

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	December 19, 2020 / 7:33 p.m. / ██████████, Chicago, IL 60617.
Date/Time of COPA Notification:	December 21, 2020 / 3:33 p.m.
Involved Officer #1:	Officer Jose Hernandez, Star #13909, Employee ID# ██████████, DOA: February 29, 2016, Unit: 006, Male, Hispanic.
Involved Officer #2:	Officer Alexander Chorak, Star #14867, Employee ID# ██████████, DOA: October 27, 2014, Unit: 004, Male, White.
Involved Officer #3:	Officer Constantino Martinez, Star 12428, Employee ID# ██████████, DOA: April 06, 2015, Unit: 002, Male, Hispanic.
Involved Individual #1:	██████████, DOB ██████████, 1982, Male, Hispanic.
Case Type:	03D – Improper Arrest

I. ALLEGATIONS

Officer	Allegation	Finding
Officers Hernandez, Chorak and Martinez	1. Arresting ██████████, without justification.	Exonerated.

II. SUMMARY OF EVIDENCE

On December 19, 2020, at approximately 7:30 p.m., Officers Jose Hernandez, Alexander Chorak and Constantino Martinez (collectively “the Officers”) were on patrol when they observed a vehicle fail to use a turn signal while turning onto Avenue L near 10400 block. The Officers conducted a traffic stop on the vehicle and approached the driver, ██████████. The Officers informed ██████████ why he was stopped. ██████████ explained that he was armed with a firearm and provided a Concealed Carry License (CCL) from Indiana. The Officers requested that ██████████ exit the vehicle and completed a name check which revealed an active arrest warrant had been issued in DuPage County for ██████████’s arrest.¹ The Officers placed ██████████ in handcuffs and informed him of the active warrant. At the request of ██████████, the Officers secured his vehicle and left it legally parked on the roadway. ██████████ was transported to the 004th District Station where he was processed for the active arrest warrant.

¹ The Officers also confirmed the status of the arrest warrant via the radio with OEMC. See Att. 2, pgs. 2 to 4.

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 occurred and violated Department policy.² 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.³ 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."⁴

IV. ANALYSIS AND CONCLUSION

COPA finds the allegation against the Officers is **exonerated**. A Department member must have probable cause to arrest a subject.⁵ "Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it."⁶ The reasonable basis of any arrest "should be considered from the perspective of a reasonable officer at the time" of the arrest.⁷ Additionally, a confirmed active arrest warrant establishes probable cause for an arrest. Here, COPA finds that ██████ had an active warrant for his arrest issued by DuPage County and that this warrant established probable cause for his arrest. Therefore, the Officers' decision to arrest ██████ was reasonable and proper.

² *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).

³ *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁴ *Id.* at ¶ 28.

⁵ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

⁶ S04-13-09 II(D), Investigatory Stop System (effective July 10, 2017, to current).

⁷ S04-13-09 II(D).

Approved:



11/19/2021

Matthew Haynam
Director of Investigations

Date

Appendix A

Assigned Investigative Staff

Squad#:	14
Investigator:	Emmily Stokes
Supervising Investigator:	Garrett Schaaf
Deputy Chief Administrator:	Matthew Haynam