

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 9, 2018
Time of Incident:	4:30 p.m.
Location of Incident:	██
Date of COPA Notification:	October 12, 2018
Time of COPA Notification:	1:52 p.m.

On October 9, 2018, Chicago Police Department (“CPD”) police officers executed a search warrant at Complainant ██████████ ██████████ home at ██████████. ██████████ was sitting on his front of porch when Officers Jeffrey Budz (“Officer Budz”) and Joseph Guarascio (“Officer Guarascio”) approached ██████████ with their guns drawn. ██████████ is partially paralyzed from a prior injury and was unable to put up both arms, as the officers ordered him to do. Officers Budz and Guarascio grabbed ██████████ by the arms and escorted him to the bottom of the stairs. Officer Budz handcuffed ██████████ right wrist to the porch rail and sat him on the steps. ██████████ alleges in his complaint that the officers used excessive force by roughly handling him on the porch and handcuffing him too tightly to the porch rail. Following an investigation, The Civilian Office of Police Accountably (“COPA”) reached findings of exonerated and unfounded for all allegations against Officers Budz and Guarascio.

II. INVOLVED PARTIES

Involved Officer #1:	Jeffrey Budz / #2931 / Employee ID ██████████ / Date of Appointment: October 31, 2016 / Police Officer / Unit 004 / Date of Birth: ██████████, 1991 / Male / White
Involved Officer #2:	Joseph Guarascio, II / #13853 / Employee ██████████ / Date of Appointment: February 29, 2016 / Police Officer / Unit 004 / Date of Birth: ██████████ 1990 / Male / White
Involved Individual #1:	██ / Date of Birth: ██████████ 1977 / Male / Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Jeffrey Budz	It is alleged by ██████████ that on or about October 9, 2018, at approximately 4:30 p.m., at or near ██████████	

	<p>Ave, Officer Budz committed misconduct through the following acts or omissions:</p> <p>1. used excessive force when detaining [REDACTED]</p> <p>2. handcuffed [REDACTED] too tightly.</p>	<p>Exonerated</p> <p>Unfounded</p>
<p>Officer Joseph Guarascio, II</p>	<p>It is alleged by [REDACTED] that on or about October 9, 2018, at approximately 4:30 p.m., at or near [REDACTED] [REDACTED] Officer Guarascio committed misconduct through the following acts or omissions:</p> <p>1. Used excessive force when detaining [REDACTED]</p>	<p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. G03-02-01: Force Options

INVESTIGATION¹

a. Interviews

[REDACTED]²

In his October 12, 2018, statement to COPA, Complainant [REDACTED] stated that on October 9, 2018, he was sitting on his front porch when officers arrived with a search warrant. Officers Budz and Guarascio came up the porch stairs and pointed a gun at his head. The officers then grabbed him by his arms, dragged him down the stairs and handcuffed his right wrist very tightly to a porch rail. [REDACTED] stated that he has mobility issues stemming from a gunshot wound to his head in 1991 and a broken hip in 2017. He added that he walks with a cane and sometimes uses a wheelchair. He told the officers that he was handicapped. [REDACTED] added that he also told the officers that the handcuff was too tight, but instead of loosening it they tightened it more. [REDACTED] remained handcuffed on his porch for at least 30 minutes while

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

² Attachments 16 and 17

the officers went in the house.³ While seated on his porch, ██████ heard what he thought was a gunshot in his backyard.⁴ The officers released ██████ when Chicago Animal Care and Control (CACC) came to take away his dog from the backyard. He added that he went to the hospital that night because his encounter with the police left him bruised and in pain.

█████⁵

In her November 9, 2018, statement to COPA, witness ██████ provided essentially the same account as her ██████, ██████⁶

Officer Jeffrey Budz⁷

In his June 10, 2019 statement to COPA, Officer Budz stated that on October 9, 2018, he and his partner, Officer Guarascio, assisted a narcotics team with a search warrant execution at ██████ home. He stated that the narcotics team did not know that part of the neighborhood well and asked his team⁸ to assist. Officers Budz and Guarascio approached the house first, with their guns drawn.⁹ As they approached, Officer Budz noticed ██████ sitting on the porch with an arm tucked into his shirt. Officer Budz said that when you execute a search warrant, you detain everyone on scene for officer safety.

Officers Budz and Guarascio approached ██████ announced their office and told him to put his hands up. ██████ put up one hand, but kept his other arm tucked in his shirt. Officer Budz said they did not know if ██████ had a gun under his shirt, so they quickly grabbed him, stood him up and continued to give him verbal directions such as, “Stop tensing up” and “Calm down.” ██████ responded by repeatedly screaming profanity at the officers. The officers began walking ██████ down the stairs and had put one handcuff on his arm when they realized that ██████ was likely handicapped. Officer Budz also noted that there was something wrong with one of ██████ arms. Once they reached the bottom of the porch stairs, Officer Budz secured the other handcuff to the porch railing as ██████ sat on

³ ██████ claimed that the officers searched his house without probable cause. However, the Circuit Court of Cook County issued a search warrant for ██████ Ave on October 9, 2018, which shows that there was probable cause to search the house. (Attachments 5 and 6)

⁴ ██████ also stated that he believed the officers may have shot his dog in the backyard. Chicago Animal Care and Control (CACC) records from October 9, 2018 indicate that ██████ dog presented to the CACC vet underweight, with muscle wasting and multiple pus-filled abscesses to her face. The dog was sedated, and the abscesses were surgically drained. There is no mention of a gunshot wound in the vet records. On October 11, 2018, ██████ signed paperwork to surrender the dog to CACC. In addition, OEMC Event Query 1828211569 captured the relevant CPD transmissions from the execution of the search warrant. There is no mention of shots fired. (Attachments 11 and 24)

⁵ Attachment 27

⁶ ██████ also said that ██████ dog, a pit bull named Chula, seemed very sick. That morning she noticed that Chula’s face was swollen and had many bite marks. CACC was called in the morning before the police came but they arrived at the home after the police arrived. She added that CACC took Chula with them.

⁷ Attachment 53

⁸ Officers Budz and Guarascio were on a tactical team in the 4th District.

⁹ Officer Budz stated that he learned to keep his gun drawn during a search warrant execution while he was at the police academy.

a step. Officer Budz stated that ██████████ did not complain that the handcuff was too tight. He explained that he double locks his handcuffs to prevent them from becoming too tight. Officer Budz denied using excessive force or handcuffing ██████████ too tightly.¹⁰

Officer Joseph Guarascio¹¹

In his June 10, 2019 statement to COPA, Officer Joseph Guarascio provided essentially the same account as Officer Budz. He denied using excessive force while detaining ██████████¹²

Sgt. Daniel O'Toole

In his January 30, 2019 statement to COPA, Sgt. Daniel O'Toole ("Sgt. O'Toole") stated that he was the sergeant leading the execution of the search warrant at ██████████ home. Sgt. O'Toole provided essentially the same account as Officers Budz and Guarascio. He added that he spoke with ██████████ on scene, and she never mentioned that she thought her ██████████ was being mistreated.

¹⁰ Officer Budz denied shooting ██████████ dog, and stated he was unaware of any officer shooting a firearm on scene that day.

¹¹ Attachment 58

¹² Officer Guarascio denied shooting ██████████ dog, and stated he was unaware of any officer shooting their firearm on scene that day.

b. Digital Evidence***Surveillance Footage¹³***

Surveillance footage from [REDACTED] front porch captured Officer Budz's and Officer Guarascio's interaction with [REDACTED] when they first arrived on scene. The officers can be seen approaching [REDACTED] with their firearms drawn. [REDACTED] remained seated, raised one arm, but kept his other arm on his lap, as pictured below:



Officers Budz and Guarascio then holstered their weapons, lifted [REDACTED] from his chair and began escorting him down the stairs. They descended a few steps, paused for a moment, then handled [REDACTED] Galvin in a seemingly gentler manner. Once they reached the bottom of the stairs, they had [REDACTED] sit down and then Officer Budz handcuffed [REDACTED] right wrists to the porch rail. Officers Budz and Guarascio went in the home and [REDACTED] remained handcuffed to the rail. A woman¹⁴ approached [REDACTED] and they spoke for about a minute before walking away. The footage ends after two and a half minutes, with [REDACTED] still handcuffed to the porch rail.

c. Physical Evidence***Medical Records¹⁵***

[REDACTED] sought treatment at Advocate Christ Medical Center on October 9, 2018, at approximately 7:00 p.m. The medical staff noted that he complained of left-side shoulder, hip and

¹³ Attachment 22

¹⁴ COPA's investigation revealed that the woman seen speaking to [REDACTED] in the surveillance footage is his [REDACTED], [REDACTED]. COPA's attempts to contact [REDACTED] [REDACTED] were unsuccessful. (Attachments 35 and 40)

¹⁵ Attachment 34

arm pain after being “roughed up” by the police. After examination and testing, the medical staff remarked that ██████████ did not have any fractures or dislocations, and there was “very slight redness”, but no broken skin, where ██████████ was cuffed.

d. Documentary Evidence

*Police Reports*¹⁶

The related CPD reports reveal that a Narcotics Division Team obtained Search Warrant 18SW9362 from the Circuit Court of Cook County to search ██████████ Ave.

V. 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 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.

VI. ANALYSIS

COPA finds Allegation 1 against Officer Budz and Allegation 1 against Officer Guarascio is exonerated.

¹⁶ Attachments 4, 5 and 6

██████████ alleged that the officers used excessive force while detaining him. CPD’s use of force policy defines a passive resister as, “a person who fails to comply (non-movement) with verbal or other direction.”¹⁷ Officers are permitted to use holding techniques, including, “...a firm grip, grabbing an arm, wristlocks, and come-along holds...”¹⁸ during interactions with passive resisters.

Although COPA recognizes that it was impossible for ██████████ to fully comply with the officers’ commands to put up both of his hands, COPA also recognizes that the first moments during the execution of a search warrant are chaotic and often dangerous. ██████████ was a passive resister when he failed to comply with the officers’ command to put up both his hands. CPD’s use of force policy allows officers to use the type of techniques (grabbing arms, using a come-along hold) that Officer Budz and Officer Guarascio used with ██████████. COPA also notes that the surveillance footage depicts Officers Budz and Guarascio lessening the amount of force they used once they suspected ██████████ may have been handicapped. As such, Allegation 1 against Officer Budz and Allegation 1 against Officer Guarascio are exonerated.

COPA finds Allegation 2 against Officer Budz is unfounded.

██████████ alleged that Officer Budz handcuffed him too tightly. Officer Budz denied this allegation. Surveillance footage and ██████████ statement to COPA show that his right wrist was cuffed to a porch rail. However, the medical records show that a few hours after his encounter with the police, ██████████ complained to medical staff he was suffering pain on his left side. The medical records also show that ██████████ was not injured during his encounter with the officers. Due to the inconsistency of his statements to COPA and the medical staff, as well as the lack of medical evidence to support his claim, COPA finds that there is clear and convincing evidence that Officer Budz did not handcuff ██████████ too tightly, and allegation 2 against Officer Budz is unfounded.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Jeffrey Budz	It is alleged by ██████████ that on or about October 9, 2018, at approximately 4:30 p.m., at or near ██████████ ██████████, Officer Budz committed misconduct through the following acts or omissions:	

¹⁷ G03-02-01-IV-B-1

¹⁸ G03-02-01-IV-B-1-a

	1. used excessive force when detaining [REDACTED]	Exonerated
	2. handcuffed [REDACTED] too tightly.	Unfounded
Officer Joseph Guarascio, II	It is alleged by [REDACTED] that on or about October 9, 2018, at approximately 4:30 p.m., at or near [REDACTED] Ave, Officer Guarascio committed misconduct through the following acts or omissions: 1. Used excessive force when detaining [REDACTED]	Exonerated

Approved:

[REDACTED]

July 29, 2019

Andrea Kersten
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad:	3
Investigator:	Jessica Ciacco
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten