

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 14, 2018
Time of Incident:	12:00 p.m.
Location of Incident:	700 N. Avers Ave.
Date of COPA Notification:	March 16, 2018
Time of COPA Notification:	7:49 a.m.

██████████ related that he was a bystander of a traffic accident, when he was stopped by several officers, and accused of being involved with the subjects of a stolen vehicle that crashed on 658 N. Springfield. ██████████ alleged that he was grabbed and thrown to the ground by an officer who grabbed, pulled, and twisted his broken casted arm. ██████████ also stated that the same officer placed his knee on his casted arm and back area, during handcuffing. COPA investigated and positively identified Officer Matthew Patruno² as the accused officer mentioned by ██████████. During the investigation, additional policy violations were observed being committed by Officer Patruno and other responding officers. COPA brought allegations against Officer Patruno and other responding officers, which were later sustained. However, COPA was unable to interview Officer Patruno, due to the COVID-19 shut down and the fact that Officer Patruno was on a medical leave for over a year. Officer Patruno did not return to CPD and resigned from the Department in June of 2021.

II. INVOLVED PARTIES

Involved Officer #1:	Matthew C. Patruno, Star #18814, Employee ID# ██████████, Date of Appointment: November 24, 2014, PO, Unit Assigned: 180/630, DOB: ██████████ 1988, Male, White. *Resigned from CPD effective June 18, 2021.
Involved Officer #2:	Robert L. Yapdiangco, Star #17618, Employee # ██████████, Date of Appointment: May 1, 2013, PO, Unit Assigned: 015/715, DOB: ██████████, 1984, Male, Asian.
Involved Officer #3:	Cesar Soto, Star #8166 Employee # ██████████, Date of Appointment: July 17, 2017, PO, Unit Assigned: 008/193, DOB: ██████████, 1991, Male, Hispanic.

¹ ██████████ also uses and is known by the name of ██████████

² Officer Patruno is no longer an active Chicago Police Officer and resigned from the Department on June 18, 2021, after being on medical for almost a year due to an on-duty injury.

Involved Officer #4: Jesse Rodriguez, Star #8364, Employee # [REDACTED], Date of Appointment: December 14, 1988, PO, Unit Assigned: 011, DOB: [REDACTED] 1972, Male, Hispanic.

Involved Officer #5: Anthony Driver, Star #19493, Employee # [REDACTED] Date of Appointment: July 8, 1996, PO, Unit Assigned: 001/193, DOB: [REDACTED] 1984, Male, Black.

Involved Officer #6: J'Mal L. Riley, Star #20088, Employee # [REDACTED], Date of Appointment: October 5, 2012, Detective, Unit Assigned: 640, DOB: [REDACTED] 1984, Male, Black.

Involve Officer #7: Eric Acevedo, Star #13560, Employee # [REDACTED], Date of Appointment: February 2, 2015, PO, Unit Assigned: 011/640, DOB: [REDACTED], 1978, Male, Hispanic.

Involved Individual #1: [REDACTED] DOB: [REDACTED], 1995, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Matthew Patruno	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Acevedo committed misconduct through the following acts or omissions by:</p> <ol style="list-style-type: none"> 1. Pulled [REDACTED] down onto the ground, without justification. 2. Placed a knee on [REDACTED] back and casted arm, without justification. 3. Struck [REDACTED] head and body down onto the ground, without justification. 4. Forcefully pulled and twisted [REDACTED] [REDACTED] arm behind him re-injuring his broken arm, without justification. 5. Pulled and pushed [REDACTED] while escorting him, without justification. 	<p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p>

	<p>6. Directed profanities and words to the effect of, "Shut the fuck up," "Shut your fucking mouth," and "I don't give a fuck," at [REDACTED] Hathorn, during your interaction with him, without justification.</p> <p>7. Failure to complete a Tactical Response Report, in violation of General Order 03-02-02.</p> <p>8. Unprofessional and rude with your overall behavior toward [REDACTED] during this incident.</p> <p>9. Unprofessional and rude with your overall behavior toward [REDACTED] during this incident.</p>	<p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p>
<p>Officer Robert Yapdiangco</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Yapdiangco committed misconduct through the following acts or omissions by:</p> <p>1. Failure to intervene in police misconduct by Officer Matthew Patruno toward [REDACTED] during his arrest.</p> <p>2. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Not Sustained</p> <p>Unfounded</p>
<p>Officer Cesar Soto</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Soto committed misconduct through the following acts or omissions by:</p> <p>1. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Exonerated</p>

<p>Officer Jesse Rodriguez</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Rodriguez committed misconduct through the following acts or omissions by:</p> <p>1. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Exonerated</p>
<p>Officer Anthony Driver</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Driver committed misconduct through the following acts or omissions by:</p> <p>1. Failure to intervene in police misconduct by Officer Matthew Patruno toward ██████████ during his arrest.</p> <p>2. Early deactivation of body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Not Sustained</p> <p>Sustained/Violation Noted</p>
<p>Officer J'Mal Riley</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Riley committed misconduct through the following acts or omissions by:</p> <p>1. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.</p>	<p>Sustained/Violation Noted</p>
<p>Officer Eric Acevedo</p>	<p>It is alleged by the above named individual, on behalf of the Civilian Office of Police Accountability, that on or about March 14, 2018, at approximately 11:00 am, at or near 700 N. Avers Ave. and 658 N. Springfield, PO Acevedo committed misconduct through the following acts or omissions by:</p>	

	1. Failed to activate his body worn camera (BWC) in violation of Special Order 03-14.	Sustained/Violation Noted
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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 5 – Failure to perform any duty.
3. Rule 6 – Disobedience of an order or directive, whether written or oral.
4. Rule 8 – Disrespect to or maltreatment of any person, while on or off duty.
5. Rule 10 – Inattention to duty.

General Orders

1. General Order 01-01 – Mission Statement and Core Values – effective March 1, 2011.
2. General Order 03-02-05 – Incidents Requiring the Completion of a Tactical Response Report (TRR) – effective October 16, 2017.
3. General Order 04-01 – Preliminary Investigations – effective October 15, 2017.
4. General Order 08-01-02 – Specific Responsibilities Regarding Allegations of Misconduct – effective May 4, 2018.

Special Orders

1. Special Order 03-14 – Body Worn Cameras – effective June 2017.

V. INVESTIGATION³

a. Interviews

In his interview to COPA⁴ on March 20, 2018, ██████████ ██████████ related that he was watching a commotion near 700 N. Avers Ave., where a traffic crash accident occurred, when a

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Att. 11.

⁵ ██████████ is also known as ██████████ and was arrested under ██████████

white male uniformed officer ordered him to get down on the ground. ██████ refused, and the officer⁶ grabbed him by the right arm, threw him down onto the ground and pulled his right arm behind him. ██████ said that the officer struck his head against the ground and placed his knee on his back as he complained to the officer that his arm was broken. The officer continued to pull ██████ arm behind him to handcuff him then placed his knee on the side of his head. ██████ told the officer that he had been shot in the head and had a broken hand, but the officer told him to “shut the fuck up.” The accused then kneeled on ██████ hand which was in a cast causing an additional injury to his hand. ██████ complained again, and the accused directed additional profanities, and refused to get up from his hand causing the cast to break.

The officer handcuffed one hand to his pants when he realized that ██████ had a cast. The officer accused ██████ of being involved with the stolen vehicle that was involved in the crash. ██████ said that two other individuals were arrested, but he did not know their names or contact information. He knows the individuals from the neighborhood and denied being involved with the stolen vehicle that was crash. ██████ complained of pain to his hand and was taken to St. Anthony’s Hospital where he was informed that an additional finger in his right hand was broken, and a new cast was given. ██████ related that three weeks ago and prior to this incident he was shot in his head and hand. He sought treatment at Cook County (Stroger) Hospital. ██████ said that he also goes by the name of ██████ which was used in his arrest and at St. Anthony’s Hospital. ██████ complained that he was falsely arrested, verbally and physically mistreated without justification.

In a **statement to COPA**⁷ on March 18, 2021, **Officer Robert Yapdiangco** stated that on March 14, 2018, he was detailed to work with Area 3-Deputy Chief Unit with Officer Nicholas Harris⁸, and they were not equipped with body worn cameras. Officer Yapdiangco could not recall why he responded to the scene other than he heard the radio transmissions and saw ██████ who matched the description that was called over the air. Officer Yapdiangco did not know what transpired prior to the chase of ██████ but was at the scene when ██████ was placed under arrest by Officer Patrino. Officer Yapdiangco described Officer Patrino as irate and angry, using and directing profanities to ██████ while placing him under arrest. Officer Yapdiangco could not recall if Officer Patrino had any other physical contact with ██████ other than grabbing his arms and handcuffing him. Officer Yapdiangco recalled that Officer Patrino was initially escorting ██████ to a squad car, when Officer Riley took over ██████ in order to diffuse the verbal altercation that was going on between ██████ and Officer Patrino. Officer Yapdiangco explained that words were exchanged and profanities were directed by Officer Patrino, although he could not recall specific comments. Officer Yapdiangco heard ██████ complain of having a broken hand, but he could not recall any other specific injuries or a cast. Officer Yapdiangco further said that he and Officer Harris did not engage verbally or physically with ██████ did not complete any paperwork, and shortly after ██████ was secure, they left the scene.

⁶ Although ██████ did not know who the accused officer that arrested him was, body worn cameras from various officers including Officer Patrino, positively identified Officer Matthew Patrino as the accused officer.

⁷ Att. 84.

⁸ Officer Nicholas Harris was not interviewed during the investigation as he did not have any verbal or physical contact with ██████ during his arrest.

In a **statement to COPA**⁹ on March 9, 2021, **Field Training Officer (FTO) Jesse Rodriguez** stated that he was working with Officer Soto¹⁰ and while in traffic near Chicago and Homan, he observed a vehicle with a tinted windshield that caught his attention. FTO Rodriguez made a U-turn to conduct a traffic stop and noticed that the vehicle made an illegal U-turn and fled the scene at a high rate of speed. FTO Rodriguez called it out in the air, did not chase after the vehicle, but provided a description of the vehicle. FTO Rodriguez did not have any other interactions with the vehicle until he heard another police unit call out that the vehicle had crashed. FTO Rodriguez and PO Soto went to the location of the crash, briefly talked to various officers, and learned that the subjects had been placed under arrest. FTO Rodriguez related that he and Officer Soto were not witnesses to the arrest of [REDACTED] or any of the other two subjects but assisted in guarding the stolen vehicle for a tow truck. FTO Rodriguez did not activate his body worn camera and believes that the reason was because by the time he arrived at the scene there was no actual police function, the individuals had been placed under arrest and in squad cars, and there was nothing further to record. FTO Rodriguez denied seeing or hearing any of the officers at the scene verbally or physically mistreat [REDACTED] or any of the other two arrestees.

In a **statement to COPA**¹¹ on March 9, 2021, **Officer Cesar Soto** stated that he was a Probationary Police Officer (PPO) when the incident occurred and was working with FTO Rodriguez. Officer Soto provided a similar account as FTO Rodriguez regarding their response to the incident. Officer Soto could not recall the reason for not activating his BWC other than that there was no police action needed since he and FTO Rodriguez arrived after the subjects had been placed under arrest and were secure. Officer Soto did not have any interaction with the subjects or anyone else while at the scene. Officer Soto related that he and FTO Rodriguez waited for the tow truck for the stolen vehicle the subjects crashed.

In a **statement to COPA**¹² on March 19, 2021, **Officer Anthony Driver** stated he was working with Officer Riley when they responded to assist various units on a foot pursue. Officer Driver observed a group of three to four officers surrounding [REDACTED] who was on the ground. Officer Riley assisted Officer Patruno in handcuffing [REDACTED] while Officer Driver did not. Officer Driver could not specifically recall what comments were made by Officer Patruno but described Officer Patruno to be loud and argumentative. Officer Driver could not recall why he stopped Officer Riley from following Officer Patruno, but Officer Riley told him words to the effect of, "I know what to do," and ran toward Officer Patruno and [REDACTED]. Officer Driver could not recall hearing Officer Patruno using or directing profanities at [REDACTED] or using excessive force on the date of the incident. Officer Driver related that he did not have any verbal or physical contact with [REDACTED] or any of the other subjects. Officer Driver related that he deactivated his BWC early because he believed the incident was over with since [REDACTED] had been secured and removed from the scene; however, Officer Driver admitted that he was still at the scene and responded to the location where the vehicle had crashed.

⁹ Att. 66.

¹⁰ Officer Soto was a Probationary Police Officer (PPO) during the incident.

¹¹ Att. 74.

¹² Att. 74.

In a **statement to COPA**¹³ on March 18, 2021, **Officer J'Mal Riley** stated a similar account as many of the other officers regarding the event in question and identified the sergeant that responded to the scene as "Sgt. Wolinski."¹⁴ Officer Riley could not recall the specific words being used by Officer Patruno toward ██████████ but admitted hearing him use profanities at some point. Officer Riley showed Officer Patruno that ██████████ did have a cast on his hand, but he could not recall any other injuries to ██████████. Officer Riley described Officer Patruno as angry as Officer Patruno was engaged in a verbal altercation with ██████████. Officer Riley assisted in the handcuffing of ██████████ and then took ██████████ from Officer Patruno when he was being escorted to the squad car to diffuse their verbal altercation. Officer Riley stated that no other officer at the scene assisted in the arrest of ██████████ and he was not a witness to the arrest of the other two individuals.

Officer Riley admitted that he forgot to activate his BWC during this incident and indicated that it was not done on purpose but was an oversight.

In a **statement to COPA**¹⁵ on March 9, 2021, **Officer Eric Acevedo** stated that he did not have an independent recollection of the incident but used Department reports and other involved officers BWC in order to assist him in his statement. Officer Acevedo was named as being the first arresting officer for ██████████ although he could not recall arresting ██████████ or being involved in his arrest. Officer Acevedo stated that he was not working with FTO Rodriguez and could not explain how he and FTO Rodriguez were used for ██████████'s arrest. Officer Bieniasz was the attesting officer in the arrest report and Officer Bieniasz was part of his team. Officer Acevedo could not clearly explain why his name was used for the arrest report of ██████████ other than his team was handling all the arrestees that day. Officer Acevedo could not recall the incident, the arrestees or any actions taken by any of the involved officers. Officer Acevedo indicated that he did not have his BWC activated and could not explained why he failed to activate the BWC during this incident other than it was an oversight and not purposely done.

b. Digital Evidence

The Body Worn Cameras (BWC)¹⁶ of various officers were obtained and reviewed. Some of the officers belonged to specialized units and were not assigned BWCs.

- The **BWC of Officer Bieniasz** captured him stopping and handcuffing ██████████ who appeared to be wearing a white jacket. No other contact was captured of Officer Bieniasz with any other subject. Officer Bieniasz was later assisting in searching the stolen vehicle.
- The **BWC of Officer Cunningham** documented the captured of ██████████ who was wearing a black jacket and red pants. ██████████ was heard telling Officer Cunningham that there were three of them in the car and that the male with the white jacket (██████████) was driving the vehicle. ██████████ related that he was sitting in the rear and believed that the

¹³ Att. 80.

¹⁴ Sergeant Alex Wolinski was assigned to the 011th District Tactical Unit when the incident occurred. Sgt. Wolinski was not interviewed, and he has been on a suspension from the Chicago Police Department.

¹⁵ Att. 70.

¹⁶ See physical file.

vehicle was stolen. Officer Cunningham assisted other officers in searching the Porsche vehicle. Officer Cunningham explained to the responding sergeant that they saw the Porsche vehicle flying down the street and saw it crash. No other verbal or physical contact was observed between Officer Cunningham and [REDACTED] or any other subject.

- The **BWC of Officer Jimenez** captured him driving through the area in search of the three subjects. At one point, Officer Jimenez's BWC captured Officer Patruno escorting [REDACTED] and there was inaudible yelling in the background. Officer Jimenez assisted in the vehicle search.
- The **BWC of Officer Driver** captured him running through the area in search of the subjects. As he reached an intersection, a group of four officers and an unknown sergeant can be seen around [REDACTED] who was on the ground. As Officer Driver reached the group, Officer Riley can be seen assisting Officer Patruno who placed [REDACTED] in handcuffs. [REDACTED] can be heard complaining that he has a broken hand. Officers Yapdiangco and [REDACTED] were standing nearby but were not assisting in the arrest of [REDACTED]. Officer Patruno can be heard yelling at [REDACTED] as he escorts him out of the scene using profanities and telling him that "he does not give a fuck," when [REDACTED] tells him about his broken hand. Officer Driver stays behind and tries to tell Officer Riley not to get involved. Officer Riley can be seen running toward Officer Patruno and [REDACTED] as he tells Officer Driver, "I know what to do." Officer Driver then deactivates the BWC.
- The **BWCs of Officer Patruno** captured him running to catch up to Officers Yapdiangco and Harris who had stopped [REDACTED] and had him down on the ground. Officer Patruno can be heard yelling profanities at [REDACTED] telling him words to the effect of, "Get on the fucking ground now," and "shut the fuck up."¹⁷ Officers Yapdiangco and Harris were holding [REDACTED] on the ground when Officer Patruno grabbed [REDACTED] by the back of his neck, accused him of driving the Porsche and continuing to yell and use profanities. [REDACTED] can be heard asking what he had done and denied being involved with the Porsche. Officer Patruno can be heard using and directing profanities at [REDACTED] as he told the officer that his arm was broken. The BWC captured Officer Patruno's knee on the back of [REDACTED] back as he handcuffs the left hand to one of the loops of his pants as Officer Riley tells Officer Patruno that [REDACTED] has a cast on the right wrist/hand. Officer Patruno continued yelling and he can be heard telling [REDACTED] words to the effect of, "If you keep talking we are going to have a fucking problem, shut your motherfucking mouth."¹⁸ Officer Riley can be seen assisting Officer Patruno in holding [REDACTED] as he yelled that he has a broken wrist. Officer Patruno picked [REDACTED] off the ground and began to escort him toward the alley where a squad car was waiting. Words and profanities were exchange between [REDACTED] and Officer Patruno, as Officer Patruno accused [REDACTED] of driving and crashing the Porsche SUV and [REDACTED] denying doing such. Throughout the BWC, Officer Patruno can be heard yelling, cursing, and being unnecessarily argumentative with [REDACTED]. [REDACTED] told Officer Patruno that he just been released from the hospital after being in a coma and had a bullet on his head. Officer

¹⁷ BWC of Officer Patruno at 00:33 mins., and again at 00:37 mins.

¹⁸ BWC of Officer Patruno at the 1:00 min. mark.

Patruno can be seen several times grabbing and pulling on [REDACTED] by the arms. Another officer (now known to be Officer Riley) grabbed [REDACTED] from Officer Patruno and can be heard saying “calm down.” Officer Patruno walked away from [REDACTED] and walked toward the crash scene where other officers were located.

- Officer Patruno’s second BWC video captured him at the scene of the traffic crash accident with the Porsche vehicle and talking to [REDACTED]. Officer Patruno loosened [REDACTED] handcuffs as he complained that [REDACTED] had to be taken to the hospital for clearance. [REDACTED] told Officer Patruno that “they hit his head on the floor and that he was going to sue.” Officer Patruno was captured making inappropriate comments to [REDACTED] about his mother and regarding money [REDACTED] alleged was taken from him. Officer Patruno then called [REDACTED] “a dope dealer.”¹⁹

c. Physical Evidence

Medical Records²⁰ from **Cook County Stroger Hospital** indicated that [REDACTED] was taken to Stroger Hospital on March 14, 2018, at approximately 1:10 pm, for a medical clearance. The report indicated that [REDACTED] was in the custody of CPD, Beat 1161B, and was brought in for an evaluation for an alleged assault by CPD during arrest and pain to his head and right wrist/hand. [REDACTED] final diagnosis indicated that he was medically cleared for incarceration with no indication for labs or imaging and no indication of right wrist destabilization or head pathology.

Medical Records²¹ from **St. Anthony’s Hospital** indicated that [REDACTED] was later taken to St. Anthony’s on March 14, 2019, at 11:26 pm, for pain to the right hand. [REDACTED] right hand was already in a cast from a prior injury sustained two weeks prior. [REDACTED] complained of numbness to the right thumb. [REDACTED] medical records indicated that two weeks prior he was admitted to Mt. Sinai Hospital for gunshot wounds to the right forearm and hand, left shoulder, and the left side of his face. [REDACTED] complained that when he was arrested, he was thrown to the ground and his right hand was reinjured as a result of the arrest. [REDACTED] further complained that his splint came off at the police station. The final diagnosis was a fracture to his right ring finger.

d. Documentary Evidence

The **Initiation Report** of Sgt. Nicholas Rumsa #1371, of Unit 007, documented that he responded to a call from [REDACTED] who complained that on March 14, 2018, at 12:00 pm, near Ferdinand and Harding, an unknown white male officer threw [REDACTED] to the ground during an investigation. [REDACTED] further complained that the accused officer knelt on his right hand, which was previously injured from a gun-shot-wound. A cast that had been previously placed on [REDACTED] hand was broken and [REDACTED] middle finger on his right hand was also broken. [REDACTED] sought medical treatment while in police custody at St. Anthony’s Hospital.

¹⁹ BWC of Officer Patruno at 00:56 mins until 2:00 mins.

²⁰ Att. 21.

²¹ Att. 20.

The **Investigatory Stop Report (ISR)**²² of ██████████ (██████████) documented that he was in a vehicle that was observed (by Beat 1121) making an illegal U-turn at Chicago and Homan, then traveling the wrong way down the 700 block of St. Louis. The vehicle took off at a high rate of speed and subsequently crashed at 658 N. Springfield. All subjects in the vehicle exited and fled on foot but were detained a short distance away without incident. The vehicle plates came back as a stolen vehicle. All subjects were placed under arrest and transported to the 011th District for processing. A protective pat down was conducted of ██████████ due to his holding his side while running and officers believing that he was armed.

The **Arrest Report**²³ of ██████████ (aka ██████████) indicated that he was arrested for criminal trespass to vehicle. The vehicle was observed (by Beat 1121) committing traffic violations, i.e., making an illegal U-turn and then traveling the wrong way down 700 N. St. Louis. The vehicle took off at a high rate of speed and subsequently crashing at 658 N. Springfield (observed by Beat 1161B - Officers Bieniasz and Jimenez). Officers Bieniasz and Jimenez observed three subjects emerge from the vehicle, the driver now known as ██████████ a front passenger now known as ██████████ and a rear seat passenger now known as ██████████. All three occupants fled on foot and were detained a short distance away without incident. All three subjects were arrested taken to the 011th District. As ██████████ was on parole, IDOC was contacted, however a warrant was not issued. All three subjects were taken to Cook County Stroger Hospital for evaluation, and all were cleared by ██████████.

The **Arrest Report**²⁴ of ██████████ and ██████████ (both juveniles) indicated that they were arrested for the offense of receive/possession/sell a stolen vehicle. The arrest reports of ██████████ and ██████████ documented the same account as that of ██████████ arrest report; however, ██████████ was charged as an adult. ██████████ was identified as the driver and ██████████ as the rear passenger, while ██████████ (██████████) was the front passenger. ██████████ was also issued several traffic citations and they were all taken to Stroger Hospital to be cleared of any injuries from the incident.

The **Illinois Traffic Crash Report (JB185300)**²⁵ documented that Officer Soto observed the driver, ██████████ make U-turn in the intersection of Homan and Chicago Ave., then flee at a high rate of speed southbound on St. Louis. The officers attempted to get close to the vehicle to curb it but lost the vehicle. Officer Soto documented that they saw the vehicle emerge several times while they were touring the area and were about four blocks away as the occupants of the vehicle continued traveling at a high rate of speed. The officers later learned that the driver crashed head on into a tree and attempted to flee, but were captured, placed into custody, and transported to the 011th District.

The **Case Report**²⁶ (JB184644) documented that the vehicle had been stolen by two unknown offenders after ██████████ parked the vehicle belonging to ██████████. Video surveillance showed two individuals entering the vehicle and driving off.

²² Att. 14.

²³ Att. 7.

²⁴ Att. 24 and 25.

²⁵ Att. 6.

²⁶ Att. 5.

e. Additional Evidence

The **Attendance and Assignment Records**²⁷ from the 011th District identified Officers Driver and Riley assigned to Beat 1106D, Officers Bieniasz, Jimenez and Acevedo working together in Beat 1161B and Officers Cunningham and Patruno assigned Beat 1161D. Officers Rodriguez and Soto were assigned to Beat 1121.

The **Attendance and Assignment Records**²⁸ from Unit 213 – Deputy Chief / Area 3, identified Officers Robert Yapdiangco and Nicholas Harris working together Beat 4314F and 4316C in the same police vehicle as partners.

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.

VII. ANALYSIS

Due to Officer Patruno's resignation, his allegations will be placed in a Close Hold status, subject reopen should he return to the Department.

²⁷ Att. 15 and 104.

²⁸ Att. 87.

Allegations Against Officers Yapdiangco, Soto, Rodriguez, Driver, Riley, and Acevedo

COPA finds that **Allegation #1** against Officer Yapdiangco, that he failed to intervene in police misconduct by Officer Matthew Patruno toward ██████████ during his arrest, is **Not Sustained**. The Department has specific requirements that all their members must comply with regarding their knowledge of circumstances relating to the misconduct of another member. Department members will submit a written report to a supervisor before reporting off duty on the day the member becomes aware of the misconduct, containing the observations made and any action taken.²⁹ There is insufficient evidence to determine whether Officer Yapdiangco failed to intervene in this case. Officer Yapdiangco did not have a clear recollection of the incident with ██████████ and based his answers to COPA on his review of Officers Patruno and Driver's BWC. While Officer Yapdiangco related that he could not recall all the words or comments made by Officer Patruno, he did recall that Patruno was angry, irate, and verbally aggressive toward ██████████. However, Officer Yapdiangco denied the allegation against him indicating that although Officer Patruno appeared angry with ██████████ he did not observe Officer Patruno using excessive force towards ██████████. Officer Yapdiangco further related that he did not know what happened between ██████████ and Officer Patruno prior to the stop or what led to the stop, and simply assisted in detaining ██████████. Officer Yapdiangco related other officers responded to the scene including an unknown sergeant and took ██████████ from Officer Patruno to minimize the interaction between Officer Patruno and ██████████ and there was nothing further for him to do. BWC did not reveal evidence that Officer Yapdiangco observed misconduct to report. Based on the above, COPA finds that this allegation is not sustained.

COPA finds that **Allegation #2** against Officer Yapdiangco, that he failed to activate his body worn camera (BWC) in violation of Special Order 03-14, is **Unfounded**. Officer Yapdiangco was assigned to a specialized unit with the Deputy Chief of Area 3, who are not assigned body worn cameras. Therefore, COPA finds that this allegation is Unfounded.

COPA finds that the allegations against Officers Rodriguez and Soto, that they failed to activate their body worn camera (BWC) in violation of Special Order 03-14, are **Exonerated**. Department BWC policy indicates that officers will activate their BWC at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. Officers Rodriguez and Soto indicated that they arrived at the scene after the incident was under control and the arrestees had been secured by other officers. Officers Rodriguez and Soto were not witnesses to the traffic crash accident of the Porsche, were not witnesses to the subjects' arrest or any other verbal or physical interaction between the subjects and any of the officers at the scene. Officers Rodriguez and Soto did not activate their body worn cameras because there was no actual police function taken by them or any other officer at the time of their arrival. Their only assistance to the incident was to guard the vehicle that was crashed by the subjects until a tow truck arrived at the scene. The BWC videos did not capture Officers Rodriguez or Soto talking to the arrestees or engaged in any police activity. Therefore, the above allegations are exonerated.

²⁹ Att. 114 – General Order 08-01-02, page 1, II, A-5, and B-1.

COPA finds that **Allegation #1** against Officer Driver, that he failed to intervene in police misconduct by Officer Matthew Patruno toward ██████████ during his arrest, is **Not Sustained**. There is insufficient evidence to support or refute whether Officer Driver may have witnessed or not witnessed Officer Patruno's behavior. Although the BWC of Officer Driver shows him arriving shortly after ██████████ was placed in handcuffs. Officer Driver could not recall Officer Patruno's behavior but described him as being loud and argumentative. However, Officer Drive denied witnessing Officer Patruno using excessive force toward ██████████ and he could not recall if profanities were directed toward ██████████ by Officer Patruno. Officer Driver denied the allegation against him. Based on the above, COPA finds the above allegation not sustained.

COPA finds that **Allegation #2** against Officer Driver, that he failed to activate his body worn camera (BWC) in violation of Special Order 03-14, is **Sustained**. Special Order 03-14 clearly indicates that the BWC can be deactivated after the member has cleared from the assignment or the scene, when arrestee is secured or after being ordered by a supervisor. Officer Driver terminated his BWC too early as he was still at the scene, where ██████████ was still being escorted by Officer Patruno and he had not cleared from the assignment or the scene. Officer Driver stated that his deactivation of his BWC was not intentional, but an oversight as he thought ██████████ was secure, and the incident was done. Based on the above, COPA finds this allegation sustained.

COPA finds that **Allegation #1** against Riley and Acevedo, that they failed to activate their body worn camera (BWC) in violation of Special Order 03-14, is **Sustained**. The officers failed to activate their body worn cameras during their response to the incident in violation of Special Order 03-14. The officers indicated that it was an oversight on their part and not intentionally done. Although it was not intentionally done, these officers did fail to activate their BWC causing for significant information and activity not to be recorded during the arrest of ██████████ and other arrestees. The officers understood the Department's policy and directive on BWC videos as to when to activate and deactivate their cameras. Therefore, COPA finds that this allegation against these officers is Sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Anthony Driver

i. Complimentary and Disciplinary History

Officer Driver has 160 Awards and Commendations. He has no disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. [2]

b. Officer J'Mal L. Riley

i. Complimentary and Disciplinary History

Officer Riley has 64 Awards and Commendations. He has no disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. [1]

c. Officer Eric Acevedo

i. Complimentary and Disciplinary History

Officer Acevedo has 107 Awards and Commendations. He has no disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. [1]

COPA has considered the complimentary and disciplinary history of each officer. Although the officers did not follow proper procedures regarding the use of the BWC, it does not appear that their individual actions were intentional. Thus, COPA recommends a Violation Noted for each officer.

Approved:



Sharday Jackson
Deputy Chief Administrator – Chief Investigator

August 10, 2022

Date