

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	April 18, 2017
Time of Incident:	7:15 PM
Location of Incident:	450 N. Cityfront Plaza Dr.
Date of COPA Notification:	April 24, 2017
Time of COPA Notification:	3:52 PM

On April 18, 2017 at approximately 7:00 PM, Officer Michael Seiser witnessed [REDACTED] driving on or around Cityfront Plaza without wearing her seatbelt. He followed her in his vehicle. When Officer Seiser ran her vehicle’s plates, the results showed the car was registered to the Consulate of Al Morac. This sounded strange to Officer Seiser, so he ran the plates again with the same result. By this time Ms. [REDACTED] had parked on Cityfront Plaza to make a delivery. Officer Seiser attempted to flag her down for a traffic stop but was unsuccessful. He instead wrote her two parking tickets and began to drive off. As he was doing so, he saw her return to the car. He then conducted a traffic stop and demanded to see her license. Ms. [REDACTED] refused, claiming she was not a US citizen. Officer Seiser argued with her, and Ms. [REDACTED] turned her vehicle on and attempted to roll up the window. Officer Seiser intentionally shattered the window and attempted to pull Ms. [REDACTED] out of the car. An altercation ensued. Eventually, additional officers arrived on the scene and Ms. [REDACTED] was taken into custody and charged with aggravated assault.

**II. INVOLVED PARTIES**

Involved Officer #1:	Michael Seiser, Star # 4615, Employee ID# [REDACTED] Date of Appointment: 7/10/95, Police Officer, Unit of Assignment 018, DOB [REDACTED] 62, Male, White
Involved Officer #2	Washington Mina, Star # 18599, Employee ID# [REDACTED] Date of Appointment 11/24/14, Police Officer, Unit of Assignment 018, DOB [REDACTED]/81, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB [REDACTED]/90, Female, Black

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Michael Seiser	1. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser detained Ms. [REDACTED] without justification in violation of Rule 6.	Not Sustained
	2. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser shattered the driver’s side window of Ms. [REDACTED] vehicle without justification in violation of Rules 2 and 8.	Sustained /15-day Suspension & De-escalation Training
	3. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to use de-escalation tactics when he forcefully attempted to remove Ms. [REDACTED] from her vehicle in violation of Rules 2, 6, 8 and 9.	Sustained /15-day Suspension & De-escalation Training
	4. On or about April 18, 2017 at approximately 7:00 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to activate his body worn camera in his first encounter with Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted
	5. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to timely activate his body worn camera in his second encounter with Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral
3. Rule 8: Disrespect to or maltreatment of any person while on or off duty.

4. Rule 9: Engaging in an unjustified verbal or physical altercation with any person, while on or off duty.

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General Orders

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1. G03-02-01: The Use of Force Model (Eff. 5/16/2012)

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Special Orders

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1. SO3-14: Body Worn Cameras (Eff. 5/10/16)

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Federal Laws

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1. Fourth Amendment-U. S. Constitution

## V. INVESTIGATION<sup>2</sup>

### a. Interviews

██████████ gave a statement to IPRA on May 12, 2017 at the IPRA offices located at 1615 W. Chicago Ave. Ms. ██████████ stated that on April 18, 2017 at approximately 7:24 PM, she was near 450 North Cityfront Plaza Drive. As she was walking back to her car, she saw two tickets on the windshield of the vehicle. She took the tickets off the windshield and entered her vehicle. A police vehicle pulled in front of her vehicle, blocking her in. As Ms. ██████████ was looking at her phone to check the address of her next delivery, Officer Seiser came to the driver's side window. Officer Seiser asked if she had a driver's license. Ms. ██████████ asked him why he needed to see her license. Officer Seiser answered that he believed she did not have one. She asked him about the probable cause of him asking for her license. Officer Seiser responded that she ignored him as he called out to her when she first parked her car. Ms. ██████████ told Officer Seiser she had not heard him. Officer Seiser told her that even though he already wrote her parking tickets, now she had a moving violation. He then asked her for her proof of insurance.

When Ms. ██████████ admitted she did not have proof of insurance, Officer Seiser demanded she exit the car and told her she was under arrest for driving without insurance. Ms. ██████████ did not exit the car and attempted to make a call with her cell phone. Ms. ██████████ stated that at that time Officer Seiser once again ordered her out of the car, then turned off his body camera and grabbed her left wrist to pull her out of the car window. Ms. ██████████ expressed that at this point in the encounter she was shaken up. Ms. ██████████ pulled away from Officer Seiser and remained in the car. Officer Seiser attempted to reach into the car, and the two "tussled" over the door handle. When Officer Seiser momentarily backed up, Ms. ██████████ started the car and began to roll up the window. Officer Seiser then grabbed the window and shattered it. Officer Seiser once again attempted to pull Ms. ██████████ through the window. Ms. ██████████ pulled away from him. Officer Seiser pulled out his taser and called for backup. Ms. ██████████ used her cell phone to call 911. Officer Seiser then reached in and took the keys out of the ignition.

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

<sup>3</sup> Attachment 24, 51

By this time, another squad car arrived. The additional officers attempted to force Ms. [REDACTED] out of the vehicle. Ms. [REDACTED] told them if they stopped being forceful, she would get out. The officers backed off and she allowed herself to be taken out of the car. The officers then placed Ms. [REDACTED] in handcuffs. Ms. [REDACTED] stated that she sustained minor injuries including a strained wrist, and multiple cuts and bruises from this incident. She later went to Roseland Hospital where she received an x-ray, prescriptions, and a wrist brace.

[REDACTED] gave a statement to IPRA on April 27, 2017 at the IPRA offices located at 1615 W. Chicago Ave. Mr. [REDACTED] stated that on April 18, 2017 at approximately 7:00 PM, he was working as security staff for NBC Tower. Mr. [REDACTED] was monitoring a set of security cameras, one of which captured the area near 451 N. Cityfront Plaza. Via security camera live feed, he observed an unknown officer issuing a traffic citation to a vehicle, now known as Ms. [REDACTED] vehicle. He indicated that it is common for delivery drivers to park there, and police recently stepped up parking enforcement.

A short time later, Mr. [REDACTED] observed additional police vehicles arriving on scene. He remotely adjusted the camera for a better view. He observed a white male officer holding a taser and a black female in her car refusing to exit. Mr. [REDACTED] left his desk and went outside to observe the incident directly. He witnessed several other officers approach the vehicle and handcuff the black woman, place her in a police car and transport her away. Mr. [REDACTED] observed that the woman was loud and resisting the officers' efforts to handcuff her. Mr. [REDACTED] did not witness any of the events prior to the white male officer holding a taser towards the black woman. He did observe the woman's car had a broken window but did not see what caused it to break.

**Officer Randolph Stevens**<sup>5</sup> gave a statement to IPRA on May 3, 2017 at 1615 W. Chicago Ave. Officer Stevens stated that on April 18, 2017 he was off duty and not involved with the arrest of [REDACTED] at 450 North Cityfront Plaza. He became aware of the incident on April 22, 2017. While on duty on April 22, 2017, Officer Stevens spoke with Officer James McGuire, an FOP representative, who related that he was present at the police station when Officer Alexander Fuertes was typing up a police report about the incident. Officer McGuire viewed the body worn camera footage and had knowledge of how the report was written. Officer McGuire related to Officer Steven that he felt that based on the body worn camera footage, the narrative in the arrest report was false. Officer Stevens did not review the body worn footage himself, but Officer McGuire did and related what he inferred from the video to Officer Stevens. After viewing the body worn camera, Officer McGuire believed that Officer Seiser lacked a lawful reason to initially detain Ms. [REDACTED]

After hearing Officer McGuire's retelling of the events, Officer Stevens grew upset about what happened to Ms. [REDACTED] and her arrest. Officer Steven's distress over the situation caused him to fill out an IPRA web complaint.<sup>6</sup> Based on what he was told by Officer McGuire, Officer

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<sup>4</sup> Att. 13, 18, and 52

<sup>5</sup> Att. 53

<sup>6</sup> Att. 4 and 5

Stevens believed that Officer Seiser's statement that Ms. ██████ had been driving without a seatbelt or insurance was a false pretext used to justify an illegal stop.

Officer Stevens stated that he has never met Ms. ██████ but he does have a history with Officer Seiser. He said that they were previously friends and have known each other for fifteen years. They were assigned together on various assignments across various districts over those fifteen years. Eventually, Officer Stevens requested that the watch secretary not partner him with Officer Seiser anymore. This request was due to the harsh demeanor Officer Seiser used when he interacted with citizens on the street. He also noted that Officer Seiser would use his discretion to write tickets for petty reasons, and Officer Stevens thought this was improper. Additionally, Officer Stevens and Officer Seiser had personal conflicts on the job.

On September 13, 2019, COPA spoke with **Lt. Eric Winstrom**<sup>7</sup> about written policy by the Chicago Police Department dictating when an officer may break a break a window. Lt. Winstrom was at the time the commanding officer of the Research and Development unit and was the officer responsible for drafting the language in both General and Special Orders. Lt. Winstrom stated that there is no specific written policy for when an officer can break a window. He mentioned that often officers confuse that policy with the policy on tear gas, wherein they are required to obtain supervisor approval before deploying tear gas. No such policy exists for breaking windows or other damage to personal property. In those cases, the officer's actions must be reasonable given the circumstances known to the officer at the time of the incident.

On December 24, 2019, COPA spoke with ██████ ██████ who stated he was a witness to this incident on April 18, 2017. Mr. ██████ stated he did not know Officer Seiser or Ms. ██████ prior to this incident. Mr. ██████ stated he was approximately a half a block north of 450 N. Cityfront Plaza when he heard shouting. He turned around and walked towards where Ms. ██████ was parked. He observed a police officer (now known as Officer Seiser) arguing with a woman (now known as Ms. ██████ who was inside her vehicle. Mr. ██████ stated Officer Seiser demanded Ms. ██████ exit the vehicle, but Ms. ██████ claimed she did nothing wrong and did not need to exit. Mr. ██████ observed Ms. ██████ roll up her driver's side window and observed Officer Seiser strike the window with what Mr. ██████ believed to be his elbow. After the window was smashed, Mr. ██████ saw Ms. ██████ move into the passenger's seat. Mr. ██████ related that an officer removed Ms. ██████ from the passenger's side of her vehicle. Mr. ██████ related he could not recall any other details of the incident but felt that the officer was overly aggressive.

**Officer Michael Seiser**<sup>9</sup> gave a statement to COPA on December 3, 2019 at approximately 5:00 PM at the COPA officers located at 1615 W. Chicago Ave. Officer Seiser stated that on April 18, 2017 he was on patrol and without a partner in the 18<sup>th</sup> District. He stated that he first spotted Ms. ██████ while they were both driving northbound on Cityfront Plaza near the NBC tower. Officer Seiser observed Ms. ██████ driving without her seatbelt. Ms. ██████ vehicle had a temporary paper license plate. When he ran the plate through his PDT, the result he found was the vehicle was registered to Al Morac Consulate. Officer Seiser didn't think the temporary plate was

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<sup>7</sup> Att. 60

<sup>8</sup> Att. 62

<sup>9</sup> Att. 56

a diplomatic plate, so he attempted to enter the license plate into the PDT a second time, suspecting he made an error the first time. When he ran the plate again, he got the same result. While he ran the plates, he followed Ms. [REDACTED] vehicle. By the time he finished reading the PDT output, Ms. [REDACTED] was six or seven car lengths ahead of him and parked. By time Officer Seiser approached, she had exited the vehicle and begun to walk away. Officer Seiser called to Ms. [REDACTED] but she ignored him. Officer Seiser stated he was certain she heard him because several civilians heard him and tried to get her attention as well. Officer Seiser elected not to chase her and instead wrote her tickets for parking in a tow zone and not having a city sticker. As Officer Seiser returned to his vehicle and began to pull away, he noticed Ms. [REDACTED] returning to her vehicle. When he stopped his vehicle, he noticed that Ms. [REDACTED] stopped walking toward her vehicle, when he resumed driving, she resumed walking. After observing this stopping and starting a few times, Officer Seiser decided to circle around Cityfront plaza and catch Ms. [REDACTED] as she returned to her vehicle. He did so and pulled his vehicle in front of hers on a slant towards the curb. Officer Seiser stated that at this point in the encounter he suspected that Ms. [REDACTED] was either driving on a suspended license or had outstanding warrants for her arrest. He stated this suspicion was based on her attempts to avoid him, the unusual license plate registration, and the fact that her car had been left unlocked with the window down.

Officer Seiser approached Ms. [REDACTED] after she had entered her vehicle but before she turned it on and asked to see her driver's license. Ms. [REDACTED] refused to show him her license and stated she was not a citizen of the United States. This conversation, according to Officer Seiser, took place before the audio on the body worn camera turned on. Officer Seiser argued with her about her citizenship status and its relevance to a traffic stop and once more demanded her license. He told her the world court ruled even diplomats must follow traffic laws and he has met sovereign citizens who think they do not have to follow traffic rules. After he said that, she started the car and began to roll up the window. Officer Seiser said he was afraid he was going to get dragged by the car when she backed up. When he was asked how he would be dragged, he stated that he could get caught on the drivers' side rear view mirror as she backed up. He stated that for officer safety reasons he broke her window. He told her she was under arrest for driving without a license. She then struck him and knocked the body worn camera off his chest. Officer Seiser was injured when he broke the window. At that point, he tried to call for back up units. He advised Ms. [REDACTED] that he was going to tase her. After other officers arrived, she was arrested and charged with aggravated battery, resisting arrest, and the traffic offenses.

#### **b. Digital Evidence**

Officer Seiser's **body worn camera**<sup>10</sup> footage shows that Officer Seiser activated his camera after he began to detain [REDACTED]. The initial footage shows a police vehicle parked in front of Ms. [REDACTED] car and facing her car at an angle. Officer Seiser is seen having a conversation with Ms. [REDACTED] but it cannot be heard until 30 seconds into the video. Once the audio activates, Ms. [REDACTED] can be heard arguing with Officer Seiser while Officer Seiser commands her to produce a license and get out of the car. Officer Seiser begins to call in on his dispatch radio stating that he needs another car to assist. Ms. [REDACTED] turns on the car and begins to roll up the driver's side window. Officer Seiser grabs the window as it is rolling up and shatters the window with his palm. He then calls for additional cars to come to the scene, reaches inside, and grabs Ms.

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<sup>10</sup> Att. 58

■■■■■ left wrist and beings to pull her toward the window. He tells her she is under arrest for driving a car without a license. Ms. ■■■■■ pulls back from Officer Seiser and knocks the body worn camera from his vest. Based on what can be seen on video, it does not look like Ms. ■■■■■ deliberately targeted the camera. He picks the camera up, and when Ms. ■■■■■ comes back into frame, Officer Seiser opens her driver's side door. Ms. ■■■■■ quickly moves to the passenger seat and attempts to make a phone a call. Officer Seiser removes the keys from the ignition and says "Get out of the car. I'm gonna taze your ass." He then pulls out his taser and points it at Ms. ■■■■■. At this point additional officers arrive and manage to get Ms. ■■■■■ out of the car. As the officers are putting handcuffs on Ms. ■■■■■ Officer Seiser then says "Now your car's going to be impounded. You think you can walk away from me?" After Ms. ■■■■■ is taken away, Officer Seiser speaks with the responding officers and a sergeant while conducting a search of vehicle.

The **body worn cameras of the responding officers**<sup>11</sup> did not capture most of the interaction between Officer Seiser and Ms. ■■■■■. Officer Mina's body worn camera shows that when Officer Mina arrives on scene, Ms. ■■■■■ is seated in the passenger seat of her vehicle with the passenger door closed. The drivers' side door is open and Officer Seiser is standing in front of it, pointing a taser at Ms. ■■■■■. Officer Seiser reaches across Ms. ■■■■■ and unlocks the passenger side door. Officer Mina opens the door and places handcuffs on Ms. ■■■■■ right wrist. Ms. ■■■■■ can be heard on the phone telling someone she is being arrested for no reason. Officer Mina commands Ms. ■■■■■ to step out of the vehicle and attempts to pull her out through the open door. Officer Seiser comes around the vehicle, grabs Ms. ■■■■■ left arm and places it in handcuffs. After being handcuffed Ms. ■■■■■ continues to struggle with the officers for a brief time, but eventually allows herself to be pulled from the vehicle. Ms. ■■■■■ continues to argue with Officer Seiser about the legality of arresting her. As Ms. ■■■■■ is taken to a police vehicle for transport, Officer Mina interviews a witness, ■■■■■ who is standing nearby. Mr. ■■■■■ stated "Basically he asked for identification. She said something and he just broke her window. It was really quick. A little too quick. I would say." Officer Mina then went to check on Officer Seiser. The last conversation caught on camera before deactivation was a discussion with the responding sergeant about transporting Ms. ■■■■■ vehicle.

The body worn cameras of Officers Chow, Felton and Fuertes show substantially the same activity as Officer Mina's. Officer Chow's footage shows Officer Chow, a female officer, conducting a pat down and search incident to arrest of Ms. ■■■■■ before she is placed in a police vehicle.

**Surveillance camera from Cityfront Plaza**<sup>12</sup> show Officer Seiser parking his vehicle several yards in front of Ms. ■■■■■ parked car. Officer Seiser steps out of his car and views something in the distance. Ms. ■■■■■ was not in her car or in view of the camera. He then walks back in the direction of Ms. ■■■■■ car, stays off camera for a few minutes, and returns to his car. The camera shows what appears to be a ticket on her windshield. A few minutes later Officer Seiser exits his vehicle again, walks over to Ms. ■■■■■ vehicle, places an additional ticket on her windshield and returns to his vehicle. The camera then loses sight of Officer Seiser, his vehicle, and Ms. ■■■■■ vehicle.

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<sup>11</sup> Id.

<sup>12</sup> Att. 59

**GPS Data**<sup>13</sup> shows that on April 18, 2017 at 6:59 PM vehicle 8903, now known as Officer Seiser's vehicle, was heading south on Columbus Drive. The vehicle then turned north onto Cityfront Plaza Drive before going around and turning north on Cityfront Plaza Drive and came to a stop for several minutes on Cityfront Plaza Drive. At 7:14 PM vehicle 8903 came to a stop in the south lanes of Cityfront Plaza Drive in approximately the same location as the previous stop.

### c. Documentary Evidence

The **Arrest Report** and **General Offense Case Report**<sup>14</sup> document the occurrence at 451 N. Cityfront Plaza on April 18, 2017 at approximately 7:14 PM. The suspect arrested was [REDACTED] a 26-year-old black female. Ms. [REDACTED] was charged with aggravated battery of a police officer, Resisting Arrest, and minor traffic violations.<sup>15</sup> The narratives of the reports convey that Officer Seiser related he observed Ms. [REDACTED] driving without a seatbelt and asked her for her license. Officer Seiser called after Ms. [REDACTED] as she walked away but was unable to get her attention. She refused to provide her license and actively resisted arrest by starting the vehicle and attempting to roll up the window on his fingers. The arrest report relates that Officer Seiser "took hold of the window in order to maintain access" to Ms. [REDACTED]. Ms. [REDACTED] continued to close the window, and when the window shattered, he received injuries to his hand. The General Offense Case report relates that Officer Seiser tried to hold the window down as Ms. [REDACTED] attempted to roll it up and then punched the window causing it to shatter. Officer Seiser grabbed Ms. [REDACTED] wrist to get her to exit the vehicle and she struck him with an open hand about the chest. Officer Seiser told Ms. [REDACTED] to exit the vehicle or get tasered. Ms. [REDACTED] then climbed to the passenger side of the vehicle. The report states that Ms. [REDACTED] resisted efforts of other officers to arrest her by flailing her arms and pulling away. Officer Seiser received stitches.

**Officer Seiser's Battery Report**<sup>16</sup> reflects that Officer Seiser received a nonfatal major injury after being threatened with the arrestee's hands.

**Officer Michael Seiser's Tactical Response Report**<sup>17</sup> lists Ms. [REDACTED] as the subject and describes her actions as failure to follow verbal direction, pulling away, and an attack without a weapon. The report describes Officer Seiser's tactical response as member presence and verbal commands.

**Officer Washington Mina's Tactical Response Report**<sup>18</sup> lists Ms. [REDACTED] as the subject and describes her actions as, pulling away. The report describes Officer Mina's tactical response as member presence and verbal commands and wristlock.

**Transcript of People of Illinois v. [REDACTED] [REDACTED]**: On November 14, 2017, Ms. [REDACTED] was tried on charges of resisting arrest in front of the Honorable Judge Anthony John

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<sup>13</sup> Att. 40

<sup>14</sup> Att. 8

<sup>15</sup> Att. 23

<sup>16</sup> Att. 10

<sup>17</sup> Att. 9

<sup>18</sup> Att. 11

<sup>19</sup> Att. 58



Calabrese. Ms. ██████ did not testify at trial but plead not guilty. Officer Seiser gave testimony. Officer Seiser's testimony was substantially similar to the statement he gave to COPA.

**Medical Records from Roseland Community Hospital** document that ██████ checked into Roseland Community Hospital on April 20, 2017 to seek treatment for injuries allegedly sustained during the April 18, 2017 incident. Ms. ██████ was diagnosed with a left wrist injury. Hospital records indicate the injury was due to blunt trauma during an altercation. Hospital staff observed that Ms. ██████ was experiencing pain and weakness in this wrist. The hospital administered 600mg of ibuprofen and prescribed alternating warmth and cold on the injury with the addition of a compression bandage. Ms. ██████ was discharged after a few hours.

## 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 finds that **Allegation 1** that Officer Seiser unlawfully detained ██████ is **Not Sustained**. In his statement, Officer Seiser says that part of the reason he detained Ms. ██████ because he suspected she was either driving without a license or had outstanding warrants. He stated that he based this suspicion on the fact that in his initial attempt to stop her and on return from her delivery, Ms. ██████ attempted to avoid contact with Officer Seiser. Further, he stated that

she left her car unlocked when she went to make her delivery and the license plate search on her vehicle came back with an odd result. Neither the unlocked car, nor the license plate in any way indicate a suspended license or warrants. Ms. ██████ attempts to avoid Officer Seiser, while possibly suspicious could have been due to several reasons, many of them lawful. Avoidance of the police alone is not grounds for detention. A person “may not be detained even momentarily without reasonable, objective grounds for doing so; and his refusal to listen or answer does not, without more, furnish those grounds.” *United States v. Mendenhall, supra*, at 446 U. S. 556.

However, Officer Seiser also testified that he initially began following Ms. ██████ vehicle because he saw her driving without a seatbelt. If that is true, then Officer Seiser witnessed Ms. ██████ committing an unlawful act and had probable cause to stop her, even if the act had occurred a short time before he stopped her. Some of Officer Seiser’s conduct casts doubt on whether he saw Ms. ██████ without a seatbelt. First, Officer Seiser did not use his emergency lights or siren as one might expect for a typical traffic stop. Second, during his encounter with Ms. ██████ despite a long argument about his right to stop her, he never mentioned her seatbelt. However, the police reports did note that Officer Seiser reported observing Ms. ██████ driving without a seatbelt. The facts are insufficient evidence to show whether observed her driving without a seatbelt. In her statements to COPA or the court, Ms. ██████ did not deny driving without a seatbelt. Therefore, there is insufficient evidence to either prove or disprove that Officer Seiser saw her driving without a seatbelt as he has alleged, and based on a preponderance of the evidence, Allegation 1 is Not Sustained.

COPA finds **Allegation 2** that Officer Seiser broke Ms. ██████ window without justification is **Sustained**. As shown on the body worn camera footage, mid-way through the encounter with Ms. ██████ Officer Seiser broke the driver’s side window of Ms. ██████ vehicle while Ms. ██████ was still in the car. The question is whether this action was justified. COPA has found no specific written order that deals with when an officer can break a window. Instead, each individual case must be analyzed to determine if the officer’s actions were reasonable under the circumstances.<sup>20</sup> Determining whether the officer’s conduct was proportional to the offense committed is crucial to determining reasonableness. Ms. ██████ was rolling up the windows of the car, presumably to leave the scene. However, in this case, the stop is based on minor traffic violations. This was not an emergency.

Officer Seiser stated that he shattered the window for officer safety. He stated that he was afraid he might be dragged alongside the vehicle as she backed out. When questioned further, he said he thought he might get caught on the driver’s side mirror. This fear was not reasonable. At the time Officer Seiser broke the window, Ms. ██████ vehicle was not in gear. He had ample time to simply step back from the car. There was no obvious reason to believe he would get caught on the mirror. By breaking the window, Officer Seiser in fact increased the likelihood of injury to himself and Ms. ██████. By placing his arm inside the window frame, he increased the threat of injury if Ms. ██████ put the vehicle into gear. Further, the shattered glass created an additional hazard. Officer Seiser himself was injured by the glass and visited the hospital after the encounter ended. Officer Seiser’s actions in this case were not reasonable and were without justification. For these reasons, based on a preponderance of the evidence, Allegation 2 is Sustained.

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<sup>20</sup> See Att. 60

COPA finds that **Allegation 3** that Officer Seiser failed to use de-escalation tactics in his encounter with ██████████ is **Sustained**. Officer Seiser's legal justification for approaching and detaining Ms. ██████████ was based on her failure to wear her seatbelt. This encounter ended with a broken car window, an injured officer, and felony charges. It is clear this situation got heated and escalated very quickly. The use of force policy in effect when this incident occurred states that "Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force."<sup>21</sup> In this case, when Officer Seiser approached Ms. ██████████ his tone was hostile. When she challenged is right to stop her, he could have explained he saw her driving without a seatbelt. Officers are not obligated to disclose the reason for the stop, and sometimes tactically, it is best not to reveal that information. However, in this case, there was no harm in sharing that information, and it could have diffused the encounter. As previously discussed, he shattered Ms. ██████████ window without justification. While Officer Seiser did call for back-up when Ms. ██████████ began to roll up the window, he did not wait for back-up to arrive. After the window was broken, Officer Seiser initiated physical contact with Ms. ██████████ by reaching in through her broken window and grabbing her hands in an apparent effort to pull her out of the car. It was only after he grabbed her that he verbally ordered her out of the car. Throughout the entire encounter his tone and manner were hostile. He made no attempt to persuade or advise Ms. ██████████. The only warning he gave her was when he threatened to "taze her ass." Therefore, based on a preponderance of the evidence, Allegation 3 is Sustained.

COPA finds that **Allegation 4** that Officer Seiser failed to activate his body worn camera on his first attempt to detain ██████████ is **Sustained**. Special Order S03-14 states that Department members assigned a BWC will activate the system to "event" mode to record the entire incident for among other things: investigatory stops, traffic stops, foot and vehicle pursuits, any encounter with the public that becomes adversarial after initial contact and any other instance when enforcing the law. In this case, Officer Seiser was attempting to make either a traffic or an investigatory stop when he approached Ms. ██████████. Both would require activation of his body worn camera. Officer Seiser failed to do this. Officer Seiser stated that he first approached Ms. ██████████ when she parked her car on Cityfront Plaza to make a delivery. He stated that he repeatedly called to her and tried to enlist nearby civilians to get her attention. He states that Ms. ██████████ ignored him and kept walking. None of this was captured on body worn camera because Officer Seiser failed to turn it on. Therefore, based on a preponderance of the evidence Allegation 4 is Sustained.

COPA finds that **Allegation 5** that Officer Seiser failed to timely activate his body worn camera on his second encounter with ██████████ is **Sustained**. As discussed above, Officer Seiser was obligated to activate his body worn camera at the start of his encounter with Ms. ██████████. For the second encounter, Officer Seiser did turn on his camera, but he activated more than thirty seconds into his confrontation with Ms. ██████████. The footage on the video shows Officer Seiser is already in front of the car and speaking with Ms. ██████████ before the footage kicks in. It is another thirty seconds of conversation before the audio activates, indicating that this was when he switched the camera to event mode. For many encounters, this one included, footage of the encounter's initiation is crucial. Special Order S03-14 requires members to record "the *entire* incident" (emphasis added). Officer Seiser failed to do this. Therefore, based on a preponderance of the evidence, Allegation 5 is Sustained.

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<sup>21</sup> G03-02-01 (5/16/12).

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Michael Seiser**

**i. Complimentary and Disciplinary History**

1. **Complimentary:** 1 Democratic Convention Award, 1 Presidential Election Award, 3 Department Commendations, 2 Crime Reduction Awards (2004 and 2009), 82 Honorable Mentions, 25 Complimentary Letters, 1 Honorable Mention Ribbon Award, 1 NATO Summit Service Award, 1 Life Saving Award
2. **Disciplinary:** 2016 Reprimand for Domestic Altercation; 2019 Reprimand for Court Appearance Violation

**ii. Recommended Penalty, by Allegation**

1. **Allegation No. 2:** 15-day Suspension & De-escalation Training
2. **Allegation No. 3:** 15-day Suspension & De-escalation Training
3. **Allegation No. 4:** Violation Noted
4. **Allegation No. 5:** Violation Noted

Officer Seiser’s actions on the date of this incident caused this encounter to escalate, resulting in injury to himself and pain to the civilian, Ms. [REDACTED]. It is clear Officer Seiser would benefit from de-escalation training. Based on his conduct during this incident and his complimentary and disciplinary history, COPA recommends violations be noted for the body worn camera allegations and suspensions and de-escalation training for the other allegations.

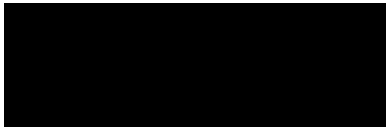
**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Michael Seiser	1. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser detained Ms. [REDACTED] without justification in violation of Rule 6.  2. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser shattered the driver’s side window of Ms. [REDACTED] vehicle	Not Sustained  Sustained /15-day Suspension & De-escalation Training

without justification in violation of Rules 2 and 8.	
3. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to use de-escalation tactics when he forcefully attempted to remove Ms. [REDACTED] from her vehicle in violation of Rules 2, 6, 8 and 9.	Sustained /15-day Suspension & De-escalation Training
4. On or about April 18, 2017 at approximately 7:00 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to activate his body worn camera in his first encounter with Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted
5. On or about April 18, 2017 at approximately 7:15 PM at or near 450 N. Cityfront Plaza Dr. Officer Michael Seiser failed to timely activate his body worn camera in his second encounter with Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted

Approved:



December 28, 2019

\_\_\_\_\_  
Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	9
<b>Investigator:</b>	Ryan McPhail
<b>Supervising Investigator:</b>	Sharday Jackson
<b>Deputy Chief Administrator:</b>	Andrea Kersten