

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	April 26, 2018
Time of Incident:	1:35 pm
Location of Incident:	3359 W. Chicago Avenue, Chicago, IL 60624
Date of COPA Notification:	January 18, 2019
Time of COPA Notification:	2:30 pm

Officers Jordan Parks and Nicholas Boyle (collectively “the Officers”) were dispatched to several reports of a wanted person near W. Chicago Ave. and N. Homan Ave. The wanted person was reported to be named ██████████ and was described as a black male standing 6’2” in height wearing a green jacket and maroon shirt. Upon arrival, Officers Parks and Boyle observed ██████████ who matched the description and placed him in handcuffs. Once ██████████ was handcuffed, he resisted the Officers and attempted to flee. The Officers requested assistance and eventually secured ██████████ in the rear of Officer Gloria Tirado’s marked Department vehicle. Once ██████████ was in the vehicle, Sgt. Brian Schnier spoke with ██████████ who eventually calmed and admitted knowledge of the warrants for his arrest. Once the conversation between ██████████ and Sgt. Schnier ended, Officer Tirado transported ██████████ to the 011th District Station.

While en route to the district station, ██████████ retrieved a firearm from behind his back and attempted to conceal it under Officer Tirado’s seat. Upon arrival at the district station, Sgt. Schnier removed ██████████ from the rear seat of Officer Tirado’s vehicle and escorted him inside. Officer Tirado informed Officer Boyle about the firearm. Officer Boyle recovered the firearm and discovered that it was loaded and cocked. Once inside the district station the first custodial search of ██████████ was completed during which live rounds of ammunition were recovered from his right jacket pocket.

During his statement to COPA, ██████████ alleged that Officers Parks and Boyle struck and kicked him excessively. During our investigation, COPA identified the procedural allegations detailed below. Our investigation revealed the allegations made by ██████████ were **not sustained** and the allegations identified by COPA were **sustained** (Officers Boyle and Parks) and **exonerated** (Sgt. Schnier and Officer Tirado).

II. INVOLVED PARTIES

Involved Sergeant #1:	Sergeant Brian Schnier / Star #1273 / Employee ID# ██████████ / DOA: ██████████, 1998 / Unit: 011 / DOB: ██████████, 1974 / Male / White
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Involved Officer #1: Officer Jordan Parks / Star #16443 / Employee ID# [REDACTED] / DOA: August 25, 2014 / Unit: 011 / DOB: [REDACTED], 1989 / Male / Black

Involved Officer #2: Officer Nicholas Boyle / Star #4119 / Employee ID# [REDACTED] / DOA: August 25, 2014 / Unit: 011 / DOB: [REDACTED], 1989 / Male / White

Involved Officer #3: Officer Gloria Tirado / Star #19886 / Employee ID# [REDACTED] / DOA: May 26, 1998 / Unit: 011 / DOB: [REDACTED], 1963 / Female / Hispanic

Involved Individual #1: [REDACTED] / DOB: [REDACTED], 1989 / Male / Black

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Sergeant Brain Schnier	1. Failing to ensure Mr. [REDACTED] was properly searched, in violation of Rule 6.	Exonerated
	2. Failing to properly searched Mr. [REDACTED] in violation of Rule 6.	Exonerated
Officer Jordan Parks	1. Kicking Mr., [REDACTED] about his person, without justification, in violation of Rule 6.	Not Sustained
	2. Striking Mr. [REDACTED] about his person, without justification, in violation of Rule 6.	Not Sustained
	3. Failing to properly search Mr. [REDACTED] in violation of Rule 6.	Sustained / 1-day Suspension / Retraining.
Officer Nicholas Boyle	1. Kicking Mr. [REDACTED] about his person, without justification, in violation of Rule 6.	Not Sustained
	2. Striking Mr. [REDACTED] about his person, without justification, in violation of Rule 6.	Not Sustained
	3. Failing to comply with S03-14, by failing to timely activate your Body Worn Camera while engaged in a law-enforcement-activity, in violation of Rule 6.	Sustained / Written Reprimand
	4. Failing to properly search Mr. [REDACTED] in violation of Rule 6.	Sustained / 1-day Suspension / Retraining

Officer Gloria Tirado	1. Failing to properly search of Mr. ██████ ██████ in violation of Rule 6.	Exonerated
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#### IV. APPLICABLE RULES AND LAWS

##### Rules

1. Rule 6: Prohibits disobedience of any order or directed whether on or off duty.

##### General Orders

1. G06-01-01 – Field Arrest Procedures – effective December 8, 2017 to current.
2. G06-01-02 – Restraining Arrestees – effective December 8, 2017 to current.

##### Special Order

1. S03-14 – Body Worn Cameras – effective April 30, 2018 to current.

#### V. INVESTIGATION<sup>1</sup>

##### a. Interviews

In a **statement to COPA**<sup>2</sup> on August 7, 2019, Mr. ██████ stated that on the date of this incident, he was wearing a green jacket and maroon t-shirt, while at the intersection of W. Chicago Ave and N. Homan Ave., and he entered 3359 W. Chicago Ave. While inside the store two police officers (Officers Nicholas Boyle and Jordan Parks) approached him. Officer Boyle handcuffed him and asked ██████ to exit the store so that he could explain what was occurring. ██████ exited the store, but as soon as he exited, he pulled away from the Officers and attempted to flee.<sup>3</sup> Officers Boyle and Parks stopped his flight and took him to the ground. Once on the ground, ██████ initially resisted the Officers; however, he eventually calmed and became compliant. Once ██████ was compliant, the Officers continued to kick and hit him about his body. While on the ground, ██████ was patted down by one of the officers; however, he could not identify the officer. ██████ was eventually brought to his feet and he observed additional officers present.

Once on his feet, ██████ was escorted to the CPD vehicle; however, he resisted those efforts by pulling away and stiffening his body and had to be picked up and placed in the rear of the vehicle. ██████ was slid across the rear seat on his stomach. Once in the vehicle, ██████ continued his resistance, by placing his feet in the door frame to prevent the closure of the door. ██████ eventually sat up and spoke with Sgt. Brian Schnier, to whom he provided the false name ██████ to conceal the fact he had active warrants for his arrest.<sup>4</sup> However, an officer on scene

<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Att. 25.

<sup>3</sup> ██████ explained he attempted to flee because of his active arrest warrants.

<sup>4</sup> ██████ was clear he knew he had active arrest warrants when he was stopped. Additionally, ██████ never complained about the fact he was detained; however, he did express displeasure with the fact that he was never informed why he was detained despite the officers' offer to explain why he was being detained once he exited the store.

challenged ██████ that the name he provided was not his. A name check was completed on ██████ which confirmed he had active arrest warrants.

██████ denied being in possession of a firearm and explained that he never observed the firearm in the rear of the CPD vehicle. ██████ added that as he was being transported, he was uncomfortable and in pain from caused by the handcuffs and confined space, but never informed any Department member that he was in pain and never requested any medical treatment or for the handcuffs to be loosened.<sup>5</sup>

In a **statement to COPA**<sup>6</sup> on October 30, 2019, **Sgt. Brian Schnier** stated that he responded to a request for assistance from other Department members.<sup>7</sup> Upon his arrival, Sgt Schnier observed Sgt. Alex Wolinski on scene and ██████ in the rear of the CPD vehicle with several officers attempting to sit him up.<sup>8</sup> Observing that ██████ was still resisting officers, by refusing to place his legs in the vehicle, Sgt. Schnier felt that it would be best for him to speak to ██████ in an attempt to gain cooperation and compliance. Sgt. Schnier's attempts to deescalate ██████ was successful and resulted in ██████ eventually admitting his identity and acknowledging the active arrest warrant.

Sgt. Schnier explained that in his 20-plus-years of being a Department member, that it is standard practice for a search of an arrestee to occur prior to placement in the Department vehicle, and that in this instance he initially observed ██████ in the rear of the Department vehicle and had no reason to believe that the officers who placed him there had not already search him.<sup>9</sup> Further, Sgt. Schnier recalled seeing at least one officer searching ██████ as he was lying across the back seat of the Department vehicle. Finally, Sgt. Schnier explained that during his time with the Department he has experienced and is aware of instances in which a thorough search of an arrestee was completed but contraband was not discovered.

In a **statement to COPA**<sup>10</sup> on October 23, 2019, **Officer Nicholas Boyle** stated that he and his partner (Officer Jordan Parks) were dispatched to several reports of a wanted person in the area of Chicago Ave. and Homan Ave. The description provided of the wanted person was a dark-skinned black male standing 6'3" tall with a small "afro" wearing an olive jacket and blue jeans named ██████. While in the area Officer Boyle observed ██████ who matched the physical description provided, entering the store at 3359 W Chicago Ave. Officer Boyle exited the front passenger seat and entered the store. Once inside the store Officer Boyle took control of ██████ and assisted Officer Parks in placing him in handcuffs. Once ██████ was in handcuffs he was escorted from the store. Immediately upon exiting the store, ██████ attempted to flee Officer Boyle's control by pulling away; however, he was unsuccessful in escaping Officer Boyle's grasp.

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<sup>5</sup> ██████ was provided an opportunity to review his letter dated January 14, 2019, and after that review had no additional information to add to his statement.

<sup>6</sup> Att. 49.

<sup>7</sup> Sgt. Schnier was clear that while he is a sergeant, he did not respond to the scene in the capacity of the sergeant but rather as an officer to assist fellow Department members in a request for assistance.

<sup>8</sup> COPA confirmed that Sgt. Wolinski was on scene prior to Sgt. Schneir's arrival. *See* Att. 15; file Wolinski – AXON\_Body\_2\_Video\_2018-04-26\_1335.

<sup>9</sup> Sgt. Schnier added that by the time of his arrival ██████ should have already been searched twice and that there was no reason to believe that either of these searches did not occur.

<sup>10</sup> Att. 37.

In response to ██████ attempted flight, Officer Boyle executed an emergency takedown, and requested additional units for assistance. Once ██████ was on the ground, he continued to resist efforts to control him and was kicking Officer Boyle. As additional units arrived, ██████ stopped kicking. Officer Boyle was brought ██████ to his feet and escorted him to a marked CPD vehicle. While escorting ██████ Officer Boyle remarked to Officer Parks that they needed to search him. Immediately, ██████ began to resist any attempts to escort him to the CPD vehicle. ██████ was lifted from the ground and placed into the CPD vehicle. Once in the vehicle, ██████ again began to kick his legs. Eventually, Sgt. Brian Schnier spoke to and calmed ██████. Once ██████ was calm, he was transported to the 011th District Station by Officer Gloria Tirado.

Upon arrival at the district station, Officer Tirado informed Officer Boyle that she had located a firearm in the rear of her vehicle that was discarded by ██████ during his transport. Officer Boyle checked the rear of Officer Tirado's vehicle and recovered a loaded small caliber firearm.

Officer Boyle explained that while he was equipped with a Body Worn Camera (BWC), he failed to initially activate it because of the need to quickly apprehend ██████<sup>11</sup> Additionally, Officer Boyle explained that once a BWC is activated he knows the unit is recording by an indication light being visible on the top of the BWC and a periodic beep, and that when he did not observe either of those indications he would seek to reactive the BWC. Further, Officer Boyle explained that while addressing ██████ resistance on the ground he used escort hold and wrists locks, even though ██████ was kicking him. Officer Boyle was clear that he never kicked nor struck ██████ in any manner even though he would have been permitted to because ██████ kicking was the act of an assailant. Additionally, Officer Boyle explained that as ██████ began to resist when he was escorted to the CPD vehicle, Officer Boyle attempted to conduct a pat down of ██████<sup>12</sup> Officer Boyle explained that he did not conduct a custodial search of ██████ as required by policy, because of ██████ combative nature and the growing crowd of bystanders. Officer Boyle agreed the lack of a custodial search of ██████ created a significant officer safety risk to Officer Tirado and other Department members.

In a **statement to COPA**<sup>13</sup> on October 23, 2019, **Officer Jordan Parks** stated essentially the same information as Officer Boyle. Additionally, Officer Parks explained that while addressing ██████ resistance on the ground, he never kicked or struck ██████ nor did he observe any Department member kick or strike ██████ even though he or another Department member would have been permitted to because ██████ kicking was the act of an assailant. Finally, Officer Parks explained that he too understood that failing to complete a custodial search of ██████ created a significant officer safety risk to Officer Tirado and other Department members.

In a **statement to COPA**<sup>14</sup> on October 24, 2019, **Officer Gloria Tirado** stated that she responded to request for a transport vehicle from officers at Chicago Ave and Homan Ave. Upon her arrival she observed ██████ handcuffed, upright and resisting several officers' attempts to

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<sup>11</sup> Officer Boyle explained that he and Officer Parks had driven through the area on several occasions in attempts to locate the wanted person and that this was their second or third time in the area.

<sup>12</sup> Officer Boyle explained that he believes, based on the In-car Camera footage, that ██████ had the firearm concealed in his buttocks or anal cavity and that only a strip search would have located the firearm, and such a search is not permitted in the field or without proper approval.

<sup>13</sup> Att. 41.

<sup>14</sup> Att. 45.

escort him to her vehicle. As [REDACTED] was placed in the rear of the vehicle, he continued his resistance and was kicking his legs. [REDACTED] was eventually sat up and Sgt. Schnier began to speak to him. After several minutes, Officer Tirado was instructed to transport [REDACTED] to the 011th District Station. While en route, Officer Tirado observed [REDACTED] via the In-Car Camera (ICC) monitor, moving in the rear seat in a manner that caused her to believe he was attempting to conceal or discard contraband. Upon arrival at the station, after [REDACTED] was removed from her vehicle, and Officer Tirado completed a check of the prisoner compartment. This check revealed a firearm on the rear floorboard under the driver's seat. Officer Tirado informed Officer Boyle about her discovery and he recovered the firearm.

Officer Tirado admitted that she did not conduct a custodial search of [REDACTED] on scene. Initially, she explained her failure was because of [REDACTED] combative nature and observed at least two different officers complete a pat-down of [REDACTED] prior to placing him in her vehicle.<sup>15</sup> However, at the end of her statement, Officer Tirado added that per-Department policy she was not permitted to search [REDACTED] because he was a different gender, there several officers of the same gender as [REDACTED] present, and there was no immediate risk to civilians or officers.<sup>16</sup> However; after making the assertion that Department policy prevented her from searching [REDACTED] she explained that had [REDACTED] been cooperative she would have completed a pat-down of his person.<sup>17</sup> Further, Officer Tirado explained that despite what the BWC depicted at the district station, she was never prevented in any way by any Department member from completing a pat-down or any other kind of search of [REDACTED] prior to his transport. Officer Tirado explained her comments to Department members after the firearm was recovered was based on her anger with the fact that [REDACTED] was armed in the rear of her vehicle and how that placed her at risk. Finally, Officer Tirado explained that she never observed any Department members kick or strike [REDACTED].<sup>18</sup>

## b. Digital Evidence

**BWC<sup>19</sup> and In-Car Camera<sup>20</sup>** (ICC) footage depict Officer Boyle inside a business holding onto [REDACTED] who is wearing a green jacket and a maroon shirt.<sup>21</sup> Officers Boyle and Parks handcuff [REDACTED] and Officer Boyle escorts him out of the business. Immediately upon exiting the business, [REDACTED] pulls away from Officer Boyle and attempts to flee.<sup>22</sup> Officer Boyle is able to

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<sup>15</sup> During her statement, Officer Tirado recounted several times that her practice, for both male and female arrestees, is to only complete a pat-down prior to transport and that custodial searches are not completed until at the district station. This does not conform with Department policy and demonstrates a lack of understanding as to main objective of a custodial search, which is officer safety. *See* G06-01-02 IV(B).

<sup>16</sup> Officer Tirado did not provide this explanation until after speaking privately with her counsel.

<sup>17</sup> Based on Officer Tirado's own assessment of the interaction with [REDACTED] her completing a pat-down (which was not the proper form of search in this instance) or a custodial search (the proper form of search in this instance), would have been a direct violation of Department policy. *See* G06-01-02 IV(C).

<sup>18</sup> COPA notes that during her statement Officer Tirado regularly conflated pat-downs and custodial searches while also confusing custodial and strip searches.

<sup>19</sup> During the interaction, Officers Boyle and Parks inadvertently switch BWCs. The footage demonstrates that Officer Parks' BWC clearly falls to the ground twice - from 00:44 to 02:03 and 03:21 to 04:07 and is picked up by various officers. BWC. Att. 15.

<sup>20</sup> Att. 15.

<sup>21</sup> Relevant portion at 00:24 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

<sup>22</sup> Relevant portion at 00:41 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

maintain control of █████ and both Officers take him to the ground.<sup>23</sup> Once on the ground, █████ continues to writhe and resist the Officers' commands to calm down.<sup>24</sup> Eventually, █████ calms, Officer Parks brings him to his feet and attempts to escort him to the CPD vehicle. As █████ approaches the vehicle he refuses to enter and appears to kick at Officer Parks.<sup>25</sup> █████ is lifted completely off the ground and placed into the rear driver's side CPD vehicle head first and on his stomach.<sup>26</sup> Officer Parks opens the rear passenger door of the CPD vehicle and pulls █████ who is refusing to enter the vehicle, across the back seat.<sup>27</sup> Once in the vehicle, █████ kicks Officer Boyle<sup>28</sup> and is sat up and secured in a seat belt, but continues to resist efforts to arrest him by refusing to place his feet in the vehicle and bracing his right foot against the doorjamb preventing it from closing.<sup>29</sup> Once secured in the vehicle, Sgt. Schnier speaks to █████ who provides the name of █████.<sup>30</sup> As █████ calms down, an officer informs Sgt. Schnier that █████ provided a false name.<sup>31</sup> █████ admits to Sgt. Schnier his real name and his knowledge of the warrant for his arrest.<sup>32</sup> While Sgt. Schnier is speaking to █████ Officer Tirado enters the driver's seat of the vehicle and remains there until she transports █████ to the 011th District Station.<sup>33</sup>

As █████ is being transported, he removes an item from behind his back.<sup>34</sup> A firearm is seen sliding from █████ seat on to the floorboard of the vehicle.<sup>35</sup> █████ hands were positioned behind him and his jacket was opened with the pockets also behind his back.

Upon arrival at the station, █████ is removed from the vehicle and escorted in the station. Officer Tirado completes a search of the prisoner transport area of her vehicle and discovered a firearm.<sup>36</sup> Officer Tirado informs Officer Boyle about the firearm while telling him that she observed █████ discard the firearm during the transport. Officer Boyle recovers the firearm and determines it is cocked and loaded.<sup>37</sup> Officers Tirado, Boyle and Parks are visibly and verbally upset about the presence of the firearm. Upon learning of the presence of the firearm, Officer Parks apologized to Officer Tirado. Officer Tirado explains that she wanted and attempted to search █████ on scene of his arrest, but Sgt. Schnier prevented her from doing so; however, she did not explain how Sgt. Schnier prevented her from searching.<sup>38</sup>

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<sup>23</sup> Relevant portion at 00:42 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

<sup>24</sup> Relevant portion at 02:08 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

<sup>25</sup> Relevant portion at 03:17 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

<sup>26</sup> Relevant portion at 03:23 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333; 00:00 of Boyle – AXON\_Body\_2\_Video\_2018-04-26\_1336 of Att. 15.

<sup>27</sup> Relevant portion at 00:26 of Boyle – AXON\_Body\_2\_Video\_2018-04-26\_1336 of Att. 15.

<sup>28</sup> Relevant portion at 00:39 of Schnier – 3 – AXON\_Body\_2\_Video\_2018-04-26\_1337 of Att. 15.

<sup>29</sup> Relevant portion at 02:30 of Schnier – 3- AXON\_Body\_2\_Video\_2018-04-26\_1337; 06:19 of Parks – AXON\_Body\_2\_Video\_2018-04-26\_1333 of Att. 15.

<sup>30</sup> Relevant portion from 02:50 to 07:05 of Schnier – 3 – AXON\_Body\_2\_Video\_2018-04-26\_1337 of Att. 15.

<sup>31</sup> Relevant portion at 07:57 of Schnier – 3 – AXON\_Body\_2\_Video\_2018-04-26\_1337 of Att. 15.

<sup>32</sup> Relevant portion at 08:06 of Schnier – 3 – AXON\_Body\_2\_Video\_2018-04-26\_1337 of Att. 15.

<sup>33</sup> Officer Tirado's BWC captured several instances when she addressed the crowd with profanity and/or in a rude manner. COPA did not serve allegations related to Officer Tirado's behavior towards unknown members of the public; COPA instructs Officer Tirado specifically, and CPD in general, to refrain from disrespectful language.

<sup>34</sup> During their statements, Officers Boyle and Parks both explain that they believe █████ is removing the firearm from his buttocks or anal cavity.

<sup>35</sup> Relevant portions from 00:00 to 01:10 of 1112 – 3 – ICC\_BT\_1112\_JB238852 █████ of Att. 15.

<sup>36</sup> Relevant portion at 00:44 of Tirado – 2 – AXON\_Body\_2\_Video\_2018-04-26\_1354.

<sup>37</sup> Relevant portion at 01:20 of Tirado – 2 – AXON\_Body\_2\_Video\_2018-04-26\_1354.

<sup>38</sup> Relevant portion from 01:04 to 02:30 of Tirado – 2 – AXON\_Body\_2\_Video\_2018-04-26\_1354.

The footage is clear that no Department member completed a custodial search of █████ prior to him being placed in the CPD vehicle or transported, and that he was armed with a firearm during his transport to the station. Since Officer Parks' BWC fell to the ground, there is approximately 78-second portion of the encounter with █████ that only captures audio.

### c. Documentary Evidence

In a **Letter**<sup>39</sup> to COPA, █████ alleges that during his arrest, Officers Park and Boyle used excessive force. █████ does not provide any details about how the Officers force was excessive; however, he does admit that he resisted the Officers and attempted to flee from them. Additionally, █████ alleges that footage from the Officers' BWC is missing – specifically that there are portions of the recordings where there is audio but no picture.

**Event Queries**,<sup>40</sup> █████ **Arrest Report**,<sup>41</sup> and an **Original Incident Case Report**<sup>42</sup> detail that the Officers were dispatched to the area of Chicago Ave and Homan St on reports of a wanted person. The wanted person was named █████ and described as a black male standing 6'2" in height wearing a green jacket and marron shirt.<sup>43</sup> The warrants were for battery and narcotics. Upon arrival at the location, the Officers observed █████ and confirmed he matched the description provided. The Officers placed █████ in handcuffs and escorted him to a CPD vehicle. While escorting █████ he pulled away from the Officers and attempted to flee. The Officers conducted an emergency takedown on █████. Once █████ was on the ground, he began to kick the Officer Boyle's legs. The Officer issued verbal commands and used escort holds, armbars, wrist locks, and pressure / pain compliance to gain control of █████. Once █████ was compliant, the Officers attempted to placed him in a marked CPD vehicle. █████ resisted their efforts by stiffening his body and pushing away from the vehicle. The Officers were able to secure █████ in the vehicle, where he provided the name of █████. Once in the vehicle and prior to a custodial search, █████ was transported to the 011th District Station.

While enroute to the District Station, Officer Tirado observed █████ moving about in the rear seat of her vehicle. Upon arrival at the District Station, █████ was removed from Officer Tirado's vehicle and she conducted a search of the prisoner transport area. During this search Officer Tirado discovered a loaded and cocked .22 caliber firearm with a defaced serial number on the floorboard where █████ had been sitting. Once inside the district station, a custodial search of █████ was completed. During this search 14 live rounds of .22 caliber ammunition were discovered in his left jacket pocket. Once █████ warrants were confirmed he was charged with unlawful use of a weapon by a felon, resisting / obstructing a peace officer, battery, possession of ammunition without a Firearm Owner Identification Card, possession of a firearm with a defaced serial number, obstructing identification, and two outstanding arrest warrants. Finally, █████ is

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<sup>39</sup> Att. 4.

<sup>40</sup> Att. 9.

<sup>41</sup> Att. 6.

<sup>42</sup> Att. 8.

<sup>43</sup> Att. 9, pgs. 1 and 3; Att. 6 and 7, pg. 3.

described as a black male standing 6'1" in height and his booking photograph depicts him wearing a maroon shirt.<sup>44</sup>

**Tactical Response Reports** (TRR) for Officers Boyle<sup>45</sup> and Parks<sup>46</sup> describe [REDACTED] actions as not following verbal direction, stiffening, pulling away, fleeing, and physical attack with his knee/leg strikes. The force mitigation the Officers used is detailed as member presence, verbal direction/control techniques, tactical positioning, additional members, and movement to avoid attack. The force the Officers used is detailed as escort holds, wristlocks, armbars, pressure to sensitive areas, and take downs. The reports detail the [REDACTED] was armed with a firearm; however, the narratives are clear this was learned only after [REDACTED] arrival at the District Station.<sup>47</sup> Further, Officer Boyle's report details that he was a victim of a battery when [REDACTED] kicked him in the legs.

Sgt. Cory Petracco noted that he did not respond to the location of the force because it was reported to him several hours later.<sup>48</sup> Additionally, Sgt. Petracco documented that during the encounter both Officers' BWCs were knocked off their persons and that they appeared to have inadvertently switched BWCs. Further, Lt. Samuel Dari detailed that while speaking to [REDACTED] [REDACTED] admitted to resisting because he was aware of the arrest warrants. Finally, Lt. Dari details he completed a review of the Officers' force and determined their actions complied with Department policy.

## 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. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance

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<sup>44</sup> Atts. 6 and 7, pg. 1.

<sup>45</sup> Att. 12.

<sup>46</sup> Att. 13.

<sup>47</sup> Both TRRs indicate the [REDACTED] was armed when the officers used force; however, during statements both Officers Boyle and Parks explained that it was not learned until after [REDACTED] was transported to the District Station that he was armed and that their use of force was not based on the fact [REDACTED] was armed, as it was unknown at the time.

<sup>48</sup> COPA confirmed that Sgts. Wolinski and Schnier were present on scene during the encounter with [REDACTED] and at least one of them were aware of the force used by the Officers.

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 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. 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.

## VII. ANALYSIS

### a. Force Related Allegations

COPA find that Allegations #1 and 2 against Officers Parks and Boyle are **not sustained**. While it is not disputed that the ██████ was resisting Officer Parks and Boyle's attempts to control him and that both officers used force, COPA located no evidence, other than ██████' own statement, that supports the allegations. Additionally, COPA located no evidence, other than the officers' own statements and reports, that refute the allegations. Therefore, COPA is unable to determine if the alleged conduct occurred.

### b. Search Allegations

COPA finds that both Allegations against Sgt. Schnier and Allegation #1 against Officer Tirado are **exonerated**, and Allegation #3 against Officer Parks, and Allegation #4 against Officer Boyle are **sustained**. "Department members who take an individual into custody or accepting custody from other members [are] responsible for conducting a thorough search . . . to prevent . . . injury."<sup>49</sup> The search Department members are required to complete is a custodial search which is in part intended "to keep . . . weapons out of jail, . . . and to protect the officer."<sup>50</sup> Additionally, Department members who are required to conduct subsequent custodial searches are specifically "cautioned that the preliminary search may, due to urgent circumstances, . . . be . . . limited or not fully effective."<sup>51</sup> However, "[c]ustodial searches [are to] be conducted by a member who is of the same gender as the arrestee" unless such a member "is not immediately available and officer or citizen safety is compromised" by not completing a "immediate search."<sup>52</sup> Finally, Supervisory Members will "[e]nsure that all Policy, Rules, Regulations, Orders and Directives of the Department are . . . implemented by their subordinates."<sup>53</sup>

Here, it is undisputed that no custodial search was completed on ██████ until after his arrival at the District Station. While a pat-down may have occurred as ██████ was taken into custody, the pat-down was clearly insufficient to locate the firearm. COPA acknowledges that ██████' resistance and combativeness during his arrest made a through custodial search difficult. However,

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<sup>49</sup> G06-01-02 IV(B).

<sup>50</sup> G06-01-02 IV(A).

<sup>51</sup> Note to G06-01-02 IV(B).

<sup>52</sup> G06-01-02 IV(C).

<sup>53</sup> Article IV(B)(7) of the Rule and Regulations of the Chicago Police Department.

COPA finds that once in the rear of the CPD vehicle and prior to his transport ██████ calmed, became cooperative, and acknowledge the basis of his arrest. This created an opportunity for a custodial search; yet no search occurred until he was inside of the District Station. Both Officers Boyle and Parks acknowledged that no custodial search was completed, and that failure directly placed other Department members' safety in jeopardy. Therefore, the allegations of failing to complete a custodial search of ██████ against Officers Boyle and Parks are **sustained**.

Despite Officer Tirado's assertions, on BWC, that she was prevented from searching ██████ COPA could not locate any evidence that demonstrated Officer Tirado requested or even attempted to search ██████ prior to his transport nor did COPA locate any evidence that any Department member prevented Officer Tirado from searching ██████ prior to his transport. Therefore, we find this explanation disingenuous and give it no credit. However, the fact that Officer Tirado is of a different gender than ██████ the presence of Department members of the same gender of ██████ on scene, and the lack of immediate officer or citizen safety concern relieved Officer Tirado of any responsibility to complete a custodial search of ██████ Therefore, the Allegation against Officer Tirado is **exonerated**.

While Sgt. Schnier is a supervisor and ultimately responsible for ensuring his subordinates comply with all Department orders, COPA finds his explanation as to why he did not search or inquire if other officers searched ██████ reasonable and credible. This finding is based on (1) Sgt. Schnier's explanation that upon his arrival at least one other supervisor was present – this is confirmed by BWC footage; (2) that ██████ was already in the Department vehicle – this is confirmed by the BWC footage; (3) that in his experience at least two searches of ██████ should have already occurred; (4) that Sgt. Schnier had no reason to believe that any of the officers dealing with ██████ prior to placing him in the Department vehicle had not searched him; (5) that he observed at least one officer attempting to search ██████ while he was lying in the back seat of the Department vehicle; and (6) COPA's understanding and acknowledgement that absent knowledge of specific reasons to the contrary – which do not appear in this instance, faith that fellow Department members are acting in accordance with policy and in a manner to ensure safety is paramount to the proper functions of the Department. Thus, based on the reasonableness and credibility of Sgt. Schnier's explanation, COPA finds that the allegations against him are **exonerated**.

COPA notes that the failure of the Department members to thoroughly search ██████ as required by policy, created great risk to members, especially considering ██████ had access to the firearm while he was handcuffed.

### c. Body Worn Camera Allegation

COPA finds that Allegation #4 against Officer Boyle is **sustained**. Department members are required to timely activate their body worn cameras “for all law-enforcement-related activities” to include “calls for service[,] ... investigatory stops[,] ... [and] arrests.”<sup>54</sup> Here, Officer Boyle never activated a BWC. While Officer Boyle's BWC did record portions of the encounter with ██████ it did not begin to record until after Officers Boyle and Parks inadvertently switched BWCs. COPA acknowledges, that once Officers Boyle and Parks switched BWCs, Officer Boyle

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<sup>54</sup> S03-14 III(A)(2),(a),(b),(f).

would have no indications that his assigned BWC was not activated, as it was affixed to Officer Parks, thereby eliminating Officer Boyle's ability respond to the lack of audible and visual indications of activation. Further, COPA acknowledges, that once Officers Boyle and Parks switched BWCs, Officer Boyle could reasonably believe that his assigned BWC was active, since Officer Parks' BWC was affixed to Officer Boyle and providing audible and visual indications it was actively recording. Officer Boyle explained that his failure to activate his BWC when he initially encountered [REDACTED] was based on his desire to quickly apprehend [REDACTED] who had entered a store.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Jordan Parks

#### i. Complimentary and Disciplinary History

- 1. Complimentary:** 1 2019 Crime Reduction Award, 2 Complimentary Letters, 4 Department Commendations, 1 Emblem of Recognition – Physical Fitness, 42 Honorable Mentions, 1 Life Saving Award, 1 Superintendent's Award of Tactical Excellence.
- 2. Disciplinary:** 1 SPAR – 561012, 04-DEC-2020, Court Appearance Violation, Reprimand ;1 CR – 1082616, 13-OCT-2016, Prisoner's Property – Inventory/Receipt, 1 Day Suspension.

#### ii. Recommended Penalty, by Allegation

- 1. Allegation No. 3** – Written Reprimand / Prisoner Search Retraining.

While Officer Parks admitted that he did not complete a custodial search of [REDACTED] prior to his transport to the District Station his explanation of this failure – specifically [REDACTED] combative nature, the growing crowd, and the need to quickly place [REDACTED] in a position where his combativeness would be greatly reduced – are credible and reasonable. Further, BWC footage clear demonstrate that Officer Parks was upset, with himself, upon learning that [REDACTED] had discarded the firearm inside of the Department vehicle, and during his statement Officer Parks acknowledged that this failure created a significant officer safety risk and acknowledged the seriousness of the lack of a search.

### b. Officer Nicholas Boyle

#### i. Complimentary and Disciplinary History

- 1. Complimentary:** 1 2019 Crime Reduction Award, 1 Attendance Recognition Award, 6 Department Commendations, 2 Emblem of Recognition – Physical Fitness, 65 Honorable Mentions, 1 Police Officer of the Month Award, 1 Superintendent's Award of Tactical Excellence.

- 2. **Disciplinary:** 1 SPAR - 561844, 14-OCT-2020, Inattention to Duty, 1 Day Suspension; 1 CR – 1082616, 13-OCT-2016, Prisoner’s Property – Inventory/Receipt, 1 Day Suspension.

**ii. Recommended Penalty, by Allegation**

- 1. **Allegation No. 3** – Written Reprimand
- 2. **Allegation No. 4** – Written Reprimand / Prisoner Search Retraining.

While Officer Boyle admitted that he did not complete a custodial search of █████ prior to his transport to the District Station his explanation of this failure – specifically █████ combative nature, the growing crowd, and the need to quickly place █████ in a position where his combativeness would be greatly reduced – are credible and reasonable. Further, BWC footage clear demonstrate that Officer Boyle was upset with himself, upon learning that █████ had discarded the firearm inside of the Department vehicle, and during his statement Officer Boyle acknowledged that this failure created a significant officer safety risk and acknowledged the seriousness of the lack of a search. Additionally, Officer Boyle admitted that he failed to activate his BWC, and that this failure was, in part, based on his desire to quickly apprehend █████ who was entering a store. Additionally, once █████ began to resist his arrest, Officer Boyle’s BWC was knocked-off his person and inadvertently switched with Officer Parks’. This inadvertent switching prevented Officer Boyle from ever activating his BWC and likely caused him to believe the BWC mounted to his chest was actively recording – which it was.

While COPA is greatly concerned with the officer safety issue presented by lack of a custodial search, it also acknowledges that █████ combativeness and resistance greatly inhibited the ability of any Department member to complete a proper custodial search. However, COPA determined that once █████ calmed and acknowledged the basis of his arrest at least one Department member should have completed a custodial search.

**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Sergeant Brain Schnier	1. Failing to ensure Mr. █████ was properly searched, in violation of Rule 6.	Exonerated.
	2. Failing to properly searched Mr. █████ in violation of Rule 6.	Exonerated.
Officer Jordan Parks	1. Kicking Mr., █████ about his person, without justification, in violation of Rule 6.	Not Sustained.
	2. Striking Mr. █████ about his person, without justification, in violation of Rule 6.	Not Sustained.

	3. Failing to properly search Mr. [REDACTED] in violation of Rule 6.	Sustained / Written Reprimand / Retraining.
Officer Nicholas Boyle	<p>1. Kicking Mr. [REDACTED] about his person, without justification, in violation of Rule 6.</p> <p>2. Striking Mr. [REDACTED] about his person, without justification, in violation of Rule 6.</p> <p>3. Failing to comply with S03-14, by failing to timely activate your Body Worn Camera while engaged in a law-enforcement-activity, in violation of Rule 6.</p> <p>4. Failing to properly search Mr. [REDACTED] in violation of Rule 6.</p>	<p>Not Sustained.</p> <p>Not Sustained.</p> <p>Sustained / Written Reprimand.</p> <p>Sustained / Written Reprimand / Retraining.</p>
Officer Gloria Tirado	1. Failing to properly search of Mr. [REDACTED] [REDACTED] in violation of Rule 6.	Exonerated.

Approved:

[REDACTED]

6-29-2021

\_\_\_\_\_  
 Angela Hearts-Glass  
 Deputy Chief Investigator

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	8
<b>Investigator:</b>	Garrett Schaaf
<b>Supervising Investigator:</b>	Sherry Daun
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass