

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 28, 2019
Time of Incident:	7:45 pm
Location of Incident:	4850 W. Chicago Ave., Chicago, IL 60644
Date of COPA Notification:	May 28, 2019
Time of COPA Notification:	10:39 pm

On May 28, 2019, at approximately 7:45 p.m., Officer Robert Gomez, and then officer now Det. Robert Curran, observed a 2002 Silver 4DR Pontiac Grand Prix traveling the wrong way on a one-way street, northbound on N. Lamon Ave near W. Chicago Ave. The vehicle turned right into the alley, whereupon Officer Gomez activated his CPD vehicle’s emergency lighting to initiate a traffic stop. Upon investigation, the driver, [REDACTED] was arrested. The complainant, [REDACTED] was present during the arrest and approached the officers’ police vehicle when they were trying to drive away to take [REDACTED] to the police station. [REDACTED] was told to move and was escorted away from the vehicle, and the officers proceeded to the station.

Later that night, at 10:39 pm, the Civilian Office of Police Accountability (COPA) received an initiation report from Sergeant Paul Zogg wherein [REDACTED] alleged that Officer Gomez pushed him and ran over his left foot with his police vehicle and struck him on his left side with the rearview mirror of the vehicle during the arrest of [REDACTED]. Following its investigation, COPA reached an **Unfounded** finding on the allegation.

II. INVOLVED PARTIES

Involved Officer #1:	Gomez, Robert A., Star# 17669, Employee# [REDACTED] Date of Appointment: 07/15/2013, Police Officer, UOA: 25 th District, DOB: [REDACTED] 1983, Male, White Hispanic
Subject #1:	[REDACTED] 1977, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Gomez	<p>It is alleged that on or around May 28, 2019, at approximately 7:45 pm, in the alley at or near 4850 W. Chicago Ave., while operating a CPD vehicle, Officer Gomez:</p> <p>1. Struck ██████████ on or about his body with said CPD vehicle without justification.</p>	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
2. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

V. INVESTIGATION¹

a. **Interviews**

On May 31, 2019, **complainant** ██████████ gave COPA an audio-recorded interview.² ██████████ stated that on May 28, 2019, he was at W. Superior Street and N. Lamon Ave., assisting his friend, ██████████ in attending to ██████████ car. As ██████████ moved his vehicle because of scheduled street cleaning, he was stopped and arrested by CPD officers³ (now identified as **Officer Gomez and Detective Curran**). ██████████ and ██████████ brother approached the officers to make sure ██████████ was okay. According to ██████████ the officers told them that ██████████ was under arrest and that they could take possession of ██████████ vehicle, which was in the alley.

██████████ stated that ██████████ brother made angry remarks at the officers regarding ██████████ arrest. Officer Gomez then exited his vehicle and approached ██████████ vehicle, which ██████████ believed was to remove the keys. Another CPD vehicle pulled into the alley as Officer Gomez approached ██████████ vehicle and told ██████████ to move. ██████████ said to Officer

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

² Att. 4

³ Att. 30

Gomez, “you just told me to get the keys.”⁴ Officer Gomez again told ██████ to move. ██████ told Officer Gomez not to “talk to me like that”⁵ and, according to ██████ Officer Gomez pushed ██████ in the chest. ██████ became irate, and the situation escalated to where ██████ asked for a supervisor. According to ██████ the other CPD beat unit then left the location.

██████ followed Officer Gomez back to his squad car, where Det. Curran was seated in the passenger seat. Det. Curran told ██████ to move away from their vehicle. Officer Gomez told him, “Get the fuck out of the way.”⁶ According to ██████ Officer Gomez got back into the driver’s seat, put it in reverse, and hit ██████ on his left side with the driver’s mirror, and ran over ██████ left foot with the front driver’s tire. Officer Gomez continued driving away and did not stop.

██████ called 911 for an ambulance and requested a CPD supervisor. An ambulance arrived and transported him to West Suburban Hospital. While waiting to be triaged, CPD called him from an unknown number. The caller asked what clothing he was wearing, and although ██████ did not want to tell them, he did. A sergeant, identified as Sgt. Zogg, came to the hospital and asked for ██████ by name at the intake desk. ██████ then approached Sgt. Zogg who told ██████ that everything is recorded, audio and video, so if ██████ says anything that is false, he could be charged with interfering with the arrest.⁷ ██████ told Sgt. Zogg what happened and called Sgt. Zogg “a sensible guy.”⁸ Then, while in the waiting area, ██████ got nervous and left the hospital.⁹ When asked why he was nervous, ██████ talked about his time in the triage area when CPD called on the unknown number and asked for his clothing description.¹⁰

On May 31, 2019, ██████ returned to the hospital regarding his foot. He claimed that his medical records from that visit showed his foot had a contusion, a light sprain, and that it was swollen. He received treatment and medication for his injury.¹¹ ██████ also mentioned that his abdomen was swollen.¹²

On June 15, 2022, **Detective Curran** gave COPA an audio-recorded interview.¹³ Det. Curran stated that at approximately 7:45 p.m., May 28, 2019, he and his partner, Officer Gomez, were assigned to an Area North Saturation Team. They were in the area of 4850 W. Chicago Ave. when they observed a vehicle going the wrong way down a one-way street and turning right into an alley. The officers made a traffic stop on the vehicle, encountering the driver, ██████. After making a computer inquiry, the officers discovered ██████ had a revoked driver’s license. ██████ was arrested and placed in the officers’ CPD vehicle. An onlooker, identified as ██████ became extremely agitated and began voicing his displeasure while walking towards the vehicle as Officer Gomez was backing up. Det. Curran told Officer Gomez to stop, and the officers gave ██████ verbal directions to move away from the vehicle while escorting him

⁴ Att. 14 at 6:00

⁵ Att. 14 at 6:02

⁶ Att. 14 at 6:48

⁷ Att. 34, pgs. 27-28

⁸ Att. 34, pgs. 8, 28

⁹ Att. 34, pg. 8

¹⁰ Att. 34, pg. 27

¹¹ Att. 34, pg. 8

¹² Att. 34, pg. 32

¹³ Att. 26

from the area. The officers returned to their vehicle and transported ██████ to the 25th District. At no time did ██████ allege injury to Det. Curran; ██████ never indicated that he was hurt or that his foot was run over. Det. Curran did not recall Officer Gomez striking ██████ with the driver's mirror or driving over his foot.

On June 16, 2022, **Sergeant Paul Zogg** gave COPA an audio-recorded interview.¹⁴ On May 28, 2019, Sgt Zogg, who was assigned to the Area North Saturation Team, was dispatched to West Suburban Hospital to meet complainant ██████. Upon arrival at the hospital, Sgt. Zogg spoke to ██████ who stated that he was at the traffic stop that resulted in the arrest of ██████. ██████ alleged that Officer Gomez pushed him and ran over his foot during the incident. Sgt. Zogg called for Beat# 4316 to complete a traffic crash report at the hospital and then proceeded to the 25th District to complete an initiation report.¹⁵ While at the District, Sgt. Zogg received notification from Beat# 4316 that ██████ had left the hospital before they arrived.

Sgt. Zogg reviewed the **in-car camera (ICC) video** of Officer Gomez's and Det. Curran's vehicle. He observed ██████ attempting to enter ██████ vehicle with Officer Gomez denying entry to ██████. Officer Gomez and Det. Curran could then be seen returning to their CPD vehicle. Since the ICC was facing forward, and Officer Gomez and Det. Curran were sitting inside their vehicle, the camera did not capture video of the area outside Officer Gomez's driver's side, but audio of the officers' voices could be heard and Sgt. Zogg could hear the officers tell ██████ to move away from their vehicle. Sgt. Zogg could see "nothing in the video that would have given [him] a clear indication that Mr. ██████ was struck with the vehicle." He did not see "any bump," or "the car tilting in toward him." It was a "slow, straight reverse."¹⁶ ██████ appeared in the video as the CPD vehicle backed up, and the car pulled away. He did not recall ██████ saying anything to indicate he was struck.

Sgt. Zogg stated that he uploaded the ICC video in the south lot of the 25th District.¹⁷ However, "[t]here was an issue at twenty-five with [uploading videos] actually working, especially with our vehicles, so I could never guarantee if anything from our vehicles was going to be saved or recorded. The effort was made."¹⁸

On January 2, 2022, **Officer Gomez** gave COPA an audio-recorded interview.¹⁹ At approximately 7:45 p.m., May 28, 2019, Det. Curran and his partner Officer Gomez were assigned to an Area North Saturation Team. While near 4850 W. Chicago Ave., he observed a vehicle going the wrong way down a one-way street and then turn right into an alley. Officer Gomez activated the CPD vehicle's emergency equipment and pulled into the alley behind the vehicle for a traffic stop. Officer Gomez ascertained that the driver's license was revoked. ██████ was arrested and placed in the rear seat of the CPD vehicle.

Two individuals approached the officers, asking why ██████ was arrested. Officer Gomez informed them that ██████ was arrested for a revoked license. One of the individuals, now identified as ██████ started to yell, upset about ██████ arrest. The officers informed

¹⁴ Att. 29

¹⁵ Att. 31

¹⁶ Att. 29 at 12:54

¹⁷ COPA did not recover any ICC or BWC videos for the May 28, 2019, incident.

¹⁸ Att. 29 at 11:18

¹⁹ Att. 27

them not to take [REDACTED] vehicle because it was being impounded. As the officers were leaving, [REDACTED] approached the driver's side of their CPD vehicle. While Officer Gomez was backing up, [REDACTED] placed his leg underneath the vehicle and repeatedly stated, "Please don't hit me, please don't hit me."²⁰ Det. Curran told Officer Gomez to stop because it was apparent to them that [REDACTED] was trying to get hit by the CPD vehicle. Officer Gomez exited the vehicle, telling [REDACTED] to move away from it. [REDACTED] moved away, and Officer Gomez returned to the vehicle, backed out of the alley, and transported [REDACTED] to the 25th District.

Officer Gomez further stated that he viewed the ICC video, which showed him backing up from the alley with [REDACTED] in front of the CPD vehicle, walking fine. [REDACTED] never asked Officer Gomez to "call him an ambulance, never said 'you hit me,' never says anything to that extent."²¹ While at the 25th District, Sgt. Zogg, informed them that [REDACTED] was at the hospital and wanted to make a complaint.

b. Physical Evidence

On May 31, 2019, COPA requested body-worn and in-car video for the incident, with none available.²² According to CPD's Field Technology Unit, neither officer had been BWC assigned to them at the time of the incident.

c. Documentary Evidence

A **CPD Arrest Report**²³ showed that at 7:45 p.m., May 29, 2019, at or near 4850 W. Chicago Ave., Officer Gomez and Det. Curran, while on patrol, observed a 2002 Silver/Silver four-door Pontiac Grand Prix traveling the wrong way northbound on Lamon, a one-way street. The vehicle turned right into an alley, and Officer Gomez activated his CPD vehicle's emergency equipment, stopping the vehicle. The officers approached the vehicle and interacted with the driver [REDACTED] could not provide a valid driver's license or insurance but did produce an Illinois state identification card. After running [REDACTED] identification, the officers learned his driver's license was revoked. [REDACTED] was arrested and transported to the 25th District.

An Office of Emergency Management and Communications (OEMC) Event Query Report# 1914815364²⁴ for May 28, 2019, showed that at approximately 7:50 p.m., complainant [REDACTED] called 911 requesting a CPD sergeant, and a Chicago Fire Department (CFD) ambulance responded to 733 N. Lamon Ave for his complaint that he had been run over by a CPD vehicle. **Event Query Report# 191482341**²⁵ showed that at approximately 7:52 p.m., CFD Ambulance 15 responded, transporting [REDACTED] to West Suburban Hospital.

The **Ambulance Report**²⁶ showed that at approximately 7:52 p.m., May 28, 2019, CFD Ambulance 15 responded to 733 N. Lamon Ave on a pedestrian struck by an auto. Upon arrival, [REDACTED] walked toward the unit, stating that he was talking to the police when the car drove away,

²⁰ Att. 27 at 12:08

²¹ Att. 27 at 12:46

²² Att. 21

²³ Att. 30

²⁴ Att. 11

²⁵ Att. 10

²⁶ Att. 40

and the vehicle's mirror struck his left side. ██████ told the unit he was in pain, but when asked, he could not rate his pain. The Ambulance Report showed he had no swelling. ██████ refused a stretcher and sat in a position of comfort in the ambulance. Nothing in the Ambulance Report suggested that ██████ complained that the CPD vehicle drove over his foot or that he was seeking care for an injury to his foot.

Medical records from Suburban West Hospital from May 28, 2019,²⁷ showed that ██████ walked into the Emergency Department complaining of left rib pain after being sideswiped by a police car's mirror. The disposition status showed that ██████ left the Emergency Department on that date without being seen by a physician. Nothing in the records suggested that ██████ mentioned that the police car ran over his foot or that he was seeking care for an injury to his foot.

The **Initiation Report ("IR")** completed by Sgt. Zogg²⁸ showed that on May 28, 2019, he responded to a call for a supervisor at West Suburban Hospital. Upon arrival, Sgt. Zogg met with complainant ██████ who alleged that during ██████ arrest, he was pushed, his left side was hit by the driver's mirror, and his foot was run over by Officer Gomez. The IR described ██████ as seeking medical treatment at the hospital. The report also reflected that the incident between ██████ and Officer Gomez had been captured on ICC and that Sgt. Zogg had viewed the video, which was being uploaded. Sgt. Zogg further recorded that he sent Beat# 4316C to West Suburban Hospital to complete a Traffic Crash Report, but upon arrival, the officers learned that ██████ had already left the hospital.²⁹

Medical records from Suburban West Hospital from May 31, 2019,³⁰ showed a complaint of "foot pain."³¹ A Radiology Department report documented that ██████ had no fractures or dislocations of his left foot, and his "[s]oft tissues appear normal."³²

VI. LEGAL STANDARD

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

1. Sustained - where it is determined that 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.

²⁷ Att. 38

²⁸ Att. 2

²⁹ Att. 12

³⁰ Att. 40

³¹ Att. 40, pg. 7.

³² Att. 40, pg. 7.

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. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual’s truthfulness and 2) the reliability of the individual’s account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual’s ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Based upon the review of the medical evidence pertaining to complainant ██████ inconsistencies exist in the truthfulness of his statement. Specifically, neither the Ambulance Report nor the medical records from May 28, 2019, suggest that he sought medical attention for an injury to his foot from being run over by a police vehicle. It was not until three days later, on May 31, 2019, that he went back to West Suburban Hospital to complain of “foot pain,” but even then, a Radiology Department report established that not only did he not suffer any fractures or dislocations of his left foot, but that there was no abnormality to the soft tissue. Thus, ██████ claim that a CPD vehicle ran over his foot is contradicted by the medical evidence.

Additionally, in his interview with COPA, ██████ claimed that the reason he left the hospital before being seen by a doctor on May 28, 2019, was because he was nervous about something having to do with police officers contacting him at the hospital and requesting his clothing description. However, in his *pro se* complaint for his civil suit, ██████ alleged that the reason he left the hospital on that date was because he was “under duress” and “in fear of his life and safety.”

As such, COPA finds that ██████ is not a credible witness.

Further, COPA’s investigation did not reveal any evidence that caused it to question the credibility of the sworn personnel that provided statements.

VIII. ANALYSIS

Allegation 1. Officer Gomez Struck ██████████ on or about his body with said CPD vehicle without justification.

CPD officers are prohibited from committing disrespect to or maltreatment of any person, while on or off duty. Similarly, they are prohibited from engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

██████████ alleged that Officer Gomez struck him on his left side with the mirror on his CPD vehicle and ran over his foot with the front tire of the vehicle. ██████████ claimed he immediately sought medical treatment for his foot being run over, but he only initially reported to ambulance personnel and a nurse at the hospital that he was struck in the side by the mirror of the police vehicle. Further, ambulance personnel noted nothing remarkable about the fact that ██████████ walked over to them, and neither did hospital personnel note anything remarkable about ██████████ walking into the emergency room of his own accord.³³ In fact, the hospital records documented that ██████████ was “ambulatory with a steady gait.”³⁴

Moreover, it was only after being told by Sgt. Zogg that Sgt. Zogg would review the video of the incident, and that ██████████ could be arrested for filing false charges, that ██████████ decided to leave the hospital before receiving any medical attention.

Even so, with regards to the complaint that he was hit on his left side, ambulance personnel reported that ██████████ had “no swelling or ecchymosis [discoloration of the skin caused by bleeding underneath, typically caused by bruising].”³⁵

Additionally, when ██████████ decided to seek medical attention for “foot pain” three days later, a radiology report revealed that no such injury existed.

Both officers stated that Officer Gomez spoke to ██████████ asking him to move away from the CPD vehicle as they saw his attempts to get struck by their vehicle as they backed up in the alley. They also stated that they exited their vehicle and physically escorted him away from their car.³⁶

Moreover, Sgt. Zogg and Officer Gomez both viewed the ICC video from the incident and both indicated that there was nothing on it that suggested that ██████████ had been struck. Sgt. Zogg described how the car backed up straight without tilting or seeming to go over a bump, and both saw ██████████ walking on the video after the car backed-up and saw nothing to suggest his foot had been run over, nor did he complain of such at the time.

Consequently, due to ██████████ lack of credibility, COPA finds that, based on clear and convincing evidence, the allegation that Officer Gomez struck ██████████ on or about his body with said CPD vehicle is **Unfounded**.

³³ Att. 39, pg. 8

³⁴ Att. 38. Pg. 7

³⁵ Att. 39, pg. 8;

https://www.google.com/search?q=ecchymosis+definition&rlz=1C1GCEJ_enUS1026US1026&oq=&aqs=chrome.0.69i59i450l8.97963607j0j15

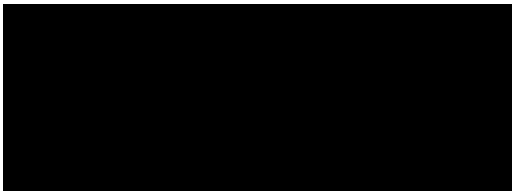
³⁶ Att. 32, pgs. 9-10; Att.33, pg. 14

IX. CONCLUSION

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

Officer	Allegation	Finding
Officer Gomez	<p>It is alleged that on or around May 28, 2019, at approximately 7:45 p.m., in the alley at or near 4850 W. Chicago Ave., while operating a CPD vehicle, Officer Gomez:</p> <p>1. Struck [REDACTED] on or about his body with said CPD vehicle without justification.</p>	Unfounded

Approved:



2/24/2023

 Matthew Haynam
 Deputy Chief Administrator – Chief Investigator

 Date