer is **unfounded**.

COPA finds Allegation 1 against Detective Ware and Sergeant Thomas, that they continued to question ██████████ after he requested an attorney, is exonerated. In *Miranda v. Arizona*²¹, the U.S. Supreme Court ruled that certain warnings must be provided to a person in police custody who is being interrogated, including that the person has the right to remain silent and the right to an attorney. Here, when the detectives entered the interview room to speak with ██████████ Detective Ware introduced himself and his partner and told ██████████ he needed to ask him some questions. ██████████ responded that he wanted an attorney. Detective Ware said he needed to get some information first, but the only questions he asked ██████████ were demographic in nature, and he never asked about the actual incident. Sergeant Thomas did not ask ██████████

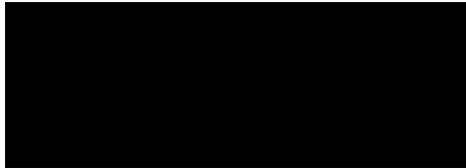
¹⁹ *People v. Johnson*, 408 Ill. App. 3d 107, 112 (1st Dist. 2010) (citing *Beck v. Ohio*, 379 U.S. 89, 91 (1964)).

²⁰ *People v. Wear*, 229 Ill.2d 545, 563-64 (2008)).

²¹ 384 U.S. 436 (1966).

any questions at all. Detective Ware subsequently read ██████████ his *Miranda* rights before he left for the hospital. The entire interaction between Detective Ware, Sergeant Thomas, and ██████████ was captured on video. COPA finds the video constitutes clear and convincing evidence that ██████████ was not interrogated, as he was only asked questions regarding his identity.²² Therefore, COPA finds Allegation 1 against Detective Ware and Sergeant Thomas is **exonerated**.

Approved:



1/21/2022

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

²² See *United States v. Westbrook*, 125 F.3d 996, 1003 (7th Cir. 1997) (noting that officers may properly ask “brief informational questions that are not designed to elicit incriminating statements”); *United States v. Edwards*, 885 F.2d 377, 386 (7th Cir.1989) (permitting *pre-Miranda* questioning about a defendant’s identity and residence because the question, in that context, was not one that would be perceived as interrogation by a reasonable person in the same circumstances).