

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	March 17, 2019, 03:11 am, 6700 S. State St.
Date/Time of COPA Notification:	April 11, 2019 / 09:36
Involved Officer #1:	William Sierzega, Star #19352, Employee ID# [REDACTED] Date of Appointment December 12, 2016, Rank Police Officer/ Field Training Officer, Unit of Assignment 018, [REDACTED] 1995, Male, White
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1978, Male, Black
Case Type:	Excessive Force, Civil Rights violations: improper arrest and search

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Sierzega	1. Using excessive force to remove [REDACTED] from his vehicle by pulling him from his vehicle without justification.	UNFOUNDED
	2. Violated [REDACTED] civil rights when he improperly arrested him during a traffic stop at or near 6700 S. State St.	EXONERATED
	3. Violated [REDACTED] civil rights when he improperly searched his car without justification.	EXONERATED

II. SUMMARY OF EVIDENCE¹

On March 17, 2019, at approximately 3:11 a.m., Chicago Police Officers conducted a traffic stop near 6700 S. State St. in Chicago. The complainant, [REDACTED] (“[REDACTED]”) was driving his vehicle and parked after officers activated their emergency lights and sirens. Officers explained that [REDACTED] was observed as he drove past a red light without stopping. [REDACTED] was asked if he consumed alcohol. [REDACTED] responded that he had drank alcohol seven (7) hours earlier. Officer Sierzega explained that he detected alcohol on [REDACTED] breath. The officer also commented that his speech was slurred, and his eyes were bloodshot and glassy. Officer Sierzega asked if he would consent to a field sobriety test. [REDACTED] did not consent. Officer Sierzega asked him to step out of the vehicle and placed [REDACTED] under arrest for driving under the influence.

¹COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of 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.

██████████ was escorted to the police vehicle and was transported to the 18th district police station. Officers impounded his vehicle. A standardized sobriety test was conducted at the station. ██████████ advised officers that he believed his medical condition and previous injury would negatively affect the test results.

██████████ alleged that Officer Sierzega used excessive force after Officer Sierzega opened the driver's side door and pulled ██████████ out of the car by his arm; that Officer Sierzega arrested him without justification; and that ██████████ car was searched without justification.

██████████ subsequently provided a recorded statement to COPA.² COPA also obtained and reviewed available Body Worn Camera (BWC) video of the traffic stop, arrest, and subsequent station conducted field sobriety test.³

III. 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.

² Attachment 63 – ██████████ recorded Interview @ COPA Office

³ Attachments 37, 38, 39, 40, 41, 46 - BWC of traffic stop, arrest, and subsequent station conducted field sobriety test

IV. ANALYSIS AND CONCLUSION

During the COPA interview, ██████ stated, the officer pulled him out of the car by the arm. Officers were pulling him toward the other car, and he “was tugging away, I was kind of not going in the car.”⁴

After examining the available Body Worn Camera (BWC) video footage and the complainant’s interview, COPA has concluded that the accused officer did not use excessive force.

The BWC footage showed Officer Sierzega conducted a traffic stop and interviewed ██████ concurrently. Thus, the issue COPA must address is whether the accused officer used excessive force while effectuating the arrest.

From available BWC footage, Officer Sierzega’s hand is on the outside of the door as ██████ steps out of the car unassisted.⁵ The officer asks if he will consent to the standardized field sobriety test (SFST) and ██████ responds “No”⁶. The officer places ██████ under arrest. He is compliant in response to the verbal directions and is handcuffed. ██████ then begins to ask about the test and states he does not want to go to jail and can perform the test. He is led to the CPD vehicle and passively resists when he tells the officer to hold on and states he is not going anywhere.⁷ He tells the officer to stop pulling him. As the officer leads the subject to the vehicle, he accuses ██████ of blowing in his face and orders him not to do it again. ██████ is briefly pushed down onto the hood of the vehicle. The video captures ██████ as he turns his face in the direction of the officer. When ██████ is allowed to stand up, he denies resisting and tells the officers to stop fighting him. Officer Sierzega responds, “We’re not fighting you; we’re trying to move you and you don’t want to move.” ██████ replies, “Ha-Ha-Ha”.⁸

BWC footage establishes that the officers did not use force to pull ██████ out of the car. ██████ admitted to some level of resistance. COPA has determined that Officer Sierzega used reasonable force during the traffic stop and subsequent arrest.

Department members are permitted to use force to overcome resistance. A citizen who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest is an active resister. Members are permitted to respond to active resistance with presence, verbal directions, holding and compliance techniques.⁹ After careful consideration of the available facts, COPA determines there is clear and convincing evidence the allegation of excessive force is not factual and did not occur. COPA finds that this allegation is **UNFOUNDED**.

⁴ Attachment #63 at 12:26.

⁵ Attachment #40 at 0:22.

⁶ Attachment #37 at 1:18 – 1:21.

⁷ Attachment #37 at 3:24.

⁸ Attachment #37 at 3:50.

⁹ G03-02 Use of Force and G03-02-01 IV (B)(2) and (c) Force Options

Regarding the arrest of [REDACTED] after examining and reviewing available BWC footage and [REDACTED] interview statements, COPA finds that the arrest was justified.

An officer must have probable cause to arrest a subject.¹⁰ “Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it.”¹¹ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.¹² State statute prohibits operation of a motor vehicle while under the influence of alcohol.¹³

The BWC footage captures Officer Sierzega’s verbalized description of [REDACTED] impairment including the smell of alcohol emanating from the driver, slurred speech, bloodshot and glassy eyes.¹⁴ Whereas none of these signs prove conclusively that a suspected driver is, in fact, under the influence, the more signs that are present tend to demonstrate a higher likelihood that the driver is likely driving under the influence of alcohol. In addition, the officer’s experience as a police officer combined with [REDACTED] admission of alcohol consumption¹⁵ before driving provided facts that led the officer to suspect that the driver was intoxicated, and a DUI investigation was conducted.

[REDACTED] refusal to submit to a SFST was an opportunity to disprove the officer’s assumptions. Based on the officer’s observations, the arrest was proper considering the reasonableness of the probability that [REDACTED] was driving under the influence. After careful consideration of all the facts, COPA determines there is clear and convincing evidence that the arrest was lawful and proper. Accordingly, COPA finds that this allegation is **EXONERATED**.

[REDACTED] alleged his car was searched without justification. Department members are permitted to search a vehicle when: an arrest is made, provided there is reasonable suspicion that the vehicle contains evidence of the crime for which the arrest is made;¹⁶ or a vehicle is being impounded by the Department.¹⁷ Officers may impound a vehicle subsequent to a violation of a municipal code,¹⁸ including driving while intoxicated.¹⁹ The available BWC footage demonstrates that the vehicle was searched after the determination that [REDACTED] would be arrested for driving while intoxicated. Thereafter, the vehicle was transported to impound.

After careful consideration of the facts, COPA determines there is clear and convincing evidence that the search was lawful and proper. COPA finds that this allegation is **EXONERATED**.

¹⁰ *People v. [REDACTED]*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91 (1964)).

¹¹ S04-13-09 II(D) Investigatory Stop System (effective July 10, 2017, to current).

¹² S04-13-09 II(D) Investigatory Stop System (effective July 10, 2017, to current).

¹³ 625 ILCS 5/11-501 (A)(2).

¹⁴ Attachment #40 at 0:40 - 0:59.

¹⁵ Attachment #37 at 1:00 - 1:20.

¹⁶ *Arizona v. [REDACTED]*, 556 U.S. 332 (2009).

¹⁷ *South Dakota v. [REDACTED]*, 428 U.S. 364 (1976).

¹⁸ [REDACTED] Driving While Intoxicated.

¹⁹ Special Order S07-03-05 Impoundment of Vehicles for Municipal Code Violations.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

3-20-2023

Date