

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 28, 2019
Time of Incident:	8:00 p.m.
Location of Incident:	200 W. Montrose Harbor Drive
Date of COPA Notification:	July 30, 2019
Time of COPA Notification:	2:33 p.m.

This incident takes place on the beach at Montrose Harbor. Officer Brandolino gave verbal commands for [REDACTED] and her boyfriend to exit the water because a red flag¹ was raised. Ms. [REDACTED] and her boyfriend momentarily stayed in the water and then exited in a slow manner. Upon exiting the water, Officer Brandolino approached Ms. [REDACTED] and her boyfriend on an All-Terrain Vehicle (ATV) to inform them why they had to exit the water. Prior to Officer Brandolino saying a word, Ms. [REDACTED] became belligerent toward Officer Brandolino and accused him of attempting to strike her with his ATV. As Ms. [REDACTED] walked away, Officer Brandolino approached her and requested her identification. Ms. [REDACTED] continued to be non-compliant and confrontational and refused to provide her identification. Eventually, Officer Brandolino placed Ms. [REDACTED] in handcuffs for Obstruction of Identification. Due to Ms. [REDACTED] aforementioned behavior, Officer Brandolino placed Ms. [REDACTED] in the care of his female partner, Officer Angela Carter. Officer Brandolino had no further contact/interaction with Ms. [REDACTED]. Ms. [REDACTED] received an Administrative Notice of Ordinance Violation (ANOV) for bathing in water while red flag erected and for refusal to exit water upon command. This incident was captured on the Body Worn Cameras (BWC).

II. INVOLVED PARTIES

Involved Officer #1:	Brian Brandolino, #8197, Employee ID # [REDACTED], Date of Appointment: August 29, 2016, Police Officer, Unit of Assignment, 019 th District, DOB, [REDACTED], 1992, Male, Black.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1996, Female, White.

¹ Red flag indicates the beach is closed due to high hazards, rough conditions, such as strong surf and or currents.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Brandolino	1. Without justification, handcuffed and detained [REDACTED] 2. Without justification, issued [REDACTED] and Administrative Notice of Ordinance Violation. 3. Handcuffed [REDACTED] too tightly. 4. Used excessive force by grabbing [REDACTED] [REDACTED] about her wrist and or arm. 5. Failed to activate your Body Worn Camera in a timely manner.	Exonerated Exonerated Not Sustained Exonerated Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, Violation of any law or ordinance.
2. Rule 14, Making a false report, written or oral.
3. Rule 8, Disrespect to or maltreatment of any person, while on or off duty.

Special Orders

1. Special Order S03-14, Section III. (A) (2) (P)

V. INVESTIGATION²

a. Interviews

In a **statement** to COPA on July 31, 2019, ██████████ related she was at the beach with friends. At approximately 7:45 p.m., a female Lifeguard approached them and told them they had to exit the water, but stated they could enter the water once she left. Approximately 5 minutes later, Ms. ██████████ and her boyfriend re-entered the water. Ms. ██████████ observed Officer Brandolino nearby on a four-wheel vehicle³ and another Officer along the shore. Officer Brandolino instructed Ms. ██████████ her friends and another group to exit the water. As Ms. ██████████ was exiting the water, Officer Brandolino approached her and her boyfriend. Ms. ██████████ stated to Officer Brandolino, “What the fuck, you almost hit me.” During her statement, Ms. ██████████ admitted that she did not handle this situation in the best manner, in that she was argumentative.

Officer Brandolino asked Ms. ██████████ why she didn’t get out the water when he asked her to, Ms. ██████████ stated she did. In her statement, Ms. ██████████ stated that she and her boyfriend initially stood still and then walked slowly from the water, when Officer Brandolino instructed them to get out. Ms. ██████████ stated she and her boyfriend should have immediately exited the water upon Officer Brandolino’s command. Officer Brandolino informed Ms. ██████████ he was going to issue her a citation (ANOV) for not exiting the water in a timely manner. Ms. ██████████ told Officer Brandolino there was no reason for him to issue her a citation and walked away. Officer Brandolino pulled alongside Ms. ██████████ unmounted his ATV, placed her against the front wheels of the ATV and handcuffed her. PO Brandolino informed Ms. ██████████ that she was not following his verbal commands. Ms. ██████████ friends intervened by taking pictures, recording the incident and asking Officer Brandolino why she was being detained.

Per Ms. ██████████ a female Officer⁴ instructed Officer Brandolino to stop grabbing her and loosened her handcuffs. Thereafter, Ms. ██████████ had no further interaction with Officer Brandolino. Ms. ██████████ explained to Officer Carter what occurred between her and Officer Brandolino. Officer Carter presented the ANOV’s issued by Officer Brandolino to Ms. ██████████ Per Ms. ██████████ she and her friends had alcoholic beverages at the beach. Officer Carter informed Ms. ██████████ and her friends that alcohol was not allowed at the beach and instructed them to pack their belongings and leave. Ms. ██████████ admitted to drinking “a small of amount” of wine directly from the bottle.

Per Ms. ██████████ she sustained bruising about her left arm and wrists from Officer Brandolino grabbing her and handcuffing her too tightly. Ms. ██████████ admits she was moving/pulling her body away from Officer Brandolino as he held her by her left arm. Ms. ██████████ informed Officer Brandolino that she was handcuffed too tightly, but he took no action to loosen the handcuffs. Ms. ██████████ did not seek any medical attention for her injuries. Ms. ██████████ provided photos of her injuries and states the photos were taken within an hour of this incident⁵.

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

³ All-Terrain Vehicle (ATV)

⁴ Now known to be Officer Angela Carter.

⁵ Att. 6

In a **statement** to COPA on March 12, 2019, **Officer Brian Brandolino** related weather conditions at the lake had become very windy, there were no lifeguards on duty and a red flag was erected. Officer Brandolino instructed Ms. [REDACTED] and her boyfriend to exit the water and waved for them to approach him. Ms. [REDACTED] boyfriend looked in Officer Brandolino's direction then turned away. Ms. [REDACTED] and her boyfriend took a dip in the water and then began to exit. According to Officer Brandolino, this was ok, they were complying but complying in a slow manner. Ms. [REDACTED] and her boyfriend then took another dip in the water. At this point, Officer Brandolino approaches Ms. [REDACTED] and her boyfriend on an ATV. Officer Brandolino wanted to explain to Ms. [REDACTED] and her boyfriend why they were being instructed to exit the water.

Before Officer Brandolino speaks a word to Ms. [REDACTED] and her boyfriend, Ms. [REDACTED] accused Officer Brandolino of attempting to strike her with his ATV. Officer Brandolino informed Ms. [REDACTED] that he was going to issue her an ANOV and that he needed her identification. Ms. [REDACTED] stated she had not committed a crime and that she did not have to provide her identification. Officer Brandolino explained to Ms. [REDACTED] that he needed her identification to issue the ANOV, but Ms. [REDACTED] insisted that she was not going to provide it. Officer Brandolino then informed Ms. [REDACTED] that if she would provide her name and date of birth, he could conduct a name check of her to obtain her identity. Ms. [REDACTED] refused to provide her name and date of birth. Officer Brandolino informed Ms. [REDACTED] that she was obstructing identification and that if she refused to provide the requested information she would be arrested. Ms. [REDACTED] stated she couldn't be arrested and refused to provide identification. Officer Brandolino told Ms. [REDACTED] she was obstructing his ability to do his job and placed her in handcuffs.

Officer Brandolino's partner, Officer Carter, approached the scene and Officer Brandolino transferred custody of Ms. [REDACTED] to Officer Carter, who de-escalated the situation. Officer Brandolino did not want this incident to escalate, as it only warranted an ANOV and not an arrest. However, Officer Brandolino stated he could not issue Ms. [REDACTED] an ANOV if she did not provide her identity. Officer Carter obtained Ms. [REDACTED] identification, which allowed Officer Brandolino to avoid arresting Ms. [REDACTED] and issue her the ANOV. Officer Brandolino did not initially activate his BWC because he only intended for his interaction with Ms. [REDACTED] and her boyfriend to be an educational counter about being in the water during inclement weather. Officer Brandolino related that thing escalated very quickly and that he activated his BWC once he placed Ms. [REDACTED] in custody. Officer Brandolino described Ms. [REDACTED] behavior as non-complainant and combative in that she pulled away from him numerous times as he placed her in custody and thereafter. Officer Brandolino maintained control of Ms. [REDACTED] by using an escort hold of her left arm/bicep area. Based on the smell of alcohol on her breath and several alcoholic beverages where Ms. [REDACTED] and her friends were seated, Officer Brandolino believed Ms. [REDACTED] was under the influence of alcohol. Officer Brandolino issued Ms. [REDACTED] two ANOV's, bathing after unauthorized swim time and disorderly conduct/failure to obey officer.

Officer Brandolino had no recollection of Ms. [REDACTED] informing him that she was handcuffed too tightly, and he did not observe any injury/bruises to Ms. [REDACTED]. Per Officer Brandolino, he did not double lock the handcuffs on Ms. [REDACTED]. Officer Brandolino denied the allegations against him⁶.

⁶ Att. 26

b. Digital Evidence

Ms. ██████ provided a video and still photographs of the incident. The video shows Ms. ██████ and her boyfriend near the water in conversation with Officer Brandolino. Ms. ██████ walks away from Officer Brandolino stating, "I'm good." Officer Brandolino proceeds to follow Ms. ██████ on his ATV. Officer Brandolino dismounts the four-wheeler and asks Ms. ██████ for her identification. Ms. ██████ directs profanity toward Officer Brandolino and states she exited the water when he instructed her to do so. Officer Brandolino asks Ms. ██████ for her identification again and when she refuses, he places her in handcuffs, the video ends. The still photos show what appears to be bruising about Ms. ██████ upper and lower left arm and wrists⁷.

Officer **Brandolino's BWC** shows Officer Brandolino placing Ms. ██████ in handcuffs. Officer Brandolino maintains control of Ms. ██████ by applying an escort hold to her left forearm/bicep as she attempts multiple times to jerk away from his grasp. Ms. ██████ friends approach the scene to inquire about the incident. Moments later Officer Carter appears on an ATV, Officer Brandolino immediately walks Ms. ██████ to Officer Carter and places Ms. ██████ in her care. Ms. ██████ is belligerent and directs profanity toward Officer Brandolino. Thereafter, Officer Brandolino approaches Ms. ██████ boyfriend and requests his identification. Immediately and without incident, the boyfriend apologizes to Officer Brandolino for the actions of he and Ms. ██████ and provides Officer Brandolino with his identification. Officer Brandolino explains the incident to a Sergeant on the scene and proceeds to write ANOV's for Ms. ██████ and her boyfriend⁸.

Officer **Carter's BWC** shows her approaching the scene and Officer Brandolino placing Ms. ██████ in her care. Ms. ██████ explains to Officer Carter the incident between she and Officer Brandolino. Ms. ██████ asks Officer Carter if she can loosen her handcuffs, and Officer Carter obliges after calming Ms. ██████. Officer Carter speaks to Ms. ██████ about her actions and educates her on interacting with the police. Thereafter, Ms. ██████ agreed to provide her identification to Officer Carter. Officer Carter directed Ms. ██████ friends to distance themselves from the scene because this was a personal matter concerning Ms. ██████. Officer Carter approached the area where Ms. ██████ and her friends were sitting and observed numerous full and empty alcoholic beverages. Ms. ██████ friends would not take ownership of the alcohol. Officer Carter informed the friends that no alcoholic beverages or glass products were allowed at the beach and instructed them to pack their belongings and leave. After presenting Ms. ██████ the ANOV, Ms. ██████ and her friends departed the beach⁹.

c. Documentary Evidence

Officer Brandolino issued Ms. ██████ an ANOV for bathing in water while red flag erected and for refusal to exit water upon command¹⁰.

⁷ Att. 12, 14, 15, 16, 17, 18, 19, 21.

⁸ Att. 23.

⁹ Att. 22

¹⁰ Att. 5

Body Worn Camera, Special Order S03-14, Section III (A) (2) (P), Department member will activate BWC during any encounter with the public that becomes adversarial after the initial contact¹¹.

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

COPA recommends a finding of **EXONERATED** for **Allegation #1**, that Officer Brian Brandolino without justification, handcuffed and detained ██████████ Ms. ██████████ refused a lawful request from Officer Brandolino to provide him with photo identification or her name and date of birth. Ms. ██████████ refused to do either, which obstructed Officer Brandolino from performing his job. Therefore, and justifiably, Officer Brandolino placed Ms. ██████████ in handcuffs and detained her until she became compliant.

COPA recommends a finding of **EXONERATED** for **Allegation #2**, that Officer Brian Brandolino without justification, issued ██████████ and Administrative Notice of Ordinance

¹¹ Att. 27

Violation. Ms. ██████ self-admitted that she had prior knowledge that she was not to be in the water and that she and her boyfriend initially stood still and then walked slowly from the water, when Officer Brandolino instructed them to get out. Ms. ██████ stated she and her boyfriend should have immediately exited the water upon Officer Brandolino’s command. Based on the aforementioned, ANOV’s issued to Ms. ██████ for bathing in water while red flag erected and for refusal to exit water upon command are justified.

COPA recommends a finding of **NOT SUSTAINED** for **Allegation #3**, that Officer Brian Brandolino handcuffed ██████ too tightly. Based on the BWC of Officer Brandolino and his statement, there is no evidence to support Ms. ██████ claim that she informed Officer Brandolino that she was handcuffed too tightly. Officer Brandolino denied that he double locked the handcuffs on Ms. ██████. Although Ms. ██████ sustained abrasions to his wrists, her actions of being non-compliant and resisting, reasonably contributed to her injuries. Furthermore, Ms. ██████ admitted that she did not handle this situation in the best manner and admitted that she was moving/pulling her body away from Officer Brandolino as he held her by her left arm.

COPA recommends a finding of **EXONERATED** for **Allegation #4**, that Officer Brian Brandolino used excessive force by grabbing ██████ about her wrist and or arm. Ms. ██████ actions were non-complainant and that of a resister. Ms. ██████ admitted that she did not handle this situation in the best manner and admitted that she was moving/pulling her body away from Officer Brandolino as he held her by her left arm. Although Ms. ██████ sustained abrasions to her left arm, her actions of being non-compliant and resisting, reasonably contributed to her injuries. Officer Brandolino applied an escort hold to Ms. ██████ left arm with one hand to maintain control of her.

COPA recommends a finding of **EXONERATED** for **Allegation #5**, that Officer Brian Brandolino failed to activate his Body Worn Camera in a timely manner. Officer Brandolino related he intended his interaction with Ms. ██████ to be an educational encounter and not confrontational. Officer Brandolino activated his BWC when his encounter after the initial contact with Ms. ██████ became adversarial; in accordance with Special Order S03-14, Section 3(A) (2) (P).

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Brandolino	1. Without justification, handcuffed and detained ██████	Exonerated
	2. Without justification, issued ██████ an Administrative Notice of Ordinance Violation.	Exonerated
	3. Handcuffed ██████ too tightly.	Not Sustained

4. Used excessive force by grabbing [REDACTED] about her wrist and or arm.	Exonerated
5. Failed to activate your Body Worn Camera in a timely manner.	Exonerated

Approved:



2-21-2023

Angela Hearts-Glass
Deputy Chief Investigator

Date