

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 2, 2019
Time of Incident:	2:00 pm
Location of Incident:	1800 S. Ashland Avenue
Date of COPA Notification:	September 3, 2019
Time of COPA Notification:	10:05 pm

At approximately 2:00 am, September 2, 2019, **Officer Nicholas Estrada**, and **Officer Raymond Arce** were on patrol when they observed complainant [REDACTED] vehicle change lanes without signaling. Upon stopping [REDACTED] for the traffic violation, the officers observed, in plain view, suspected narcotics. Officers Estrada and Arce told [REDACTED] to exit the vehicle, but he refused and requested a CPD supervisor. The officers repeated their verbal commands to exit the vehicle, but [REDACTED] failed to comply. Officer Estrada opened [REDACTED] driver’s door and unbuckled his seat belt. Officer Arce walked around the vehicle to assist Officer Estrada in extracting [REDACTED] from the car. [REDACTED] continued his active resistance by flailing his arms, stiffening his body, tucking his arms into his body, and balling his fists. The officers called for assistance and performed an emergency takedown, bringing [REDACTED] from the vehicle to the pavement. **Sergeant Brian Schultz** responded to the officers’ call for assistance. Upon arrival, Sgt. Schultz observed [REDACTED] continued active resistance to Officers Estrada, Arce, and other responding officers. Sgt. Schultz placed his knee on [REDACTED] neck, who then emitted a loud cry pleading for help. Officers Estrada and Arce completed handcuffing [REDACTED] and placed him in Sgt. Schultz’s vehicle for transport to the 12<sup>th</sup> District.

On September 3, 2019, at 10:05 pm, the Civilian Office of Police Accountability (COPA) received an initiation report from Sergeant Zaya Mikhail wherein [REDACTED] alleged that an unknown officer used excessive force during an arrest. [REDACTED] stated he did resist arrest, but the excessive force was not necessary. Following its investigation, COPA reached a **Sustained** finding on the allegation.

II. INVOLVED PARTIES

Involved Officer #1:	Schultz, Brian, Star# 1298, Employee ID# [REDACTED], Date of Appointment: 10/25/2004, Sergeant, UOA: 12 <sup>th</sup> District, YOB: 1981, Male, White
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Involved Officer #2: Arce, Raymond, Star# 9519, Employee ID# [REDACTED], Date of Appointment: 06/27/2016, Police Officer, UOA: 189 YOB: 1990, Male, White Hispanic

Involved Officer #3: Estrada, Nicholas, Star# 13074, Employee ID# [REDACTED], Date of Appointment: 02/16/2017, Police Officer, UOA: 12<sup>th</sup> District, YOB: 1990, Male, White Hispanic

Involved Individual #1: [REDACTED], DOB: [REDACTED] 1988, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Sergeant Schultz	It is alleged that on or around September 2, 2019, at approximately 2:00 am, at or near 1800 S. Ashland, Chicago, IL, Sgt. Schultz:	
	1. Maltreatment of [REDACTED] while on duty.	Not Sustained
	2. Engaging in any unjustified physical altercation with [REDACTED] while on duty.	Not Sustained
	3. Failure to comply with SO3-14 by failing to activate your body-worn camera.	Sustained
Officer Arce	It is alleged that on or around September 2, 2019, at approximately 2:00 am, at or near 1800 S. Ashland, Chicago, IL, Officer Arce:	
	1. Stopped [REDACTED] without justification.	Not Sustained
	2. Detained [REDACTED] without justification.	Exonerated
	3. Arrested [REDACTED] without justification.	Exonerated
	4. Forcefully took to the ground [REDACTED] without justification.	Exonerated
	5. Searched the vehicle of [REDACTED] without justification.	Not Sustained

	6. Failed to call for a supervisor to the location as requested by [REDACTED] without justification.	Exonerated
Officer Estrada	It is alleged that on or around September 2, 2019, at approximately 2:00 am, at or near 1800 S. Ashland, Chicago, IL, Officer Estrada:	
	1. Stopped [REDACTED] without justification.	Not Sustained
	2. Detained [REDACTED] without justification.	Exonerated
	3. Arrested [REDACTED] without justification.	Exonerated
	4. Forcefully took to the ground [REDACTED] without justification.	Exonerated
	5. Searched the vehicle of [REDACTED] without justification.	Not Sustained
	6. Failed to call for a supervisor to the location as requested by [REDACTED] without justification.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. **Rule 1:** Violation of any law or ordinance.
  2. **Rule 5:** Failure to perform any duty.
  3. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
  4. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person while on or off duty.
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General Orders

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1. **General Order G03-02:** Use of Force (October 16, 2017-February 28, 2020)
  2. **General Order G03-02-01:** Force Options (October 16, 2017-February 28, 2020)
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Special Orders

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1. **SO3-14:** Body-Worn Cameras (April 30, 2018-Present)
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Federal Laws

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**1. 4<sup>th</sup> Amendment, U.S. Constitution**

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**INVESTIGATION<sup>1</sup>****a. Interviews**

On November 7, 2019, **complainant** [REDACTED] gave COPA an audio and video recorded interview.<sup>2</sup> On September 2, 2019, while making grocery deliveries for his company, [REDACTED] driving southbound on Ashland, saw a police vehicle driving northbound on Ashland. The police vehicle made a U-turn and pulled behind [REDACTED] vehicle at 18<sup>th</sup> and S. Ashland. The officers activated their emergency lights and pulled [REDACTED] over. An officer approached the driver's window. [REDACTED] asked the officer the reason for the traffic stop. The officer told him he failed to signal when changing lanes. After providing his driver's license and registration, the officer wanted to look inside [REDACTED] vehicle. The officer said, "it was his right to look inside."<sup>3</sup>

Even though his windows were tinted beyond factory tint, [REDACTED] did not believe he had to lower his window for the officer to look inside his vehicle. The officer asked [REDACTED] to place his car in park. After complying with the officer's request, another officer opened [REDACTED] passenger door and looked inside without asking for permission. [REDACTED] then requested a supervisor. The officers acted more aggressively towards [REDACTED] asking him out of the vehicle. [REDACTED] questioned why since he had done nothing wrong. The officers struggled to get [REDACTED] out of the vehicle. During the struggle, the officer on his left accused [REDACTED] of striking him. The officers grabbed [REDACTED] from the vehicle and threw him to the ground. His left arm went behind his back, and he was handcuffed. [REDACTED] screamed in pain from the left arm being too far behind his back. He recalls yelling, "I surrender, I surrender."<sup>4</sup> While he brought his right arm around his back for handcuffing, an officer placed their foot or knee into the back of his neck, forcing his head to the ground. This caused abrasions to his head and a momentary blackout. He was picked up from the ground and placed in a squad car.

According to [REDACTED] a CPD supervisor had arrived at the arrest location and transported him to the 12<sup>th</sup> District. During the transport, [REDACTED] asked the sergeant for medical attention and the sergeant's response was that what [REDACTED] was saying was being recorded. [REDACTED] told the sergeant he knew that and again requested medical attention. Nothing further was said to [REDACTED] while being transported to the District.

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<sup>1</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>2</sup> Att. 5

<sup>3</sup> Att. 5 at 4:08

<sup>4</sup> Att. 5 at 5:42

At the District, █████ continued to request medical care for the pain in his head but was denied. Eventually, a Chicago Fire Department (CFD) paramedic responded to his location, belittling him with such comments as “I’ve seen little kids cry less than this.”<sup>5</sup> █████ asked to go to the hospital. His request for a wheelchair was refused, and he was dragged to the ambulance which transported him to the University of Illinois Hospital. After being treated, he was transported to the CPD Control Detention Center at 18<sup>th</sup> and State Street. While there, he complained of additional head pain and was transported again for medical treatment to Mercy Hospital. █████ claimed he was prescribed medication and the officers transporting him from the hospitals to the CPD Control Detention Center failed to acquire from a pharmacy.

After being released from Cook County, █████ learned that CPD impounded his vehicle. █████ claimed he did not know of the criminal charges against him until his court appearance.

On April 16, 2021, **Police Officer Raymond Arce** gave COPA an audio-recorded interview.<sup>6</sup> At approximately 2:00 a.m., September 2, 2019, Officer Arce and his partner, **Officer Nicholas Estrada** both assigned to the 12<sup>th</sup> District,<sup>7</sup> were at S. Ashland Ave. and W. 18<sup>th</sup> Street, when they observed █████ vehicle change lanes without signaling. Officer Estrada activated the unmarked vehicle’s emergency equipment, and stopped █████ As he approached the passenger side of █████ vehicle, Officer Arce observed dark tinting on the front and rear passenger windows. Using his flashlight, but not able to see clearly inside the vehicle, so for officer safety, Officer Arce opened the front passenger door. In plain view, he observed “a [purple] bag of suspected narcotics, a bunch of random bills, and a pill sitting on one of the bills.”<sup>8</sup> He told Officer Estrada to have █████ step out of the vehicle. █████ did not comply, and asked for a supervisor. █████ then grabbed the bag of suspected narcotics and money. Not knowing if █████ planned to eat or destroy the narcotics, Officers Arce and Estrada acted to remove him from the vehicle. █████ became an active resister, pulling away from the officers, and striking Officer Estrada. Unable to handcuff █████ Officers Arce and Estrada performed an emergency takedown. After calling for assistance, other officers, including Sgt. Schultz arrived on the scene and assisted in █████ arrest. Officer Arce performed a vehicle search incident to arrest, searching the front and back seats along with the trunk area. He recovered firearm ammunition from the trunk, and suspected narcotics from inside the vehicle. █████ was transported to the 12<sup>th</sup> District, where he received medical attention from CFD paramedics and was transported to the hospital.<sup>9</sup>

Officer Arce stated that █████ was told of the reason for the traffic stop. Officer Arce did not know what other officers were involved in █████ takedown besides himself and Officer Estrada. Officer Estrada also searched █████ vehicle, but Officer Arce was not aware of the areas he searched. During the officers’ interaction with █████ sustained an abrasion to the

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<sup>5</sup> Att. 5 at 7:01

<sup>6</sup> Att. 51

<sup>7</sup> Att. 9

<sup>8</sup> Att. 51 at 15:55

<sup>9</sup> Att. 7

head. [REDACTED] vehicle was impounded and driven by Officer Arce to the 12<sup>th</sup> District where he completed a CPD Vehicle Impound/Seizure Sheet.<sup>10</sup> A CPD Tactical Response Report (TRR)<sup>11</sup> was also completed.

On June 9, 2021, **Officer Nicholas Estrada** gave COPA an audio-recorded interview.<sup>12</sup> At approximately 2:00 a.m., September 2, 2019, he and his partner Officer Arce, were at S. Ashland Ave. and W. 18<sup>th</sup> Street, when they observed [REDACTED] vehicle change lanes without signaling. Officer Estrada activated the unmarked vehicle's emergency equipment, made a U-turn, and pulled over [REDACTED] vehicle for the traffic stop. Officer Estrada approached the driver's side of the vehicle, asked [REDACTED] for his driver's license and insurance, and informed [REDACTED] the reason for the stop. While talking with [REDACTED] Officer Arce signaled Officer Estrada that "he s[aw] something that need[ed] to be investigated."<sup>13</sup> [REDACTED] was asked to exit the vehicle but failed to comply. Officer Estrada already had [REDACTED] front door open and continued giving [REDACTED] verbal commands to exit the vehicle, but [REDACTED] response was to ask for a supervisor. However, seeing that [REDACTED] was agitated, Officer Estrada wanted to secure him prior to calling for the supervisor. Officers Estrada call for more officers and [REDACTED] was forcibly removed from the vehicle to the ground and handcuffed. Sgt Schultz transported him to the 12<sup>th</sup> District.

Afterward, Officer Estrada searched [REDACTED] rear passenger seat and vehicle trunk, where he found a box of ammunition. Officer Estrada then learned that [REDACTED] had no active FOID card. [REDACTED] vehicle was impounded and taken to the 12<sup>th</sup> District.

During the arrest process, [REDACTED] sustained an abrasion to his head. CFD paramedics treated [REDACTED] at the 12<sup>th</sup> District, but Officer Estrada believes a beat car transported him to the hospital.

On April 22, 2022, **Sergeant Brian Schultz** gave COPA an audio-recorded interview.<sup>14</sup> At approximately 2:00 a.m., September 2, 2019, he was in the area of the [REDACTED], when he heard "on the radio two officers asking for assistance, sounded like they were struggling with someone."<sup>15</sup> He immediately proceeded to the location to assist Officers Arce and Estrada. Upon arrival, [REDACTED] was on the ground with Officers Arce and Estrada struggling to control him. Sgt. Schultz assisted an officer in gaining control of [REDACTED] arm behind his back. According to Sgt. Schultz, he did not place his knee on [REDACTED] neck but rather on the side of the upper head. Sgt. Schultz did not recall [REDACTED] making statements that someone was on his neck. Instead, [REDACTED] made statements about his neck because "his head was bent in a weird angle because my knee was on his head."<sup>16</sup> Sgt. Schultz acknowledged CPD Use of Force policies prohibit sworn members from placing a knee on someone's neck. He noted the Use of Force policy

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<sup>10</sup> Att. 49

<sup>11</sup> Att. 54

<sup>12</sup> Att. 52

<sup>13</sup> Att. 52 at 12:28

<sup>14</sup> Att. 59

<sup>15</sup> Att. 59 at 8:53

<sup>16</sup> Att. 59 at 12:35

does not explicitly prohibit the placing of an officer's knee on a person's head. Sgt. Schultz was attempting to "get his [REDACTED] arm behind his back. I was not concerned [about] where my feet or knees were. I was attempting to get his arm behind his back. As soon as he complained of pain, I removed my knee."<sup>17</sup>

After [REDACTED] was handcuffed, Sgt. Schultz transported [REDACTED] to the 12<sup>th</sup> District. Sgt. Schultz did not recall seeing any marks or abrasions on [REDACTED] person and did not recall whether [REDACTED] made a request for medical attention.

Sgt. Schultz also explained that he forgot to turn on his body-worn camera because when he heard the officers struggling and calling for assistance, he was concentrating on quickly arriving at the location. Additionally, Sgt. Schultz stated that he did not complete a TRR because he believed one was required when using force beyond a firm grip, and he did not believe he used such force.

#### b. Digital Evidence

The **body-worn camera (BWC) video of Officer Estrada**<sup>18</sup> showed him standing with the driver's side door open, ordering [REDACTED] out of the vehicle. [REDACTED] repeatedly said, "Call for a sergeant."<sup>19</sup> Officer Estrada grabbed [REDACTED] left wrist as he said, "We can do this the easy way or the hard way."<sup>20</sup> Officer Estrada continued to order [REDACTED] out of the vehicle while [REDACTED] continually responded, "Why am I stepping out of the vehicle?"<sup>21</sup> Officer Estrada grabbed [REDACTED] upper left arm, but [REDACTED] repeatedly pulled back. Officer Estrada repeatedly told [REDACTED] to "stop resisting." While attempting to handcuff [REDACTED] struck Officer Estrada. [REDACTED] continued to resist Officers Estrada and Arce shouting, "I'm not getting out of the car."<sup>22</sup> Officer Estrada called for assistance. [REDACTED] continued to shout for a supervisor, and Officer Estrada told him, "You'll see him in the station."<sup>23</sup> [REDACTED] continued resisting and refusing to exit the vehicle. Officers Estrada and Arce finally extracted [REDACTED] from the vehicle and onto the pavement. Officer Estrada told other officers on the scene to look for a purple baggie of suspected narcotics [REDACTED] had in his possession. Several officers stated he swallowed the suspected narcotics.

While on the ground, [REDACTED] continued his strenuous resistance to being handcuffed. [REDACTED] then screamed at the top of his lungs, "Somebody help me please, oh my God help! My neck [inaudible], oh God my neck!"<sup>24</sup> After [REDACTED] stopped screaming about his neck, Sgt. Schultz can

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<sup>17</sup> Att. 59 at 13:35

<sup>18</sup> Att. 20

<sup>19</sup> Att. 20 at 0:03

<sup>20</sup> Att. 20 at 0:04

<sup>21</sup> Att. 20 at 0:10

<sup>22</sup> Att. 20 at 0:50

<sup>23</sup> Att. 20 at 1:19

<sup>24</sup> Att. 20 at 3:10

be seen crouching with his knee over ██████ neck between ██████ left ear and shoulder, as shown below:<sup>25</sup>



After ██████ was handcuffed, Sgt. Schultz removed his knee, and ██████ can be seen sitting up from the pavement.

Officer Estrada then opened the driver's rear passenger door to search the vehicle. He searched the rear driver and passenger seats and floor. While searching the trunk, Officer Arce handed Officer Estrada a box of ammunition and a prescription bottle of unknown pills he recovered from the trunk. Moving to the driver's seat, Officer Estrada received a purple bag of suspected marijuana from another officer. Officer Estrada learned that ██████ did not have an FOID card and decided to complete the vehicle search at the 12<sup>th</sup> District.

The first **BWC video of Officer Arce**<sup>26</sup> showed him walking up to the passenger side of ██████ vehicle. He first shined his flashlight through the tinted glass window of the back seat.

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<sup>25</sup> Att. 20 at 3:49

<sup>26</sup> Att. 19



While shining his flashlight into the front seat, Officer Arce focused his flashlight on something on the front seat, and then, while opening the front passenger door, stated to this Officer Estrada, “pull him out.”<sup>27</sup> Officer Arce immediately asked ██████ “what do you got sitting on the front seat right there,” where a small purple package and loose U.S. currency can be seen.<sup>28</sup> ██████ replied, “That’s nothing. Why are you searching my vehicle?”<sup>29</sup> Officer Arce stated he was not searching the vehicle, and told ██████ to exit the vehicle. ██████ asked why, and Officer Arce pointed with his flashlight at the front passenger seat and said, “Suspicion narcotics...those look like narcotics to me.”<sup>30</sup> ██████ exclaimed, “This is medicine. I’m at work.”<sup>31</sup>

██████ then grabbed the purple package of suspected narcotics and the loose U.S. currency from the front passenger seat. He handed his driver’s license and proof of insurance to Officer Estrada. He told the officers he would not get out of the vehicle and requested a CPD supervisor. Officer Arce told ██████ that he smelled marijuana in the car, which ██████ denied. Officer Arce told ██████ to turn off the vehicle, but ██████ refused, continuing to request a supervisor. Officer Arce informed the zone dispatcher of his location at ██████ on a traffic stop, then moved around to the driver’s door to assist Officer Estrada in extracting ██████ from the vehicle. As shown through Officer Estrada’s BWC, both officers extracted ██████ from the vehicle to the pavement. Additionally, the comments from Officer Estrada concerning ██████ possession of suspected narcotics can be heard and ██████ continuous active resistance to being handcuffed can be seen.

Sgt. Schultz can be seen walking toward the group of officers attempting to handcuff ██████ and reached down toward the struggle. The officers were trying to get ██████ arms behind his back. Officer Arce opened the driver’s rear door as ██████ started screaming, “Somebody help me please, oh my God help!” My neck [inaudible], oh God, my neck.<sup>32</sup> Officer Arce briefly searched that area and closed the door. An unidentified officer told ██████ to “Get his arm up.”<sup>33</sup> Officer Arce moved to the passenger side of ██████ vehicle, briefly stopping at the rear passenger side, and then moved to the front passenger seat area. Officer Arce told another officer, “It’s a purple bag. We gotta find it.”<sup>34</sup> Officer Arce searched the front seat and inside the center console armrest area. He then walked to the driver’s side, shining his flashlight light inside the rear and front seats.

Officer Arce and other officers picked ██████ up from the ground and walked him to Sgt. Schultz’s beat unit and placed him in the back seat. ██████ saw Sgt. Schultz and said, “When I

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<sup>27</sup> Att. 19 at 2:07

<sup>28</sup> Att. 19 at 2:11

<sup>29</sup> Att. 19 at 2:16

<sup>30</sup> Att. 19 at 2:23

<sup>31</sup> Att. 19 at 2:41

<sup>32</sup> Att. 19 at 6:26

<sup>33</sup> Att. 19 at 6:39

<sup>34</sup> Att. 19 at 7:16

asked for him [a CPD supervisor], nobody presented him.”<sup>35</sup> Officer Arce walked towards ██████ vehicle and joined Officer Estrada in searching the trunk. Officer Arce unzipped a backpack, and from inside, recovered a box of ammunition, pills, and cash, which he handed to Officer Estrada. Officer Arce’s first BWC video ended with him getting into ██████ vehicle and driving it into the 12<sup>th</sup> District.

Officer Arce’s **second BWC video**<sup>36</sup> shows him driving ██████ vehicle into the 12<sup>th</sup> District parking lot without incident.

Sgt. Schultz failed to activate his BWC video capturing his actions assisting Officers Estrada and Arce in arresting ██████. However, he does have a **BWC video**<sup>37</sup> showing him transporting ██████ to the 12<sup>th</sup> District which reflected that ██████ asked Sgt. Schultz what Officers Arce and Estrada stopped him for and what are they charging him with. Sgt. Schultz told him he did not know. ██████ laughed and told Sgt. Schultz, “They thought they found something, man. I ain’t worried about it, though. All it is possession. It’s not no more than two grams, so I ain’t worried about it.”<sup>38</sup> He also told Sgt. Schultz about a sharp pain in his neck. Sgt. Schultz told him, “[b]e sure to let them know, they’ll get you an ambulance.”<sup>39</sup> An abrasion<sup>40</sup> on the upper left side of ██████ head can be seen as he exits Sgt. Schultz’s vehicle.

### c. Physical Evidence

The **CFD Ambulance Report**<sup>41</sup> shows that at approximately 2:50 a.m., September 2, 2022, Ambulance 65 arrived at the 12<sup>th</sup> District after being dispatched for a cut or laceration. While being escorted to the lockup, the paramedics heard screaming down the hallway from the holding cell housing ██████. They observed an “alert 31y/o male yelling and crying...holding a scrape on his head yelling that his head hurts.”<sup>42</sup> ██████ told the paramedics that he had been dragged out of his car and thrown to the ground, and requested to go to the hospital. ██████ did not allow anyone to touch him until he got into the ambulance. A CPD beat unit was requested to follow the CFD ambulance, causing an approximately 35-minute delay in transporting ██████. ██████ refused to move on his own power, refusing to use his legs to walk and was dragged by officers to the ambulance. He was assisted to his feet and onto the bench seat in the ambulance. He continued screaming on the way to the University of Illinois Hospital (UIH). Upon arrival, he ceased screaming, exited the ambulance on his own power, and sat in a wheelchair while transported to the Emergency Department (ED).

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<sup>35</sup> Att. 19 at 9:25

<sup>36</sup> Att. 25

<sup>37</sup> Att. 60

<sup>38</sup> Att. 60 at 2:25

<sup>39</sup> Att. 60 at 4:12

<sup>40</sup> Att. 60 at 5:29

<sup>41</sup> Att. 7

<sup>42</sup> Att. 7, pg. 1

**Medical records from UIH**<sup>43</sup> show that ██████ arrived at the ED at 3:44 a.m., September 2, 2019,<sup>44</sup> for evaluation of a head abrasion.<sup>45</sup> ██████ informed the ED that he had been pulled out of a car by CPD, and his head hit the ground.<sup>46</sup> He complained of head pain, rating it a ten out of 10, and numbness behind his right eye, stating that he “d[id] not remember what happened after he fell.”<sup>47</sup> ██████ showed “extreme agitation, holding his arms and jaw clenched tight, unable to cooperate with a full neurological examination,” and he refused to urinate (stating “[y]ou are not getting it”), and refused a drug screen.<sup>48</sup> A CT scan of ██████ brain showed no internal bleeding or other abnormality.<sup>49</sup> ██████ was diagnosed with blunt head trauma and was prescribed acetaminophen every four hours as needed for pain.<sup>50</sup> Doctors noted ██████ was “stable prior to disposition,” and “neurologically stable in police custody.”<sup>51</sup> He was discharged at 11:10 am, on September 2, 2019.<sup>52</sup>

**Medical records from the Mercy Hospital and Medical Center**<sup>53</sup> show that at approximately 12:10 a.m., September 3, 2019, unidentified CPD officers transported him to the Mercy Hospital Emergency Department.<sup>54</sup> ██████ informed medical staff that he injured his head and neck while being arrested.<sup>55</sup> ██████ was diagnosed with a contusion and received Tylenol as inpatient medication, but there was no record of a pain prescription.<sup>56</sup> He was medically cleared and returned to police custody.

#### d. **Documentary Evidence**

The **CPD Arrest Report**<sup>57</sup> completed by Officers Estrada and Arce states that at approximately 2:19 a.m., September 2, 2019, while on routine patrol at or near ██████, they observed the complainant operating a 2017 gray/gray 4-door Chevrolet Impala, change lanes without signaling, in violation of Municipal Code of Chicago (MCC) 9-40-200(c). Upon approach, Officers Estrada and Arce detected a strong odor of cannabis emitting from the vehicle. In plain view, they observed one (1) purple Ziplock baggie consistent with narcotics packaging along with a crumbled up \$10 USD bill with a yellow pill suspected as narcotics. The officers requested the subject to step out of the vehicle. ██████ stated he was not going to step out. Officers Estrada and Arce attempted to escort ██████ out of the vehicle, but he began to flail his arms,

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<sup>43</sup> Att. 57

<sup>44</sup> Att. 57, pgs. 12, 21

<sup>45</sup> Att. 57, pg. 12

<sup>46</sup> Att. 57, pg. 16

<sup>47</sup> Att. 57, pg. 12

<sup>48</sup> Att. 57, pgs. 16, 18, 20, 39, 40

<sup>49</sup> Att. 57, pg. 55

<sup>50</sup> Att. 57, pg. 21

<sup>51</sup> Att. 57, pg. 15

<sup>52</sup> Att. 57, pg. 38

<sup>53</sup> Att. 56

<sup>54</sup> Att. 56, pg. 26,

<sup>55</sup> Att. 56, pg. 30,

<sup>56</sup> Att. 56, pg. 41-43

<sup>57</sup> Att. 8

stiffen his body, tuck his arms into his body, and ball his fists to escape the officers' control. They finally grabbed ██████ out of the vehicle and onto the pavement. ██████ continued to stiffen his body to avoid being handcuffed. Officers Estrada and Arce were able to gain control of ██████ arms, placed him into custody, and placed him into the rear of Sgt. Schultz's vehicle for transport to the 12<sup>th</sup> District.

The arrest report also noted that the officers recovered and inventoried fourteen multicolored pills of suspect ecstasy and a box of ammunition containing forty-eight live rounds. The officers ascertained that ██████ did not possess a valid FOID. The officers charged with ██████ 720 ILCS 570.0/402-C, Possession of a Controlled Substance, 720 ILCS 5.0/31-1-A, Resisting/Obstruct Police Officer, and 430 ILCS 66.0/2-A-2, Possession of Ammunition Without a Valid FOID. They also impounded ██████ 2017 Gray/Gray four-door Chevrolet Impala.

Finally, the Arrest Report reflected that ██████ had a contusion on his head before entering the 12<sup>th</sup> District lockup. Before being housed in the 12th District lockup, ██████ was transported to the University of Illinois Hospital for treatment and medical clearance.

The **CPD Original Case Incident Report**<sup>58</sup> mirrors the Arrest Report that Officers Estrada and Arce prepared. No new information was provided.

The **CPD Tactical Response Report (TRR)**<sup>59</sup> of Officer Estrada describes that at approximately 2:18 a.m., September 2, 2019, he, and Officer Arce were on routine patrol at or near S. Ashland Ave., and W. 18<sup>th</sup> Street, when they observed ██████ vehicle commit a minor traffic offense. The officers stopped said vehicle at or near ██████. Upon approaching the vehicle, the officers observed, in plain view, one purple ziplock bag consistent with narcotics packaging, and a crumbled-up \$10 USD bill with a yellow pill (suspect ecstasy) in the front passenger seat. When Officers Estrada and Arce requested ██████ to step out of the vehicle, ██████ became irate, and refused the officers' verbal commands to exit the vehicle. The officers attempted to gain control of ██████ to detain him for a narcotics investigation. He began to flail his arms, and pulled away from the officers. The officers requested additional units as ██████ continued to resist by pulling his arms away from them, ignoring verbal direction, and balling his fist.

With assistance, Officer Estrada could remove ██████ from the vehicle and perform an emergency takedown. Officer Estrada requested ██████ give the officers his hands, but ██████ refused and stiffened his body. Officers Estrada and Arce performed emergency handcuffing, utilizing control holds and pain compliance techniques at pressure points near the ear and collarbone area to gain control of ██████. The officers observed abrasions on ██████ head and requested medical attention. ██████ was transported to UIH for treatment of minor abrasions to the right side of his head.

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<sup>58</sup> Att. 38

<sup>59</sup> Att. 55

Officer Arce's TRR<sup>60</sup> describes that at approximately 2:18 a.m., September 2, 2019, he, and Officer Estrada were on routine patrol at or near S. Ashland Ave., and W. 18<sup>th</sup> Street, when they observed [REDACTED] vehicle commit a minor traffic offense. While speaking with [REDACTED] Officer Arce observed in plain view suspected narcotics. Officer Estrada ordered [REDACTED] out of the vehicle, but [REDACTED] refused the officer's verbal commands. [REDACTED] resisted letting Officer Estrada place him into custody by stiffening his arms, balling his fists, and flailing his arms. Because [REDACTED] was an active resister, Officer Arce assisted Officer Estrada with an emergency takedown by grabbing [REDACTED] right arm with his left hand, bringing him out of the vehicle and to the ground. Officer Arce then assisted with emergency handcuffing by grabbing [REDACTED] left hand and placing a handcuff on it.

Sgt Schultz did not complete a TRR. In his interview with COPA, he indicated that he believed he used no more than a firm grip to assist in [REDACTED] arrest, so a TRR would not have been necessary.

The **CPD Vehicle Impoundment/Seizure Report**<sup>61</sup> shows that [REDACTED] 2017 Gray/Gray four-door Chevrolet Impala was impounded pursuant to MCC 7-24-225, unlawful drugs in a motor vehicle.

On September 3, 2019, an **Initiation Report**<sup>62</sup> was completed by **Sergeant Zaya Mikhail, Star #1890, 12<sup>th</sup> District**, which states [REDACTED] entered the location to recover his personal effects from an arrest. Upon doing so, he filed a complaint against an unknown officer for excessive force during his arrest. [REDACTED] admitted he resisted the arrest but complained that excessive force was unnecessary. CPD's Crime Prevention and Information Center (CPIC) and COPA were notified.

An **Office of Emergency Management and Communications (OEMC), Event Query Report** [REDACTED]<sup>63</sup> shows that at approximately 2:18 a.m., September 2, 2019, Beat# 12-68B, manned by Officers Estrada and Arce, made a traffic stop at [REDACTED].

Prisoner property seized from [REDACTED] on **Inventory#** [REDACTED] includes a Black G-Shock Brand Watch, and on **Inventory#** [REDACTED], \$3000 in U.S. currency.<sup>64</sup>

[REDACTED] filed a **civil lawsuit** (Case No. 2021 C [REDACTED]), on March 29, 2021, alleging that Officer Estrada pulled [REDACTED] arm to get him out of the car, that Officers Johnathan Perez, Estrada, and Arce yanked [REDACTED] from the car; Officers Estrada, Arce, Perez, and Andrew Pang shoved him to the ground, and Officers Estrada and Perez and Arce applied a carotid restraint to [REDACTED] neck. By pinning his neck to the pavement.<sup>65</sup> [REDACTED] further alleged that Sgt. Schultz

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<sup>60</sup> Att. 54

<sup>61</sup> Att. 49

<sup>62</sup> Att. 34

<sup>63</sup> Att. 30

<sup>64</sup> Att. 65

<sup>65</sup> Att. 6, pg. 22.

applied multiple carotid artery holds by helping “Officers Arce, Estrada, and Perez twist and contort ██████ body so that the right side of ██████ body was pinned to the ground,” then “bent his neck and head so far inward that ██████ mouth was inches from his right thigh,” and “[w]hile Officer Perez was holding ██████ neck to the pavement, Sergeant Schultz used his arm and hand to choke ██████ Sergeant Schultz then kneeled on ██████ neck” for “almost one minute.”<sup>66</sup> ██████ denied he actively resisted the officers, and claimed that after his right hand was handcuffed, he pleaded that he could not breathe.<sup>67</sup> The case was settled for \$50,000.<sup>68</sup>

█████ criminal case for attempt possession of cannabis 10 grams or less was dismissed on October 17, 2019.<sup>69</sup>

## 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 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. Coany*, 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.

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<sup>66</sup> Att. 6, pg. 22-23

<sup>67</sup> Att. 6, pg. 23.

<sup>68</sup> Att. 53.

<sup>69</sup> Att. 76

## VI. ANALYSIS

## Allegations against Officers Estrada and Arce:

**Allegation 1- Stopped [REDACTED] *without justification; and Allegation 2- Detained [REDACTED] *without justification.****

The Fourth Amendment guarantees “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” *Whren v. United States*, 517 U.S. 806, 809-810 (1996). “Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of ‘persons’ within the meaning of this provision.” *Id.* “An automobile stop is thus subject to the constitutional imperative that it not be ‘unreasonable’ under the circumstances. As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” *Id.*

Here, Officers Estrada and Arce stated in their interview that they observed [REDACTED] commit a traffic violation: changing lanes without signaling, in violation of Municipal Code of Chicago (MCC) 9-40-200I, thus providing probable cause for the traffic stop under *Terry*. [REDACTED] denied that he committed the violation. Without additional evidence to support that the stop was unjustified, it cannot be established by a preponderance of the evidence and, therefore, COPA finds these allegations **Not Sustained**.

**Allegation 5- Searched the vehicle of [REDACTED] *without justification.***

Under the “automobile exception” to the search warrant requirement, “law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize.” *People v. James*, 163 Ill. 2d 302, 312 (Ill. 1994) (citing *Carroll v. United States*, 267 U.S. 132 (1925)). Probable cause “is not a high bar.” *Kaley v. United States*, 571 U. S. 320, 338 (2014). “Probable cause deals with probabilities, not certainties,” it is a “flexible, commonsense standard that ‘does not demand any showing that such belief be correct or more likely true than false,’” and it “does not require an officer to rule out any innocent explanations for suspicious facts.” *People v. Hill*, 2020 IL 124595, ps. 23, 28-34, quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983). “Long before the law of probabilities was articulated as such, practical people formulated certain common-sense conclusions about human behavior; jurors as factfinders are permitted to do the same -- and so are law enforcement officers.” *United States v. Cortez*, 449 U.S. 411, 418 (1981). As such, “the evidence thus collected must be seen and weighed not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement.” *Id.*

“The seizure of property in plain view involves no invasion of privacy and is presumptively reasonable, assuming that there is probable cause to associate the property with criminal activity.” *Payton v. New York*, 445 U.S. 573, 587 (1980). The use to a flashlight to illuminate the interior of a car on a public street “does not constitute a search, and thus triggers no Fourth Amendment protection.” *Brown*, 460 U.S. at 740.

“Where an item is seen in plain view, it must be “‘immediately apparent’” that the object is contraband or evidence of a crime before the object’s presence will establish probable cause for a search.” *People v. Hilt*, 298 Ill. App. 3d 121, 124, citing *Brown*, 460 U.S. at 741, quoting, *Coolidge v. New Hampshire*, 403 U.S. 443, 468 (1971). However, “immediately apparent” does not require “that a police officer *know* that certain items are contraband or evidence of a crime.” *Brown*, 460 U.S. at 741, quoting, *Coolidge*, 403 U.S. at 468 (emphasis in original).

“A substance or item’s packaging and/or location can legally justify a seizure.” *People v. Lee*, 2018 IL App (3d) 160100, P20. “Probable cause to believe that a package contains illegal drugs does not require absolute certainty of its contents on the officer’s part.” *People v. Molnar*, 2021 IL App (2d) 190289, P15. An officer’s previous experience with narcotics packaging can support a finding of probable cause. *Brown*, 460 U.S. at 734. The “exact number of training hours or employment years” necessary to render an officer’s belief reliable will not be defined. *People v. Jones*, 215 Ill. 2d 261, 275 (2005).

In *Brown*, the United States Supreme Court found probable cause to justify a search of an automobile where the officer observed in the hand of the defendant an opaque balloon tied in a manner the officer knew from previous narcotics arrests and from discussions with other officers was frequently used to carry narcotics because “the distinctive character of the balloon itself spoke volumes as to its contents – particularly to the trained eye of the officer.” *Id.* at 742-44. See also, *People v. Jones*, 215 Ill. 2d 261, 271 (2005) (probable cause found where officer saw wooden box known to law enforcement as a “one-hitter” box); and *People v. Lee*, 2018 IL App. (3d) 160100, P4 (knotted plastic bags in a larger plastic bag).

Finally, “[w]hen officers have such probable cause, the search may extend to ‘all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks.’” *United States v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010)).

Here, the BWC video shows that Officer Arce properly used his flashlight to look through the dark-tinted front passenger window of ██████ car after it was properly stopped for a traffic violation. When he did, he saw something on the front passenger seat that caused him to open the door while alerting his partner to have ██████ step out of the car.<sup>70</sup> Once the door was opened, a purple ziplock baggie can be seen on the front seat which Officer Arce suspected was narcotics, along with loose U.S.C.<sup>71</sup> In his COPA interview, Officer Arce said that he saw a bag of narcotics, and a bunch of random pills sitting on one of the bills.<sup>72</sup> He explained that he was familiar with that packaging being consistent with use for illegal narcotics.<sup>73</sup> He further explained the concern that a subject could eat or destroy the narcotics, and that was why he wanted to have ██████ step outside the car.<sup>74</sup>

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<sup>70</sup> Att. 19 at 2:07

<sup>71</sup> Att. 19 at 2:20

<sup>72</sup> Att. 69, pg. 18.

<sup>73</sup> Att. 69, pgs. 30-31.

<sup>74</sup> Att. 69, pg. 18.



Thus, if Officer Arce saw the suspect narcotics through the window, he would have probable cause to search the vehicle which begins with the opening of its front passenger door. Although it appears from the video that Officer Arce did see that item through the window, causing him to instantly open the door while simultaneously alerting his partner to have [REDACTED] step out, and immediately ask [REDACTED] about the item, Officer Arce also said in his interview to COPA that the reason he opened the door was for “officer safety,” because he could not clearly see in, and wanted to see if he could see anything in “plain view.”<sup>75</sup> As such, it is unclear if Officer Arce did see the package of suspect narcotics through the window, where his inartful explanation to COPA may have been due to the passage of time between the incident and the COPA interview; that being a year and a half.

Consequently, COPA cannot find by a preponderance of the evidence that the search of [REDACTED] car was unjustified and, therefore, finds this allegation, **Not Sustained**.

**Allegation 4- Forcefully took [REDACTED] to the ground without justification.**

“Once a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment’s proscription of unreasonable searches and seizures.” *Pa. v. Mimmis*, 434 U.S. 106, 111 fn. 6 (1977). CPD policy defines an active resister as “a person who attempts to create distance...[from] the member’s reach with the intent to avoid physical control and/or defeat arrest.”<sup>76</sup> This type of resistance includes “evasive movements of the arm,” and “flailing arms.”<sup>77</sup> A “Takedown” is available as a force option for this type of resister.<sup>78</sup>

As captured on BWC video, [REDACTED] refused the lawful verbal commands of Officers Estrada and Arce to get out of the vehicle. He resisted them by flailing his arms, pulling away from the officers, balling his fists, and continued to ignore the officers’ verbal directions. In accordance with CPD policy, the officers were permitted to perform a Takedown on actively resistant [REDACTED] under these circumstances. Based upon clear and convincing evidence, COPA **Exonerates** Officers Estrada and Arce from the allegation of forcefully taking to the ground [REDACTED] without justification.

**Allegation 3- Arrested [REDACTED] without justification.**

An officer must have probable cause to arrest a subject. *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)). “Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest.” *People v. D.W.* (In re *D.W.*), 341 Ill. App. 3d 517, 526 (1st Dist. 2003). Again, here, if Officer Arce’s view of the suspicious packaging supported probable cause for the search of [REDACTED] car, it also supported probable cause for [REDACTED]

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<sup>75</sup> Att. 69, pgs. 17-18.

<sup>76</sup> Att. 67, pg. 5; GO3-02-01(IV)(B)(2), Force Options (Effective October 16, 2017, – February 29, 2020)

<sup>77</sup> GO3-02-01(IV)(B)(2)(a)

<sup>78</sup> GO3-02-01(IV)(B)(2)(c)(3)

arrest based on his possession of that suspicious item, and the other illicit items found during the search.

Regardless, ██████ active resistance to a lawful order to step out of the car also provided probable cause for his arrest. As such, based upon clear and convincing evidence, COPA **Exonerates** Officers Estrada and Arce from the allegation of arresting ██████ without justification.

***Allegation 6 - Failure to call for a supervisor to the location as requested by ██████ without justification.***

According to *Pennsylvania v Mims*, 434 U.S. 106, 98 S. Ct. 330 (1977), once a motor vehicle has been lawfully detained for a traffic violation, police officers may order the driver out of the vehicle without violating the Fourth Amendment's proscription of unreasonable searches and seizures. Upon investigating ██████ for a traffic violation, Officers Estrada and Arce observed, in plain view, suspected narcotics. ██████ was asked to exit his vehicle, but believing the officers did not have probable cause to make such a request, he refused, asking for a CPD supervisor at the scene. Seeing that ██████ was agitated, and his continued active resistance to exiting the vehicle, Officer Estrada wanted to secure him prior to calling for the supervisor, going even further and telling ██████ "You'll see him in the station."<sup>79</sup> Based upon clear and convincing evidence, COPA **Exonerates** Officers Estrada and Arce from the allegation of failing to call for a supervisor to the location as requested by ██████ without justification.

#### **Allegations against Sgt. Schultz:**

***Allegation 1- Maltreatment of ██████ while on duty; Allegation 2-Engaged in an unjustified physical altercation with ██████ without justification.***

As stated above, ██████ was an active resister when he used his body to avoid physical control by making evasive movements with his arms, pulling his arms away, and turning his body away.<sup>80</sup> Under these circumstances, Takedowns are permitted, as well as Holding and Compliance Techniques.<sup>81</sup> "Compliance techniques are designed to amplify nonimpact pressure and increase the potential for controlling a subject."<sup>82</sup> "The goal of applying joint manipulation and pressure point techniques to pressure sensitive areas of the body is to elicit and maintain established control through non-impact pain compliance."<sup>83</sup> However, "[m]embers will not use a compliance technique that restricts blood flow to carotid arteries, causing the subject to lose oxygen to the brain."<sup>84</sup>

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<sup>79</sup> Att. 20 at 1:19

<sup>80</sup> Att. 67, GO3-02-01(IV)(B)(2)(a).

<sup>81</sup> Att. 67, GO3-02-01(IV)(B)(1)(b)(1).

<sup>82</sup> Att. 67, GO3-02-01(IV)(B)(1)(b).

<sup>83</sup> Att. 67, GO3-02-01(IV)(B)(1)(b)(1).

<sup>84</sup> Att. 67, GO3-02-01(IV)(B)(1)(a) and (b).

While this policy does not explicitly prohibit officers from using neck restraints, Sgt. Schultz told COPA that he believed a “knee on the neck was prohibited,”<sup>85</sup> and that he did not place his knee on [REDACTED] neck, but rather on [REDACTED] head.<sup>86</sup> Sgt. Schultz explained that [REDACTED] may have been complaining about his neck since “his head was bent at a weird angle because [Sgt. Schultz’s] knee was on his head.”<sup>87</sup> Sgt. Schultz also stated that when he was attempting to get [REDACTED] arm behind [REDACTED] back, he was “not concerned where [his] feet or [his] knees were. [He] was attempting to get [REDACTED] arm behind [REDACTED] back. As soon as [REDACTED] complained of pain, [Sgt. Schultz] removed his knee.”<sup>88</sup>

[REDACTED] told COPA that after his left arm was behind his back, he was screaming in pain saying, “I surrender, I surrender”<sup>89</sup> (which was not heard on the BWC video). Then, [REDACTED] claimed, as he tried to give them his right arm, someone put “his foot or his knee” ... in the back of [his] neck and forced [his] head to the ground,” and he thought he may have “blacked out for a little – for a hot second because I stopped talking when I hit my head.”<sup>90</sup> Later in the interview, [REDACTED] reiterated that his “head was stomped or kneed back into the ground,” which caused the abrasion and knot on his head.<sup>91</sup> [REDACTED] did not complain to COPA about anybody putting a knee on his neck.

The BWC video did not capture Sgt. Schultz’s actions while [REDACTED] was screaming about his neck. However, a few moments after [REDACTED] stopped screaming about his neck, and was complaining that he did not “even do nothing,” and cried that he was stopped for “no reason,” the BWC video captured Sgt. Schultz crouching with his knee over [REDACTED] neck, as seen in the picture above.<sup>92</sup>

Based on the above, COPA cannot find by a preponderance of the evidence that Sgt. Schultz engaged in an unjustified physical altercation with [REDACTED]. Neither Sgt Schultz nor [REDACTED] indicated that Sgt. Schultz placed his knee on [REDACTED]. Sgt. Schultz stated he placed his knee on [REDACTED] head, which was corroborated by [REDACTED] statement that someone kneed his head to the ground. The available video does not show Sgt. Schultz applying pressure with his knee on [REDACTED] neck and it would have been unlikely that [REDACTED] would have been able to scream as loud as he did with as much force as he did if his neck was being crushed. Further, [REDACTED] continued to scream and cry out steadily with no pause, suggesting he did not black out.

As such, COPA finds the allegations against Sgt Schultz for the maltreatment of [REDACTED] while on duty and the engagement in an unjustified altercation with [REDACTED] without justification to be **Not Sustained**.

***Allegation 3- Failure to comply with SO3-14 by failing to activate your body-worn camera.***

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<sup>85</sup> Att. 70, pg. 13.

<sup>86</sup> Att. 70, pg. 13.

<sup>87</sup> Att. 70, pg. 13.

<sup>88</sup> Att. 70, pg. 14.

<sup>89</sup> Att. 72, pgs. 7, 15.

<sup>90</sup> Att. 72, pgs. 7, 15-16.

<sup>91</sup> Att. 72, pg. 15-16.

<sup>92</sup> Att. 20 at 3:45

CPD policy requires officers to activate their BWC “...at the beginning of an incident and will record the entire incident for all law-enforcement-related activities.”<sup>93</sup> The policy explicitly includes the use of force incidents. In his interview, Sgt. Schultz said he forgot to turn on his body-worn camera. Based on a preponderance of the evidence, COPA **Sustains** the allegation against Sgt. Schultz for failure to comply with SO3-14 by failing to activate his body-worn camera.

**VII. DISCIPLINE RECOMMENDATION**

**A. Sergeant Brian Schultz**

**i. Complimentary and Disciplinary History**

Sgt. Schultz has no disciplinary history and has received 101 various achievement awards including a Department Commendation for an outstanding act or achievement that brings great credit to the Department and involves performance above and beyond that required by the member’s basic assignment<sup>94</sup>; and Honorable Mention Ribbon Award for demonstrating outstanding performance and has received at least 50 Honorable mentions<sup>95</sup> (Sgt. Schultz received 78).

**Recommended Discipline:**

COPA has found that Sgt. Schultz failed to activate his BWC video.

In mitigation, COPA will consider that in his 18 ½ years of active duty, Sgt. Schultz has received over 100 awards and has no disciplinary history. In aggravation, COPA will consider that Sgt. Schultz was a supervisor and should have been more cognizant of starting his BWC. In this case, his failure to activate his BWC certainly impeded COPA’s investigation of the allegations of an unjustified physical altercation brought against him.

COPA recommends that Sgt. Schultz receive a Reprimand.

**VIII. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Sergeant Schultz	It is alleged that on or around September 2, 2019, at approximately 2:00 am, at or near [REDACTED] [REDACTED] Sgt. Schultz:	

<sup>93</sup> Att. 73, S03-14 (III)(A)(2)(g), Body Worn Cameras (Effective April 30, 2018 to Present)

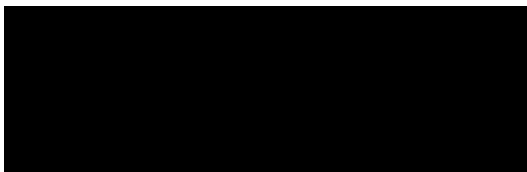
<sup>94</sup> Att. 75, S01-01-01 (II)(T) Description of and Eligibility for Department Awards (Effective September 2019 – to Present)

<sup>95</sup> Att. 75, S0-101-01 (II)(X)

	<ol style="list-style-type: none"> <li>1. Maltreatment of [REDACTED] while on duty.</li> <li>2. Engaging in any unjustified physical altercation with [REDACTED] while on duty.</li> <li>3. Failure to comply with SO3-14 by failing to activate your body-worn camera.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
<p>Officer Arce</p>	<p>It is alleged that on or around September 2, 2019, at approximately 2:00 a.m., at or near 1800 S. Ashland, Chicago, IL, Officer Arce:</p> <ol style="list-style-type: none"> <li>1. Stopped [REDACTED] without justification.</li> <li>2. Detained [REDACTED] without justification.</li> <li>3. Arrested [REDACTED] without justification.</li> <li>4. Forcefully took to the ground [REDACTED] without justification.</li> <li>5. Searched the vehicle of [REDACTED] without justification.</li> <li>6. Failed to call for a supervisor to the location as requested by [REDACTED] without justification.</li> </ol>	<p>Not Sustained</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Exonerated</p>
<p>Officer Estrada</p>	<p>It is alleged that on or around September 2, 2019, at approximately 2:00 a.m., at or near [REDACTED] [REDACTED] Officer Estrada:</p>	

1. Stopped [REDACTED] without justification.	Not Sustained
2. Detained [REDACTED] without justification.	Exonerated
3. Arrested [REDACTED] without justification.	Exonerated
4. Forcefully took to the ground [REDACTED] without justification.	Exonerated
5. Searched the vehicle of [REDACTED] without justification.	Not Sustained
6. Failed to call for a supervisor to the location as requested by [REDACTED] without justification.	Exonerated

Approved:



Matthew Hynam  
*Deputy Chief Administrator*

3/17/2023

Date