

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	13 December 2019 / 03:56 pm / 7300 W. Fitch Avenue
Date/Time of COPA Notification:	18 December 2019 / 01:10 pm
Involved Officer #1:	Marina Allen, Star #2709, Employee # [REDACTED], Appointed 16 January 2018, Police Officer, Unit 016, Born 1990, Female, Hispanic
Involved Officer #2:	Gloria Haro, Star #14143, Employee # [REDACTED], Appointed 29 November 2004, Police Officer, Unit 016, Born 1974, Female, Hispanic
Involved Individual #1:	[REDACTED] Born 1951, Male, White
Case type:	Unlawful detention, improper handcuffing

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding/ Recommendation</b>
Officer Allen	It is alleged that, on or about 13 December 2019, at approximately 03:00 pm, at or near 7300 West Fitch Avenue, the accused officer committed misconduct in that:	
	1. she detained the complainant without justification;	Exonerated
	2. she placed the complainant in handcuffs without justification;	Exonerated
	3. she failed to give her name or badge number when requested by the complainant; and	Unfounded
	4. she failed to complete an investigatory stop report regarding the incident.	Exonerated
Officer Rivera	It is alleged that, on or about 13 December 2019, at approximately 03:00 pm, at or near 7300 West Fitch Avenue, the accused officer committed misconduct in that:	

Officer Rivera (continued)	1. she detained the complainant without justification;	Exonerated
	2. she placed the complainant in handcuffs without justification;	Exonerated
	3. she failed to give her name or badge number when requested by the complainant; and,	Unfounded
	4. she failed to complete an investigatory stop report regarding the incident.	Exonerated

## II. SUMMARY OF EVIDENCE<sup>1</sup>

On the date of the incident, the complainant, ██████ took prescribed medication and consumed “two beers.”<sup>2</sup> In the afternoon, ██████ walked his dog in Brooks Park, which is directly adjacent to his property. At some point, the dog began to pursue a squirrel, and ██████ became entangled in the dog’s leash.<sup>3</sup> ██████ fell to the ground and struck his head,<sup>4</sup> possibly briefly losing consciousness.<sup>5</sup> A concerned passersby approached ██████ and helped him stand up.<sup>6</sup> Unbeknownst to ██████ someone contacted emergency services and requested an ambulance.<sup>7</sup> The ██████ was “a little wobbly,” but walked back to his home.<sup>8</sup> As he approached the gate to his residence, ██████ encountered paramedics.<sup>9</sup> ██████ refused medical treatment, but the paramedics stopped him from entering his property.<sup>10</sup> The paramedics insisted that he go to the hospital.<sup>11</sup> The complainant again objected, and the paramedics “physically detained” him and “pinned” him against his fence.<sup>12</sup>

The two accused officers (Officers Allen and Haro) arrived on the scene. Paramedics advised the officers that ██████ was having difficulty standing and that they needed to transport

<sup>1</sup> COPA conducted a full and complete investigation of this matter. As part of its investigation, COPA interviewed civilian witnesses and collected and reviewed digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>2</sup> Att. 13, Statement of complainant at 04:39.

<sup>3</sup> See *id.* at 03:00–03:40.

<sup>4</sup> See *id.*

<sup>5</sup> See *id.* at 03:30 (“I don’t know if I was out, but I woke up.”).

<sup>6</sup> See *id.*

<sup>7</sup> See *id.* at 04:20.

<sup>8</sup> *Id.* at 4:10.

<sup>9</sup> See *id.* at 04:34.

<sup>10</sup> See *id.* at 05:10–05:45.

<sup>11</sup> See *id.*

<sup>12</sup> *Id.*

him to the hospital.<sup>13</sup> They also told the officers that ██████ was “uncooperative.”<sup>14</sup> The officers approached the complainant and observed an open wound about his head.<sup>15</sup> They also observed that his speech was slurred.<sup>16</sup> ██████ told the officers he had a “breathing problem” and “took some new medication.”<sup>17</sup> The officers encouraged him to go to the hospital. ██████ thanked the officers for their concern, but declined medical treatment, saying, “I appreciate it, I appreciate it, [but] I’m fine.”<sup>18</sup> ██████ pleaded with both the officers and paramedics to let him enter his house.<sup>19</sup>

The paramedics took ██████ keys.<sup>20</sup> The paramedics attempted to guide ██████ onto a stretcher, but he took hold of a fence and shouted, “You better fucking handcuff me to this fence because I’m not going anywhere.”<sup>21</sup> After a brief struggle, the paramedics placed ██████ on the stretcher and the officers cuffed ██████.<sup>22</sup> ██████ made loud objections to his treatment.<sup>23</sup> He also demanded that officers provide a reason for his “arrest,” but officers repeatedly advised him was not under arrest.<sup>24</sup>

Once ██████ was on the stretcher, the officers took his dog and placed the animal in ██████ residence.<sup>25</sup> Officer Haro then rode with ██████ in the ambulance. En route to the hospital, ██████ repeatedly objected to his treatment and asked for the officer’s name. Officer Haro immediately stated her name aloud.<sup>26</sup> The officers left ██████ at the hospital, and he was examined and released without further incident.

### III. ANALYSIS AND CONCLUSION

For each Allegation COPA must make one of the following findings:

Sustained—where it is determined the allegation is supported by a preponderance of the evidence;

Not Sustained—where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

Unfounded—where it is determined by clear and convincing evidence that an allegation is false or not factual; or

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<sup>13</sup> See att. 01, BWC Footage of Officer Allen at 02:18; see also att. 03, BWC footage of Officer Haro at 02:18.

<sup>14</sup> See att. 01 at 02:18.

<sup>15</sup> See att. 07, Statement of Officer Haro at 09:55; see also att. 03, BWC footage of Officer Haro at 14:25.

<sup>16</sup> Att. 07 at 09:55.

<sup>17</sup> Att 01. at 03:00–04:00.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 07:45–10:10.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 10:30–14:00.

<sup>22</sup> *Id.* at 15:00–15:30.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 15:00–15:30.

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 alleged conduct occurred and violated Department policy.<sup>27</sup> 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.<sup>28</sup> Clear and convincing is 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.”<sup>29</sup>

**A. THERE IS CLEAR AND CONVINCING EVIDENCE THE OFFICERS DID NOT UNLAWFULLY DETAIN ██████████**

██████████ alleged that the accused officers unlawfully detained him. Specifically, the officers, with the assistance of paramedics, compelled ██████████ to travel to the hospital and receive medical treatment over his objection.

In pertinent part, the CPD’s Special Order S03-08 provides: “It is the policy of the Department to assist CFD paramedics in transporting a patient to a hospital whenever a CFD Paramedic declares that the situation constitutes a medical emergency and requires police assistance.”<sup>30</sup> Furthermore, the order recognizes an exception to the assistance requirement only where “[. . .] a patient . . . objects to transportation or medical treatment *on religious grounds*.”<sup>31</sup>

Here, the accused officers compelled the complainant to go to the hospital under implied and/or direct request from CFD paramedics. While the complainant objected to being transported, there is not evidence to support ██████████ objecting on religious grounds.

Additionally, COPA notes that under the totality of the circumstances, a reasonable officer would have lacked grounds to question medical exigence advance by CFD paramedics: ██████████ recently collapsed in a park; he had an open wound about his head; his speech was slurred; he appeared to have difficulty standing; and he had stated that he mixed alcohol and a new medication.

**For these reasons, COPA finds first allegation against both accused officers is EXONERATED.**

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<sup>27</sup> 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).

<sup>28</sup> See, e.g., *People v. Coan*, 2016 Ill. App. 2d 151036 (2016).

<sup>29</sup> *Id.* at ¶ 28.

<sup>30</sup> Special Order S03-08, Item II.

<sup>31</sup> *Id.*, Item V(A)(1) (emphasis added).

**B. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE OFFICERS DID NOT IMPROPERLY APPLY HANDCUFFS.**

████████ further challenged the officers' application of handcuffs. Under the CPD's Special Order S03-08, an officer may "[. . .] employ the minimum amount of force necessary to overcome the amount of force exerted by [a] patient resisting medical assistance or transportation."<sup>32</sup> Here, the officers had authority to compel ██████████ to travel to the hospital. However, when officers and paramedics attempted to place ██████████ onto a stretcher, ██████████ resisted by taking hold of a fence and exclaiming that he would not leave the scene. Therefore, under the totality of the circumstances, the officers' application of handcuffs constituted a reasonable tactic to ensure the ██████████ would continue his efforts to flee the paramedics and risk further injury to himself. **For this reason, COPA finds second allegation against the two accused officers is EXONERATED.**

**C. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE OFFICERS DID NOT REFUSE TO GIVE THEIR NAMES OR BADGE NUMBERS.**

████████ alleged that the officers did not provide their names and badge numbers when he so requested. However, BWC footage shows this is false. In fact, Officer Haro not only stated her name and badge number aloud when ██████████ requested, but she also wrote the information on a sheet of paper that she then passed to ██████████. **Accordingly, COPA finds the third allegation against both accused officers is UNFOUNDED.**

**D. THE INVESTIGATORY STOP REPORTING REQUIREMENT IS INAPPLICABLE TO THIS INCIDENT.**

COPA raised an allegation that the officers failed to complete an investigatory stop report. The officers acknowledged that they did not complete an investigatory stop report. Officers must complete an investigatory stop report whenever they conduct an investigatory stop.<sup>33</sup> An 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."<sup>34</sup> The officers did not stop the complainant here. The determination to compel his transfer to the hospital was made by paramedics. The officers restricted their roles to assisting paramedics in transferring the complainant consistent with their responsibilities to do so under Special Order S03-08. They repeatedly advised the complainant that they were not conducting a criminal investigation and that he was not under arrest. Therefore, no investigatory stop occurred. **For this reason, COPA finds the fourth allegations against the two accused officers is EXONERATED.**

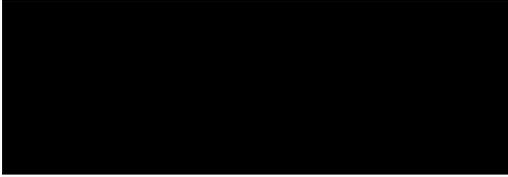
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<sup>32</sup> *Id.*, Item V(B).

<sup>33</sup> Special Order S04-13-09, Item III(C).

<sup>34</sup> *Id.*, Item II(A).

Approved:



12/23/2021

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Matthew Haynam  
*Deputy Chief Administrator—Chief Investigator*

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Date