

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

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| Date of Incident: | June 15, 2019 |
| Time of Incident: | 10:53 P.M. |
| Location of Incident: | 3300 W. Le Moyne St. Chicago, IL, 60651 |
| Date of COPA Notification: | June 16, 2019 |
| Time of COPA Notification: | 8:02 A.M. |

An initiation report was sent to COPA by Sgt. William McClelland #1420, assigned to the 14th District. On June 15, 2019, at approximately 10:50 p.m. Sgt. McClelland responded to a request for a supervisor at [REDACTED]. When he arrived, he was met with J [REDACTED] aunt, [REDACTED]¹, and learned that [REDACTED] was getting treated by CFD Ambulance #52, as he was having trouble breathing and had red marks on his stomach. He was taken to Norwegian Hospital. [REDACTED] later related to Sgt. McClelland, that he was stopped by three CPD officers while walking down the street during the Puerto Rican Festival. The officers stopped him, handcuffed him, and brought him into the CPD vehicle. He was taken out of the squad car on St. Louis and Potomac where he was punched in the stomach and hit on the back by one of the officers. He was eventually released and left the area. It should be noted that in the Initiation Report Sgt. McClelland detailed [REDACTED] was highly intoxicated, and he changed his story multiple times.

[REDACTED] alleges that he was stopped without justification, detained without justification and he was kicked in the stomach without justification.

II. INVOLVED PARTIES

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|----------------------|--|
| Involved Officer #1: | Michael Katsantones, Star #7698, Employee ID# [REDACTED], Date of Appointment: 10/31/2012, Rank: PO, Unit of Assignment: 714, DOB: [REDACTED] 1986, Gender: Male, Race: White. |
| Involved Officer #2: | Thomas Creamer, Star #14562, Employee ID# [REDACTED], Date of Appointment: 10/31/2012, Rank: PO, Unit of Assignment: 189, DOB: [REDACTED] 1978, Gender: Male, Race: White. |
| Involved Officer #3: | Jason Nieves, Star #21294, Employee ID# [REDACTED], Date of Appointment: 03/15/2013, Rank: PO, Unit of Assignment: 716, DOB: [REDACTED] 1983, Gender: Male, Race: Hispanic. |

¹ COPA reached out to [REDACTED] with negative results, see CMS notes. [REDACTED] was not a witness but a third-party to this incident.

Involved Individual #1:

██████████, DOB: ██████ 1996, Gender: Male,
Race: Hispanic.

III. ALLEGATIONS

| Officer | Allegation | Finding / Recommendation |
|---------------------|---|--|
| Officer Creamer | <p>It is alleged by ██████████ that on or about June 15th, 2019, at approximately 10:53 P.M. at or near 3301 W. Le Moyne St. Chicago, IL 60651. Officer Creamer committed misconduct by;</p> <ol style="list-style-type: none"> 1. stopping ██████████ without justification. 2. detaining ██████████ without justification. 3. forcefully kicking ██████████ in the stomach while handcuffed without justification. | <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> |
| Officer Katsantones | <p>It is alleged by ██████████ that on or about June 15th, 2019, at approximately 10:53 P.M. at or near 3301 W. Le Moyne St. Chicago, IL 60651. Officer Katsantones committed misconduct by;</p> <ol style="list-style-type: none"> 1. stopping ██████████ without justification 2. detaining ██████████ without justification 3. forcefully kicking ██████████ in the stomach while handcuffed without justification | <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> |
| Officer Nieves | <p>It is alleged by ██████████ that on or about June 15th, 2019, at approximately 10:53 P.M. at or near 3301 W. Le Moyne St. Chicago, IL 60651. Officer Nieves committed misconduct by;</p> | |

| | |
|---|---------------|
| 1. stopping [REDACTED] without justification. | Exonerated |
| 2. detaining [REDACTED] without justification. | Exonerated |
| 3. forcefully kicking [REDACTED] in the stomach while handcuffed without justification. | Not Sustained |

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

2. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. **G04-01:** Preliminary Investigations.

Special Orders

1. **S04-13-09:** Investigatory Stop System.

Federal Laws

1. **4th Amendment,** U.S Constitution.

V. INVESTIGATION

a. Interviews

In his audio-recorded interview with COPA on November 10, 2021, [REDACTED]² stated that he was at the Puerto Rican Festival with his family. He walked across the middle of the street when an unmarked vehicle stopped, and three officers got out of the vehicle and proceeded to handcuff him. The officers put him in the back seat of the unmarked CPD vehicle. They drove down the street, and he was taken out of the vehicle while handcuffed. The officer in the backseat got out and kicked him in the stomach. The officers received a call about a person with a gun down the street, so he was released. He walked home and called an ambulance, which took him to the hospital. While at the hospital, he wanted to make a complaint and talk to a CPD supervisor, but no supervisor arrived.³

² Attachment #28.

³ [REDACTED] did not mention to COPA he was struck with a baton, that is why COPA did not bring allegations regarding the baton strike.

In his interview with COPA on November 30th, 2021, **Officer Creamer**⁴ related he was seated in the passenger side of the unmarked vehicle, while Officer Katsantones was driving the vehicle and Officer Nieves was in the backseat on the passenger side. They were on routine patrol of the area. On this day, it was the Puerto Rican Festival, which hundreds of people attend. They approached a male, now known as [REDACTED], who was standing in the street. They stopped and honked their horn and told him to keep walking. [REDACTED] responded with “Fuck you bitch.” They conducted an Investigatory Stop of [REDACTED] for obstructing traffic by a non-motorist. He was handcuffed, due to officer safety and brought into the CPD vehicle because a large group of people were walking towards them. A woman came to the CPD vehicle and said she was [REDACTED] aunt. The officers told her the reason they had stopped him and the reason he was inside the vehicle. The officers then drove down the street, due to officer safety, because of the large number of people gathering and swinging flags. They stopped the vehicle down the street and [REDACTED] said he was sorry and that his son’s birthday was the next day. The officers used their discretion and released him. Officer Creamer and Officer Katsantones got out of the vehicle and unhandcuffed [REDACTED]. [REDACTED] then walked away. The officers continued to patrol the area. During the interview, Officer Creamer said he did not kick [REDACTED] in the stomach and neither did Officer Katsantones or Officer Nieves.

In his interview with COPA on November 30th, 2021, **Officer Katsantones**⁵ related substantially the same as Officer Creamer and added that he could smell alcohol on [REDACTED] breath during the stop. He said [REDACTED] acted angry and would go back down and then get emotional again, during the interaction. He confirmed they used their discretion to release [REDACTED] instead of arresting him because he also has a child and felt bad for him. Officer Katsantones denied that he kicked [REDACTED] in the stomach and said Officer Creamer and Officer Nieves did not kick him in the stomach either.

In his interview with COPA on December 17th, 2021, **Officer Nieves**⁶ related the substantially the same as Officer Creamer and Officer Katsantones. Officer Nieves added that when they released [REDACTED], Officer Katsantones got out of the vehicle to unhandcuff him. Officer Nieves asserted he did not get out of the vehicle at that moment and he, nor the other officers, kicked [REDACTED] in the stomach.

b. Digital Evidence

There is no **Body-Worn Camera (BWC)** available for Officers Creamer, Katsantones, and Nieves because they were not assigned BWC in 2019.

The **BWC** of Sgt. McClelland #1420,⁷ shows him arriving at the Norwegian Hospital and talking with [REDACTED] and his aunt. [REDACTED] explains what occurred during his encounter with the accused officers. [REDACTED] states three officers were in the unmarked vehicle approached him for no reason. One officer said, “Bitch I am going to take you back to the station

⁴ Attachment #36.

⁵ Attachment #39.

⁶ Attachment #46.

⁷ Attachment #61.

and I'm going to beat your ass,"⁸ at that moment, they turned off their BWC. He further states he was put into the CPD vehicle and transported to another location down the street with the officers. The officers said to him, "We took you because we are trying to get to Alexis."⁹ One officer said, "I'm going to take off my badge and whoop you."¹⁰ [REDACTED] became angry, and his aunt had to interrupt to get him to focus on the question. The officers then punched him in his stomach and told him to get out of the vehicle. The officers made a U-turn and drove away. [REDACTED] shows his back to Sgt. McClelland and states again, "They said I'm going to take my badge off and I'm going to whoop your ass."¹¹ [REDACTED] mentions one officer took out a "metal stick" but does not mention getting hit with it. Sgt. McClelland asks [REDACTED] what happened with the ASP, he responds, he was hit on the back. Sgt. McClelland finishes taking [REDACTED] complainant.¹²

It should be noted that during the interview, [REDACTED] kept going from one topic to the next; he was very emotional and seemed to be highly intoxicated.

The BWC of Officer Pagan¹³ captures a group of people on a residential street, yelling at officers. The BWC captures briefly, who appears to be [REDACTED] laying on the front steps of a residence. There is an obstructed view of [REDACTED] due to a few people around him. Officer Pagan says, "He's okay, he's talking, has he been drinking?"¹⁴ a woman says, "a little."¹⁵ Officer Pagan asks [REDACTED] questions, [REDACTED] says, "Who are you, I don't fuck with the police."¹⁶ The ambulance arrives, the EMT's walk [REDACTED] to the ambulance. [REDACTED] appears to be intoxicated due to him slurring his words.

c. Physical Evidence

The Photos of [REDACTED] photos taken from CPD Evidence Technician, Officer Valenzuela #16817. The pictures show red marks that appear to be scratch on [REDACTED] chest and back.¹⁷

⁸ Attachment #61 at 4:24.

⁹ Attachment #61 at 6:22.

¹⁰ Attachment #61 at 7:10.

¹¹ Attachment #61 at 14:55.

¹² COPA obtained additional BWC from the location the ambulance arrived at which are attachments #62-68.

During those BWC video's, it captures a large group of people yelling at the CPD officers. It also captures, [REDACTED], having a conversation with Sgt. McClelland. [REDACTED] states she observed [REDACTED] walking in front of an unmarked CPD vehicle. Three CPD officers got out of the vehicle. [REDACTED] and the officers had a conversation regarding why he was stopped by the police. One officer grabbed [REDACTED] hand and told him to get into the vehicle. The vehicle drove away, she did not see anything else. Later, [REDACTED] called her and said he got "beat up." She brought him back to her residence.

¹³ Attachment #66.

¹⁴ Attachment #66 at 2:52.

¹⁵ Attachment #66 at 2:55.

¹⁶ Attachment #66 at 5:55.

¹⁷ Attachments #49-59.

d. Documentary Evidence

The **Investigatory Stop Report (ISR)**¹⁸ of ██████████ details he was stopped by Officers Creamer and Katsantonos while he was standing in the middle of the street during the Puerto Rican Festival. He was stopped because he was obstructing traffic by a non-motorist. He was detained, and there were multiple people waving flags close to the officers, which resulted in the officers relocated down the street for officer safety. During the stop, ██████████ was acting belligerent but did apologize to the officers. They had a call of a person with a gun nearby, so they used their discretion and released him.

The **Initiation Report** from Sgt. McClelland #1420,¹⁹ details that he responded to a request for a supervisor at ██████████. When he arrived, he was met by ██████████ aunt and learned that ██████████ was getting treated by ambulance #52. He was having trouble breathing and was red on his stomach. He was taken to Norwegian Hospital. ██████████ related the same as already stated in the ISR and added he was taken to St. Louis and Potomac. At that point, ██████████ was punched in the stomach by the officers. They had a call to service in another location and released him. It was noted that the Sgt. McClelland said he was highly intoxicated, and ██████████ changed his story multiple times.

The **Medical Records**²⁰ from Norwegian Hospital document that ██████████ had scratch marks on his back and redness on his abdomen. He also, had a superficial linear abrasion to his chest and no respiratory distress. The x-ray of his ribs finds there to be no evidence of fracture or other acute osseous injury.

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 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

¹⁸ Attachment #2.

¹⁹ Attachment #5.

²⁰ Attachment #8.

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.

VII. ANALYSIS

1. Officers Creamer, Katsantonos, and Nieves stopped [REDACTED] without justification.

*Investigatory Stop is the temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a criminal offense. The suspect may be detained only for the length of time necessary to confirm or dispel the suspicion of criminal activity. The temporary detention and questioning of a person for the purpose of enforcement of the Gang and Narcotics-Related Loitering Ordinances is an Investigatory Stop.*²¹

Officers Creamer, Katsantonos, and Nieves all stated in their COPA interviews that they conducted a stop of [REDACTED] because [REDACTED] was standing in the middle of the road. He did not move when the officers honked their horn. [REDACTED] responded with, "Fuck you bitch." The officers conducted an Investigatory Stop of him, due to his actions and since he was obstructing traffic by a non-motorist. They wrote an Investigatory Stop Report that summarized the above. The Investigatory Stop definition above shows the officers had reasonable articulable suspicion to detain him due to him standing in the middle of the street and stopping traffic. Therefore, COPA finds that the detention was within policy and makes a finding of **EXONERATED** as to the stop of [REDACTED].

2. Officers Creamer, Katsantonos, and Nieves detained [REDACTED] without justification.

The officers had the right to conduct a stop of [REDACTED]. Similarly, they also had the right to detain him. The officers moved him from the scene of the festival for officer safety, due to multiple people having huge flag poles and swinging them close to the officers. The brief detention of [REDACTED] was of a reasonable length to detain an individual, based on the immediate situation. Therefore, the allegation that Officers Creamer, Katsantonos, and Nieves detained [REDACTED] without justification must be **EXONERATED**.

²¹ S04-13-09- Investigatory Stop System, II Definitions, letter A.

3. Officers Creamer, Katsantones, and Nieves forcefully kicked [REDACTED] in the stomach while handcuffed without justification.

[REDACTED] stated in his COPA interview that he was stopped by an unmarked CPD vehicle. The backseat officer exited the vehicle, handcuffed him, placed him in the vehicle, and then the officers drove down the street. The vehicle stopped and the backseat officer again exited the vehicle, got him out of the vehicle, and kicked him in the stomach. The officers then received a call nearby and released him there. In Officers' Creamer, Katsantones, and Nieves's interviews, they all stated that none of the officers kicked him. There is no audio or video available for this incident, since the officers did not have BWC assigned to them. Since there is insufficient the allegation that Officers Creamer, Katsantones, and Nieves forcefully kicked [REDACTED] in the stomach while handcuffed without justification, the allegation is **NOT SUSTAINED**.

Approved:

[REDACTED]
Sharday Jackson
Deputy Chief Administrator

July 28, 2022
Date