

SUMMARY REPORT OF INVESTIGATION EXECUTIVE SUMMARY

Date of Incident:	August 5, 2020
Time of Incident:	9:50 p.m.
Location of Incident:	817 East 79th Street, Chicago, Illinois 60619
Date of COPA Notification:	August 19, 2020
Time of COPA Notification:	11:38 a.m.

The alleged incident occurred on August 5, 2020, when the Complainant, [REDACTED] was arrested for failure to vacate a crime scene located in the vicinity of 817 East 79th Street, Chicago, Illinois 60619. As a result, [REDACTED] was charged with 720 ILCS 5.0/31-1A (Resisting / Obstructing a Police Officer) and 8-4010 (E) (Disorderly Conduct – Failure to Obey Police). [REDACTED] has alleged that he was unlawfully stopped, falsely arrested, and that Sergeant Anthony W. Schulz, Star #887, intentionally tried to hit him while driving a police vehicle. This is a Body Worn Camera (BWC) incident.

I. INVOLVED PARTIES

Involved Officer #1:	Sebastian Gonzalez, Star #17233, Employee ID# [REDACTED], Date of Appointment: July 27, 2018, Rank: Police Officer, Unit of Assignment: 006, DOB: [REDACTED], 1993, Gender: Male, Race: Hispanic
Involved Officer #2:	Thomas E. Williams, III, Star #11791, Employee ID# [REDACTED], Date of Appointment: August 27, 2018, Rank: Police Officer, Unit of Assignment: 006, DOB: [REDACTED] 1995, Gender: Male, Race: Black
Involved Officer #3:	Anthony W. Schulz, Star #887, Employee # [REDACTED], Date of Appointment: November 4, 1996, Rank: Sergeant, Unit of Assignment: 006, DOB: [REDACTED], 1970, Gender: Male, Race: White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1967, Gender: Male, Race: Black

II. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Sebastian Gonzalez	It is alleged by [REDACTED] that on or about August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street,	

	<p>Chicago, Illinois 60619, Officer Sebastian Gonzalez, Star #17233</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] without justification. 2. Searched [REDACTED] without justification. 3. Arrested [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer Thomas E. Williams, III</p>	<p>It is alleged by [REDACTED] that on or about August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, Officer Thomas E. Williams, III, Star #11791:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] without justification. 2. Searched [REDACTED] without justification. 3. Arrested [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Sergeant Anthony W. Schulz</p>	<p>It is alleged by [REDACTED] that on or about August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, Sergeant Anthony W. Schulz, Star #887:</p> <ol style="list-style-type: none"> 1. Detained [REDACTED] without justification. 2. Searched [REDACTED] without justification. 3. Arrested [REDACTED] without justification. 4. Attempted to strike [REDACTED] a pedestrian, with his police vehicle, without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>

III. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance.
 2. Rule 2: Any action which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 3. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
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General Orders

1. General Order G03-02¹
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Special Orders

1. Special Order SO4-13-09²
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Federal Laws

1. 4th Amendment to U.S. Constitution
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State Laws

1. Illinois Constitution 1970, Art. I, § 6
 2. 720 ILCS 5.0/31-1-A³
 3. 625 ILCS 5/11-1003: Crossing at Other than Crosswalks⁴
 4. 625 ILCS 5/11-1416⁵
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Chicago Criminal Code

1. 8-4 Public Peace and Welfare: Section 8-4-010⁶
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City of Chicago Municipal Ordinances

1. Title 9 – Vehicles; Chapter 9-80 Section 180⁷
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¹ Section III (B): Department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.

² Investigatory Stop System

³ Resisting/Obstructing a Police Officer

⁴ Section (a): Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

⁵ Sec. 11-1416. Obstructing person in highways. No person shall willfully and unnecessarily hinder, obstruct or delay, or willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving or traveling along or upon any highway within this State or offer for barter or sale merchandise on said highway so as to interfere with the effective movement of traffic.

⁶ Disorderly Conduct

⁷ Obstruction or Interference with Traffic. Any person who shall willfully hinder, obstruct or delay or who shall willfully and unnecessarily attempt to hinder, obstruct or delay any other person in lawfully driving or travelling along or upon any street ... shall be guilty of a misdemeanor.

INVESTIGATION**a. Interviews:**

In his interview with COPA on August 21, 2020,⁸ ██████████ **Complainant**, stated that relative to the incident which occurred on August 5, 2020, at approximately 9:50 p.m., at or near 817 East 79th Street, Chicago, Illinois 60619, when was arrested for failure to vacate a crime scene, he alleged that he was illegally detained, illegally searched, falsely arrested, and that Sergeant Anthony Schulz, Star #887, intentionally attempted to hit him, while he was a pedestrian, with his police vehicle, without justification. At that time, ██████████ was walking away from a liquor store on the sidewalk toward where his car was parked. He was crossing an alley to get to his vehicle when a police vehicle driven by a sergeant, who eventually gave the order to arrest him, pulled up in the alley and tried to run him over as he was trying to get to his vehicle.⁹ When he spotted ██████████ in the alley, he had sped up. No contact was made with the police vehicle and ██████████ body. He asked the sergeant why he was trying to run him over and then they got in a verbal altercation. He was then trying to get to his vehicle when a guy he knew who worked at a store in the area tried to restrain him. The man let him go and ██████████ proceeded to try to get into his vehicle. One of the officers then pushed him. He was not informed that it was a crime scene. He told the officer that he was trying to get to his vehicle. The officer then let up and allowed ██████████ to pass to get into his truck, but the sergeant then intervened and directed the officers to arrest him. He asked the officers why he was being arrested. The sergeant told him that he was interfering with a crime scene. No red tape or yellow tape was up at the time, indicating that there was a crime scene. He did not observe any fire trucks in the area. He observed officers around the area ostensibly looking for shell casings.

After being arrested, his personal items were placed into his vehicle and his vehicle was secured by one of the officers. He had parked his vehicle on the street before the ShotSpotter incident had begun. He did not observe any police vehicles in the area at that time. When he was walking toward his vehicle, he had heard sirens in the area. Also, at that time, he had observed 2-3 police vehicles in the area. The sergeant's vehicle had approached the area from the west on 79th Street. No lights were activated on the sergeant's vehicle, including headlights, and his siren was not activated. He did not hear any gunshots at the time, nor did he observe any paramedic units in the area. He admitted to cursing at the sergeant.¹⁰ He was subsequently arrested for disorderly conduct and resisting arrest.

In his interview with COPA on November 17, 2021,¹¹ **Sergeant Anthony W. Schulz, Star #887**, stated that relative to the incident involving the Complainant, ██████████ which occurred on August 5, 2020, at approximately 9:50 p.m., at or near 817 East 79th Street, Chicago, Illinois 60619, he was responding to an incident where shots had been fired and identified by ShotSpotter. It was a very large crime scene and when he arrived on the scene officers were in the process of cordoning it off with crime scene tape. He was alone in his police vehicle at the time. After arriving on the scene, he slowly turned into an alley. He estimated that he was travelling

⁸ Attachment #1

⁹ Attachment #8 at 04:27

¹⁰ Attachment #8 at

¹¹ Attachment #22

between 1-3 mph. His headlights were on but he did not recall if his overhead lights and siren were activated at that time. His police vehicle was clearly visible. An individual, later identified as ██████████ had walked directly in front of his police vehicle.¹² He did not recall exactly when he first saw ██████████ walk in front of his police vehicle. It did not appear that ██████████ was struck by his police vehicle, nor did he jump out of the way, indicating that he was avoiding contact with the police vehicle. ██████████ was simply walking at a normal pace. ██████████ who was to the right of him, continued to walk east. Sergeant Schulz then parked his police vehicle in the alley. ██████████ then aggressively approached him, claiming that he had tried to hit ██████████ with his police vehicle. An unidentified African-American male then intervened and attempted to restrain ██████████. At no time did Sergeant Schulz attempt to strike ██████████ with his police vehicle.

He then went to speak with several officers who were on the scene. At that time, he observed and heard ██████████ arguing loudly with the police officers and being belligerent and aggressive. The officers were telling ██████████ that the scene was a crime scene and that he had to vacate the crime scene. He then walked up to where the argument was taking place. He then ordered the officers Sebastien Gonzalez, Star #17233, and Officer Thomas E. Williams, Star #11791, to arrest ██████████ for obstructing a crime scene. After giving the order to arrest ██████████ ██████████ then attempted to push his way past officers to enter the crime scene.¹³ ██████████ was subsequently arrested and a custodial search of ██████████ was conducted.

He could not recall if he knew that ██████████ vehicle had been parked inside of the crime scene. He stated that he was one of several sergeants who were present at the crime scene, and did not characterize himself as the overall commander at the crime scene.

In his interview with COPA on November 30, 2021,¹⁴ **Officer Sebastien Gonzalez, Star #17233**, stated that relative to the incident involving the Complainant, ██████████ which occurred on August 5, 2020, at approximately 9:50 p.m., at or near 817 East 79th Street, Chicago, Illinois 60619, he and his partner, Officer Thomas Williams, III, Star #11791, had responded to a Shot-Spotter report. They heard the communication from the dispatcher and were in the area, so they proceeded to the scene. When they arrived on the scene, he observed blood on the scene. He did not recall if crime scene tape was in place at that time. There were marked police units on the scene and the officers were in uniform, as were both he and Officer Williams. They then exited their vehicle and started walking south and observed other officers interacting with two individuals, one of whom was the Complainant, ██████████ the other person was an unidentified African-American male. The officers were telling both of them to leave the area. Officer Gonzalez had no interaction with the other African-American male. Sergeant Anthony W. Schulz, Star #887, was already on the scene when they arrived. He did not observe Sergeant Schulz arrive on the scene, nor did he observe any interaction between ██████████ and Sergeant Schulz's vehicle at the scene. When he approached ██████████ was attempting to enter the crime scene. He then stopped ██████████ from entering the crime scene. He told ██████████ that he could not enter the crime scene. At that point, ██████████ was acting aggressively and in a belligerent manner. It was then that Sergeant Schulz instructed him to arrest ██████████. He then handcuffed ██████████ with the assistance of Officer Williams. The officers asked ██████████ what he wanted to

¹² See Attachment #22 at 10:42 and Sergeant Schulz's ICC at 4:45.

¹³ Attachment #22 at 22:34

¹⁴ Attachment #24

do with his personal items and ██████ told the officers to leave them in his vehicle, which was parked nearby. Officer Gonzalez then placed certain personal items of ██████ into ██████ vehicle. ██████ was then transported to the police station for processing.

When he initially interacted with ██████ at the crime scene, he did not know that ██████ vehicle was inside of the crime scene perimeter. He believes he learned that fact after ██████ was arrested. ██████ was arrested for Disorderly Conduct and Interfering with a Crime Scene. He conducted a custodial search of ██████ at that time. ██████ offered no resistance.

In his interview with COPA on December 2, 2021,¹⁵ **Officer Thomas Williams, III, Star #11791**, stated that relative to the incident which occurred on August 5, 2020, at approximately 9:50 p.m., at or near 817 East 79th Street, Chicago, Illinois 60619, he and his partner, Officer Sebastien Gonzalez, Star #17233, had responded to a call concerning either a shots-fired incident or an aggravated battery. There were several uniformed officers on the scene when he and his partner arrived. There were also marked police vehicles at the scene. He did not, however, recall observing any paramedic units at the scene. He did not recall if he and his partner had arrived early in the incident. The other officers on the scene appeared to be searching for evidence. The officers also were attempting to secure the crime scene with crime scene tape and were asking civilians to vacate the area. He, personally, was involved in asking civilians to leave the street area and that is when he first noticed ██████ the Complainant. Officers, at that time, were speaking with ██████ including his partner, Officer Gonzalez. Sergeant Anthony W. Schulz, Star #887, was also present at the scene at that time. He did not recall what was being said to ██████ and he described the scene as somewhat boisterous, with yelling involved. Besides ██████ another civilian was involved in the disturbance. He then observed Officer Gonzalez grab ██████ by the arm and proceed to handcuff ██████ He then went to assist Officer Gonzalez. It was then that Sergeant Schulz gave the direct order to arrest ██████ He then assisted Officer Gonzalez in arresting ██████ and he then conducted a custodial search of ██████ person. ██████ asked the arresting officers to make sure his car, which was parked in the area, was secured. The officers then secured ██████ vehicle. ██████ however, prior to his arrest, did not tell the officers that his vehicle was parked within the crime scene area. ██████ at that point, was compliant but before his arrest he had been very loud and disruptive. ██████ was then transported to the 6th District for processing by himself and Officer Gonzalez, without incident.

With respect to Sergeant Schulz, he stated that he did not observe Sergeant Schulz arrive on the scene. He did not observe ██████ walk in front of Sergeant Schulz's vehicle. Further, at no time during the incident did he hear ██████ complain about Sergeant Schulz attempting to strike him with his police vehicle.

¹⁵ Attachment # 26

b. Digital Evidence:

BWC of Officer Sebastien Gonzalez, Star #17233:¹⁶ Officer Gonzalez is walking in the street toward two uniformed officers who are standing near a police vehicle. The location is 817 East 79th Street, Chicago, Illinois. The street is blocked off by several other police vehicles. Another uniformed officer is observed walking down a nearby alley. Two more uniformed officers are observed walking down the sidewalk looking into store windows. A Chicago Fire Department (CFD) engine is parked on the scene with its lights flashing. Two uniformed officers are observed walking in the street. CFD Paramedic Unit #24 pulls into the area with its lights flashing. It parks next to the CFD engine. Officer Gonzalez continues to walk down the street. He then walks toward several officers where two civilians standing on the sidewalk appear to be arguing. One individual is Complainant, [REDACTED] wearing a dark shirt, blue jeans, and a khaki-colored ball cap. The other individual is an African-American male, wearing a white shirt and blue jeans. Sergeant Anthony W. Schulz, Star #887, and in uniform, is observed standing near four uniformed officers. The African-American male is restraining [REDACTED] from approaching the officers. [REDACTED] is pointing toward the officers. [REDACTED] then turns away from the African-American individual and walks directly into the area to which the police have restricted access. Officer Sebastien extends his arm and restricts [REDACTED] from entering the area. The African-American male then approaches and both he and [REDACTED] begin arguing with Officer Sebastien. There is no audio at this point. A second uniformed officer, a white male, is also restraining [REDACTED] at this time. At 2:00 minutes the audio comes on. [REDACTED] asks for what he is being arrested. [REDACTED] then walks directly into the restricted area.¹⁷ Sergeant Schulz points to [REDACTED] and tells him that he is going to jail.¹⁸ Officer Sebastien then handcuffs [REDACTED]. He is assisted by Officer Thomas E. Williams, III, Star #11791. Sergeant Schulz repeats several times that [REDACTED] is going to jail. [REDACTED] is being searched while he continues to argue with Sergeant Schulz. Sergeant Schulz says, "I'm coming with my lights on. You get out of the way."¹⁹ Officer Williams takes [REDACTED] who is handcuffed behind his back, by his left arm. Officer Sebastien is holding [REDACTED] by his right arm. Officer Williams removes the keys from [REDACTED] vehicle, an olive-green Jeep, with Illinois license plates [REDACTED] which is parked nearby, and hands them to Officer Sebastien. [REDACTED] is again patted down by Officer Williams. Officer Sebastien then places [REDACTED] personal effects in the front seat of the Jeep. Officer Williams then escorts [REDACTED] to police vehicle #7037, and places him in the backseat without incident. Officer Sebastien is standing nearby. The officers then transport [REDACTED] from the area.

BWC of Officer Thomas Williams, III, Star #11791:²⁰ Officer Williams arrives on the scene, 817 East 79th Street, Chicago, Illinois, and departs his vehicle. Chicago Fire Department (CFD) Paramedic Unit #24 is observed arriving on the scene. Officer Williams walks toward a female officer who is ushering a pedestrian away from the crime scene. Numerous officers are on the scene. Sergeant Anthony W. Schulz, Star #887, back turned, is standing near five uniformed officers, who have surrounded [REDACTED] who is in the company of an African-American male. There is no audio at this point and it appears that [REDACTED] is arguing with the officers.

¹⁶ Attachment #9

¹⁷ Attachment #9 at 2:14

¹⁸ Attachment #9 at 2:17

¹⁹ Attachment #8 at 3:19

²⁰ Attachment #20

██████████ then attempts to walk directly past the officers and into the crime scene.²¹ ██████████ is stopped by Officer Sebastien Gonzalez, Star #1723, who then begins to handcuff ██████████. Officer Williams is assisting. ██████████ is being handcuffed behind his back. Officer Williams conducts a patdown of ██████████ while Sergeant Schulz observes. At 2:00 the audio comes on. Sergeant Schulz is heard telling ██████████ that he is going to jail. Some personal items are removed from ██████████ person during the patdown. ██████████ is arguing with the officers. Sergeant Schulz directs the officers to take ██████████ to jail.²² Sergeant Schulz is heard to say "I'm coming with my lights on. You get out of the way."²³ ██████████ continues to argue with the officers. Officer Williams removes the keys from ██████████ vehicle, which is parked inside of the crime scene. Officer Williams continues to conduct a patdown of ██████████. And removes several items. Officer Gonzalez has placed those items in a plastic bag, which he displays to ██████████. Officer Gonzalez retrieves ██████████ I.D. from his vehicle, while ██████████ is standing nearby and observing the scene. Officer Gonzalez, who has the keys to ██████████ vehicle, then locks the vehicle. ██████████ is then walked to a police vehicle by Officer Williams, and then placed in the backseat. ██████████ complains that the handcuffs are too tight and Officer Williams removes him from the vehicle and readjusts the handcuffs. ██████████ reenters the police vehicle and is transported from the area to the 6th District by Officers Williams and Gonzalez without incident. At the 6th District, ██████████ is processed without incident.

BWC of Sergeant Anthony W. Schulz, Star #887:²⁴ Per Watch information. Sergeant Schulz is not BWC exempt. Sergeant Schulz arrives on the scene, 817 East 79th Street, Chicago, Illinois, and exits his police vehicle. ██████████ is standing on the sidewalk and looking in the direction of Sergeant Schulz. Two uniformed officers are standing by a police vehicle. Sergeant Schulz walks up to where ██████████ is standing. An African-American male, wearing a long, white sweatshirt intervenes and pushes ██████████ away from where Sergeant Schulz is standing. Two uniformed officers then approach ██████████ and the unidentified African-American male. A third uniformed officer then approaches. At 2:00 minutes the audio comes on. A Hispanic female uniformed officer is standing in the street and converses with Sergeant Schulz. A pedestrian, an African-American male, attempts to walk into the area that is cordoned off and Sergeant Schulz directs him to move away from the scene. Sergeant Schulz then returns to where ██████████ and the unidentified African-American male are standing. ██████████ is motioning toward where Sergeant Schulz is located. Officer Sebastien Gonzalez, Star #17233, and Officer Thomas E. Williams, III, Star #11791, are standing near ██████████ vehicle, a silver Jeep bearing Illinois license plates ██████████, is parked on the street next to them. Sergeant Schulz tells ██████████ that he is going to jail.²⁵ ██████████ argues with the officers and then asks why he is being arrested. Sergeant Schulz says something to the effect of obstructing a crime scene. ██████████ then walks past his vehicle and enters a restricted area. He is stopped by Officer Gonzalez who places his left hand on ██████████ chest.²⁶ Sergeant Schulz tells ██████████ that he is going to jail. ██████████ says that he is just trying to get into his car. Officer Gonzalez grabs ██████████ by his right wrist and begins to handcuff him as Officer Williams assists. Sergeant Schulz again repeats that ██████████ is going to

²¹ Attachment #20 at 1:29

²² Attachment #20 at 2:27

²³ Attachment #20 at 2:36

²⁴ Attachment #10

²⁵ Attachment #15 at 2:31

²⁶ Attachment #15 at 2:42

jail. A third uniformed officer approaches, as [REDACTED] is handcuffed behind his back. [REDACTED] continues to argue with Sergeant Schulz, who tells him that he was disrespecting a sergeant. [REDACTED] replies that he was not disrespecting him. Officer Williams conducts a patdown of [REDACTED].²⁷ Officer Gonzalez then conducts a patdown of [REDACTED] as Officer Williams reaches into one of [REDACTED] pockets.²⁸ [REDACTED] continues to argue with Sergeant Schulz and tells him that he tried to hit him.²⁹ Sergeant Schulz responds, "I am coming with my lights on. You get out of the way."³⁰ Sergeant Schulz then walks away toward several officers who are canvassing the street using flashlights. The street is cordoned off with red crime scene tape. Sergeant Schulz continues to walk the area of the crime scene.

In-Car Camera of Sergeant Anthony W. Schulz, Star #887:³¹ Sergeant Schulz is observed walking from the police station. His In-Car camera is activated. He is responding to the call with his lights and siren activated. He arrives on the scene and is slowly following CFD paramedic unit #24. He slows down and makes a right-hand turn into an alley. Two pedestrians, an African-American male and an African-American female, are observed walking on the sidewalk to his left.³² They stop but [REDACTED] is observed walking directly across the alley and in front of Sergeant Schulz's vehicle. Sergeant Schulz is heard to say, "C'mon, get the fuck out of the way."³³ There is no contact observed between Sergeant Schulz's vehicle and [REDACTED].

c. **Physical Evidence:** None

d. **Documentary Evidence:**

CPD Arrest Report, CB No. 019982465, RD No. JD322244, Dated August 5, 2020 for the Arrest of [REDACTED]³⁴ This report reflects that [REDACTED] was arrested on a sidewalk near 817 East 79th Street, Chicago, Illinois on August 5, 2020 at approximately 9:50 p.m. He was charged with Resisting / Obstructing a Police Officer and Disorderly Conduct – Failure to Obey Police. This is BWC incident. Officers had responded to a ShotSpotter alert, 10 rounds being fired near 817 East 79th Street. Upon arrival, blood had been observed at the scene, and crime scene tape was used to secure the area. [REDACTED] was observed at the scene and was belligerent toward the officers. He refused to vacate the officers' commands to vacate the area. Sergeant Anthony Schulz, Star #887, arrived on the scene and attempted to deescalate the situation; however, [REDACTED] continued to ignore police orders and advanced into the area of the crime scene. Sergeant Schulz then directed Officer Sebastien Gonzalez, Star #17233, and Officer Thomas Williams, II, Star #11791, to arrest [REDACTED] was subsequently arrested and then transported to the 6th District.

²⁷ Attachment #15 at 3:09

²⁸ Attachment #15 at 3:26

²⁹ Attachment #15 at 3:43

³⁰ Attachment #15 at 3:47

³¹ Attachment #16

³² Attachment #16 at 4:43

³³ Attachment #16 at 4:47

³⁴ Attachment #2

OEMC³⁵ Event Query Report, Event Number 2021814212, Dated August 5, 2020 at 9:34 p.m.:³⁶ This report reflects that 10 rounds were reported as being fired in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, at approximately 9:34 p.m.

IV. ANALYSIS

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 occurred and violated 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 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. *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.

Investigation in this matter has determined that [REDACTED] was detained on August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, by CPD Officers Sebastien Gonzalez, Star #17233 and Thomas Williams, III, Star # 11791, and Sergeant Anthony Schulz, Star #887. With respect to the issue of whether [REDACTED] was detained by the officers without justification, one must determine the totality of the circumstances of the event,³⁷ the need for officer safety, and the safety of others, and whether the officers had specific and articulable facts for the detention.³⁸

³⁵ Office of Emergency Management

³⁶ Attachment #6

³⁷ See *People v. Lake*, 2015 IL App. (4th) 130072, ¶ 28, 28 N.E.3d 1036.

³⁸ See *People v. Timmsen*, 2016 IL 118181, 9, ¶ 50 N.E.3d 1092: " . . .the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion."

When evaluating the validity of a *Terry* Stop, the totality of the circumstances must be considered.³⁹ Further, the officer's basis for the stop must be objectively reasonable and not based upon inarticulable hunches or unparticularized suspicions.⁴⁰ To justify a brief investigatory stop of a person in a public place, a police officer must be able to articulate specific facts which, considered with rational inferences from those facts, would lead a reasonable person to believe the action taken was proper.⁴¹ If the officers reasonably believed that ██████ had committed, or was about to commit, a crime, their investigatory detention of ██████ would be justified.⁴² Thus, the question must be answered as to what information the officers knew about ██████ and ██████ actions before they detained him and whether that knowledge justified a reason for detaining ██████

████████████████████ Was Lawfully Detained and Subsequently Lawfully Arrested:

BWC evidence shows that ██████ attempted to enter a restricted area where a crime scene was being processed. The officers thus had sufficient information to prevent ██████ from entering the crime scene. As a result, ██████ was physically prevented from entering the crime scene by Officer Sebastien Gonzalez, Star #17233. This was a lawful restriction. ██████ however, did not abide by the restraint exhibited by Officer Gonzalez and continued to push his way into the restricted area. He was then lawfully detained, handcuffed, and subsequently arrested by Officer Gonzalez and Officer Thomas E. Williams, III, Star #11791, at the direction of Sergeant Anthony W. Schulz, Star #887. This was a lawful arrest, as ██████ failed to obey police orders not to enter the crime scene, and willfully attempted to enter the crime scene.⁴³ As a result, **Officer Sebastien Gonzalez, Star #17233, Officer Thomas E. Williams, III, Star #11791, and Sergeant Anthony W. Schulz, Star #887, should be Exonerated with respect to Allegations #1 and #3, respectively.**

████████████████████ Was Lawfully Searched:

Because ██████ was lawfully arrested, officers were justified in conducting a search of ██████ person.⁴⁴ As a result, **Officer Sebastien Gonzalez, Star #17233, Officer Thomas E. Williams, III, Star #11791, and Sergeant Anthony W. Schulz, Star #887, should be Exonerated with respect to Allegation #2, respectively.**

³⁹ *United States v. Sokolow*, 490 U.S. 1, 8 (1989); *United States v. Cortez*, 449 U.S. 411, 417 (1981).

⁴⁰ *People v. Ray*, 116 Ill.App.2d 269, 252 N.E.2d 772 (Ill.App. 1969).

⁴¹ *People v. Rivera*, 272 Ill.App.3d 502, 504-05, 209 Ill.Dec. 111, 650 N.E.2d 1084 (1995); See also *People v. Starks*, 190 Ill.App.3d 503, 506, 137 Ill.Dec. 447, 546 N.E.2d 71 (1989).

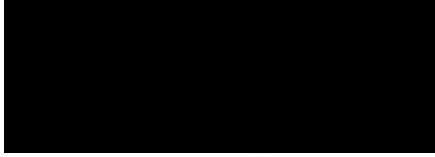
⁴² See *Terry v. Ohio*, 392 U.S. 1 (1968): "A police officer may conduct a brief investigatory stop of a person when the officer reasonably believes that the person has committed, or is about to commit, a crime."

⁴³ Chicago Criminal Code: 8-4, Section 8-4-010(E) Disorderly Conduct – Failure to Obey Police.

⁴⁴ *Chimel v. California*, 395 U.S. 752 (1969): Under the 4th Amendment, an officer may search the arrestee and the area within his immediate control into which he might reach in order to obtain a weapon or destroy evidence.

	3. Arrested [REDACTED] without justification.	Exonerated
Officer Thomas E. Williams, III	<p>It is alleged by [REDACTED] that on or about August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, Officer Thomas E. Williams, III, Star #11791:</p> <p>1. Detained [REDACTED] without justification.</p> <p>2. Searched [REDACTED] without justification.</p> <p>3. Arrested [REDACTED] without justification.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Sergeant Anthony W. Schulz	<p>It is alleged by [REDACTED] that on or about August 5, 2020, at approximately 9:50 p.m., in the vicinity of 817 East 79th Street, Chicago, Illinois 60619, Sergeant Anthony W. Schulz, Star #887:</p> <p>1. Detained [REDACTED] without justification.</p> <p>2. Searched [REDACTED] without justification.</p> <p>3. Arrested [REDACTED] without justification.</p> <p>4. Intentionally attempted to strike [REDACTED] a pedestrian, with his police vehicle, without justification.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>

Approved:



2/3/2023

Matthew Haynam
Deputy Chief Administrator

Date

