

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 25, 2018
Time of Incident:	Approximately 11:00a.m.
Location of Incident:	██████████ Chicago, IL
Date of COPA Notification:	November 15, 2018
Time of COPA Notification:	1:32p.m.

On September 25, 2018, at approximately 11:00a.m., at ██████████ (██████████) was confronted by the police on the front porch of his residence regarding a shooting in the area. One of the officers told ██████████ that he fit the description of the shooter and attempted to handcuff ██████████ pulled away. Additional officers assisted with taking ██████████ into custody. ██████████ alleged that he was repeatedly grabbed by the arms, taken to the ground, and falsely charged with Battery and Resisting Arrest.

II. INVOLVED PARTIES

Involved Officer #1:	Officer John Craig, Star #7027, Employee ID: #██████████, Date of Appointment: October 29, 2007, Rank: Police Officer, Unit of Assignment: Unit 011, DOB: ██████████, 1969, Gender: Male, Race: Black
Involved Officer #2:	Detective Maria Martinez ¹ , Star #21380, Employee ID: #██████████, Date of Appointment: November 4, 2013, Rank: Detective, Unit of Assignment: Unit 640, DOB: ██████████, 1986, Gender: Female, Race: Hispanic
Involved Officer #3:	Officer Jaime Tomczyk, Star #18456, Employee ID: #██████████, Date of Appointment: October 31, 2016, Rank: Police Officer, Unit of Assignment: Unit 007, DOB: ██████████, 1994, Gender: Female, Race:
Involved Officer #4:	Officer Albert Dobbins, Star: #9225, Employee ID: #██████████, Date of Appointment: June 3, 2013, Rank: Police Officer, Unit of Assignment: Unit 007, DOB: ██████████, 1985, Gender: Male, Race:

¹ Det. Martinez was an officer at the time of the alleged incident.

Involved Officer #5: Officer Walter Ware, Star #19428, Employee ID: # [REDACTED], Date of Appointment: May 10, 1999, Rank: Police Officer, Unit of Assignment: Unit 007, DOB: [REDACTED], 1959, Gender: Male, Race: Black

Involved Officer #6: Officer Edward Bielawski, Star #2930, Employee ID: # [REDACTED], Date of Appointment: November 16, 2017, Rank: Police Officer, Unit of Assignment: Unit 007, Gender: Male, Race: Black

Involved Officer #7: Officer Craig Miller, Star #7770, Employee ID: # [REDACTED], Date of Appointment: November 25, 2013, Rank: Police Officer, Unit of Assignment, Unit 007, Gender: Male, Race: White

Involved: [REDACTED] Date of Birth: [REDACTED], 1988, Male/Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer John Craig	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at [REDACTED] Officer John Craig, committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Took [REDACTED] to the ground without justification. 2. Falsely charged [REDACTED] with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
Detective Maria Martinez	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at [REDACTED] Detective Maria Martinez (then Officer Martinez) committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Took [REDACTED] to the ground without justification. 2. Falsely charged [REDACTED] with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
Officer Jamie Tomczyk	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at [REDACTED] Officer Jamie Tomczyk committed misconduct through the following acts or omissions:</p>	

	<ol style="list-style-type: none"> 1. Took ██████████ to the ground without justification. 2. Falsely charged ██████████ with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer Albert Dobbins</p>	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at ██████████ Officer Albert Dobbins committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Took ██████████ to the ground without justification. 2. Falsely charged ██████████ with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer Walter Ware</p>	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at ██████████ Officer Walter Ware committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Took ██████████ to the ground without justification. 2. Falsely charged ██████████ with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer Edward Bielawski</p>	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at ██████████ Officer Edward Bielawski committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Took ██████████ to the ground without justification. 2. Falsely charged ██████████ with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer Craig Miller</p>	<p>It is alleged that on September 26, 2018, at approximately 11:00am, at ██████████ Officer John Craig committed misconduct through the following acts or omission:</p> <ol style="list-style-type: none"> 1. Repeatedly grabbed ██████████ by the arm without justification. 2. Took ██████████ to the ground without justification. 3. Falsely charged ██████████ with Battery and Resisting Arrest. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Disobedience of an order or directive, whether written or oral.
 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
 3. Rule 1: Violation of any law or ordinance.
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General Orders

1. Chicago Police Department General Order G02-01, Human Rights and Human Resources
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Federal Laws

1. United States Constitution, IV Amendment

V. INVESTIGATION²

a. Interviews

██████████

COPA investigators interviewed ██████████ on November 19, 2018. During the interview, ██████████ stated that a shooting that involved an unknown offender occurred in his neighborhood as he was entering his residence. ██████████ nephew, ██████████ who lives with ██████████ was exiting the residence at the same time to retrieve his cell phone that he accidentally dropped while running away from the area of the shooting in effort to seek refuge. ██████████ stated that ██████████ told him that he was not involved in the shooting.

██████████ stated that he accompanied ██████████ to retrieve his cell phone. When they returned, ██████████ momentarily entered their residence to use the restroom while ██████████ remained on the front porch. When ██████████ re-joined ██████████ on the front porch, he observed that several uniformed Chicago Police Officers were standing in a vacant yard across the street from their residence. ██████████ asked ██████████ why the police were not up the street, near the local corner store, where the shooting occurred. ██████████ stated that the officers overheard his comment and approached his residence. One of the officers, whom ██████████ described as a male/White, questioned ██████████ regarding the shooting. ██████████ told the officer that he did not know anything about the shooting and turned around to enter his residence. The same officer told ██████████ that he looked like the involved suspect and grabbed ██████████ wrists to handcuff him.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

██████████ repeatedly pulled away and directed profanity at the officers as they took him to the ground, handcuffed him, and told him to calm down. ██████████ stated that he slipped out of his handcuffs while on the ground and was re-handcuffed. ██████████ stated that a supervisor arrived, informed the officers that he was not the suspect they were looking for, and apologized to ██████████. ██████████ stated that he was still taken into custody and transported to the 005th District Station. From there, ██████████ was transported to the 007th District Station to appear in a line-up. ██████████ stated that he was then transported from the 007th District Station to Cook County Jail and released several days later.³

b. Digital Evidence

Event Queries⁴ and Office of Emergency Management and Communication (OEMC)⁵ transmissions revealed that several calls of reports of shots fired were made to “911.” One of the initial “911” calls was made by an off-duty police officer of the Robbins [Illinois] Police Department. The off-duty officer reported that he was driving alone in his SUV, in the area of 82nd & Justine, when shots were fired from a black, four door Hyundai. The off-duty officer told the “911” call taker that he pursued the suspect’s vehicle in his personal vehicle and exchanged gunfire with the occupants until he ran out of ammunition in the area of 73rd & Halsted. The off-duty officer informed the “911” call taker that with no ammunition left, he waited for the police at 73rd & Halsted. The off-duty officer reported that there were four suspects in the vehicle who all fled the scene and one of the suspects had on dark jeans.⁶

A male caller called “911” and reported that the male Black the police were looking for was just in the park area near 72nd and Normal. The male caller described the male Black as approximately 20-30 years old, around 6’0,” black shirt, blue jeans, and bleeding from his head. OEMC transmissions revealed reports of shooting from various areas within the 006th and 007th Districts, including the 7300 block of south May Street, which is the block where ██████████ resides.⁷ The OEMC dispatcher informed responding officers that CPIC⁸ reported that a subject wearing a blue shirt and gray faded ripped jeans was seen fleeing into a house on 73rd & May Street.⁹

Body Worn Camera (BWC) footage depicts approximately four uniformed Chicago Police Officers approaching ██████████ front porch as ██████████ was about to enter his residence. ██████████ who was 30YOA at the time of the alleged incident, was wearing a blue shirt and blue faded jeans that had a rip/hole. The officers told ██████████ that he fit the description of the shooting suspect and attempted to remove him from the porch. ██████████ pulled his hands away from the officers. The officers pulled ██████████ from the porch, onto a grassy area in his front

³ Att. #8.

⁴ Att. #23.

⁵ Att. #28-61

⁶ Att. #28.

⁷ A person was reported being shot at 81st & Loomis. A car accident at 73rd & Halsted was reported stemming from the shooting. A person was reported being shot and bleeding from the head at 72nd & Normal. These incidents are all believed to be connected.

⁸ Crime Prevention & Information Center

⁹ Att. #58/ Timestamped at 24:43.

yard, where he continued to pull away from the officers, kick toward the officers, and direct profanity at the officers.

██████████ is heard telling the officers that he would fight them. The BWC depicts ██████████ slipping out of one handcuff and being re-handcuffed. ██████████ family members are heard repeatedly telling him to calm down and cooperate with the officers, but he ignored them. ██████████ is heard telling the officers that ██████████ was not involved in the shooting and that ██████████ was resisting because he did not like the police due to several past bad experiences that he has had with the police. ██████████ also told the officers that he (██████████) was walking in the area of the shooting when unknown offenders shot at him.

In additional BWC footage, an officer is heard telling ██████████ that he would be released if it was determined that he was not the subject they were looking for and that the police would apologize. The police walked ██████████ to a squad car. As they were doing so, ██████████ kicked toward the officers and pushed away from being placed inside the squad car. The officers pushed ██████████ inside the squad car and closed the door. A supervisor told the transporting officers to take ██████████ to Area South for a line-up.¹⁰

Cell phone footage captured by a member of ██████████ residence initially depicts six uniformed officers holding ██████████ down on the ground. ██████████ family yells that ██████████ did not do anything [wrong]. Officers inform ██████████ family that ██████████ fit the description of the subject who was involved in a shooting. A few seconds into the video, three uniformed officers (one male officer and two female officers) hold ██████████ on the ground as ██████████ moves around on the ground. A female, who cannot be seen on the video, identifies herself as ██████████ mother and asks what is going on. As ██████████ continues to move around on the ground, an officer states that ██████████ came out of his handcuffs.

The person recording the video goes inside the house and continues to record from behind a black screen. The officers tell ██████████ to stop resisting. ██████████ directs profanity at the officers. An officer states that they are just trying to conduct an investigation and states that four people were shot. ██████████ family members tell ██████████ to calm down and tells the officers that ██████████ was in the house and was not part of any shooting. An officer states that they are just trying to figure out the situation. A uniformed male/Black Supervisor arrives and tells ██████████ "If it's not you, we're going to apologize and let you go. Right now, you fit the description." The same Supervisor also repeatedly tells ██████████ to relax.

c. Documentary Evidence

The related **Arrest and Case Reports** documented that Officer Craig Miller, Officer Albert Dobbins, Officer Idania Lira, Officer Maria Marquez, Officer Jamie Tomczyk, Officer Walter Ware, Officer Edward Bielawski, Officer John Craig, and Officer Martensen were involved in the arrest of ██████████

The officers encountered ██████████ when they were notified by OEMC that a male/Black wearing a blue shirt and faded jeans was seen running from a crime scene, initiated by ShotSpotter,

¹⁰ Att. #28-61.

at approximately 7401 S. May, at approximately 1137 hours. Officers canvassed the area and observed ██████ who fit the description of the involved subject, standing on the front porch of the residence at ██████. Officer Miller approached ██████ for an Investigatory Stop and attempted to detain him. ██████ stiffened his body, swung his arms, became verbally irate, and failed to follow commands. When Officer Tomczyk attempted to assist, ██████ struck Officer Tomczyk on the chest with his closed right fist. ██████ also struck Officer Miller on the chest with his closed right fist and attempted to strike Officer Marquez with his closed right fist. Officers performed an emergency takedown of ██████ and handcuffed him. ██████ freed his right hand from the handcuffs and was restrained on the ground while the officers securely re-handcuffed him. ██████ was transported to Area South for participation in a line-up. ██████ was charged with Aggravated Assault, Aggravated Battery, Resisting, and Criminal Damage.¹¹

Tactical Response Reports (TRR) completed by Officers Craig, Martinez, Tomczyk, Dobbins, Ware, Bielawski, and Miller documented the force the officers used against ██████ during the incident.¹²

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 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.

¹¹ Att. #10, #11.

¹² Att. #15-#19.

VII. ANALYSIS

COPA recommends that the excessive force actions alleged by ██████████ against all the involved officers occurred but were lawful and proper. ██████████ actions, as well as the actions of the involved officers, were captured on police BWC. ██████████ fought with the officers throughout his contact with the officers, even coming out of his handcuffs at one point and having to be re-handcuffed. The evidence is clear and convincing that the involved officers used force that was necessary to take ██████████ into custody and documented their use of force with ██████████ in a TRR. Therefore, COPA recommends a finding of Exonerated for all the involved officers regarding their use of force with ██████████

COPA recommends that the allegation made by ██████████ – that he was falsely charged with Battery & Resisting be Exonerated against all the involved officers. ██████████ actions were captured on BWC and were documented in TRR reports. ██████████ family members could be heard telling him to calm down and to cooperated with the involved officers, but he ignored them. The evidence indicates that there was probable cause for the charges that were placed against ██████████ and for that reason, the allegations are Exonerated.

Approved:

██████████

2-25-2022

Angela Hearts-Glass
Deputy Chief Administrator

Date