

## SUMMARY REPORT OF INVESTIGATION

### I. EXECUTIVE SUMMARY

Date of Incident:	May 31, 2020
Time of Incident:	2:25 a.m.
Location of Incident:	1551 N. Sheffield Ave.
Date of COPA Notification:	October 15, 2020
Time of COPA Notification:	4:24 p.m.

COPA received a referral and related allegations from the Office of Inspector General (OIG) on October 15, 2020. summarily stating that o On May 31, 2020, at approximately 2:25 a.m., Chicago Police Department Officer Tyler Thomas conducted a traffic stop of an Uber vehicle at or near 1551 N. Sheffield Ave., Chicago, Illinois, purportedly for violating the mandatory curfew. It is alleged that Officer Thomas conducted an improper search and seizure, engaged in verbal abuse, used excessive force against an unidentified passenger, failed to complete an investigative stop report and/or receipt and engaged in action or conduct which impedes the department's efforts to achieve its policy and goals or brings discredit upon the department. Officer Thomas activated his body worn camera ("BWC"). No arrests were made, there were no apparent or reported injuries. No arrests were made, there were no apparent or reported injuries.

### II. INVOLVED PARTIES

Involved Officer:	Tyler Thomas, Star # 4170, Employee ID# [REDACTED] Date of Appointment Jan 16, 2018, Rank Police Officer, Unit of Assignment 018, DOB [REDACTED], 1992, Male, White
Involved Individual:	Unidentified black male

### III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Tyler Thomas	<p>It is alleged that on or about May 31, 2020, at approximately 02:25 at or near 1551 N. Sheffield Ave., the accused officer committed misconduct through the following acts or omissions by:</p> <ol style="list-style-type: none"> <li>1. Engaging in improper search and seizure of two African American passengers without justification.</li> <li>2. Engaging in verbal abuse toward an African American passenger with justification.</li> <li>3. Engaging in excessive force toward an African American passenger without justification</li> <li>4. Failing to complete and/or provide an Investigative Stop Report/Receipt as required by Department policy and procedures, and / or .</li> <li>5. Engaging in action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department</li> </ol>	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

#### IV. APPLICABLE RULES AND LAWS

##### Rules

1. **Rule 1:** prohibits "Violation of any law or ordinance."
2. **Rule 2:** prohibits "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department."
3. **Rule 6:** prohibits "Disobedience of an order or directive, whether written or oral."
4. **Rule 8:** prohibits "Disrespect to or maltreatment of any person, while on or off duty."
5. **Rule 9:** prohibits "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. G03-02, Use of Force (effective date: 29 February 2020): generally.
2. G03-02-01, Force Options (effective date: 29 February 2020).

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**Special Orders**

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1. S04-13-09, Investigatory Stop System (effective date: 10 July 2017).

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**Federal Laws**

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1. The Fourth Amendment to the Constitution of the United States, as incorporated by Illinois Constitution Article 1 Section 6.

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and persons or things to be seized.”

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**State and Municipal Laws**

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1. 725 ILCS 5/107-14.
2. State of Illinois Executive Order in Response to Covid (Covid-19 Executive Order No. 8) effective March 21, 2020.

Stay at Home; Social Distancing Requirements; and Essential Businesses and Operations.

Essential workers:

Includes Transportation network providers (such as for purposes of essential travel: Uber/ Lyft) and taxis.

3. Municipal Code of City of Chicago Order No. 2020-3 (Second Amended and Reissued, issued and effective May 30, 2020).

Order of the Mayor of the City of Chicago and The Commissioner of Health of the City of Chicago, No. 2020-8 – CURFEW, Issued and Effective: May 30, 2020. Recent protests have brought large numbers of people together engaging in illegal acts of violence and destruction, and further acting in violation of necessary guidelines for social distancing. Curfew hours were defined as the period between 9 p.m. and 6 a.m.

Section 2: except for persons engaged in Essential Activities, as that term is defined in Order 2020-3 (Second Amended and Reissued), it shall be a violation of this Order for any person

to remain in any public place or on the premises of any establishment within the City of Chicago during curfew hours. Except for persons engaged in Essential Activities, at that term is defined in Order 2020-3 (Second Amended and Reissued), it shall be a violation of this Order for any person to remain in any public place or on the premises of any establishment within the City of Chicago during curfew hours.

Essential workers: includes transportation network providers (such as for purposes of essential travel: Uber/Lyft) and taxis.

Section 3: The Chicago police Department shall ensure compliance with this Order using any means necessary (warning, fine and /or arrest).

## V. INVESTIGATION<sup>1</sup>

### a. Interviews

**Officer Tyler C. Thomas** COPA summarized the following officer interview. On October 29, 2021, Officer Tyler Thomas related that on May 31, 2020, he was on-duty and assigned to the retail corridor at or near 1551 N. Sheffield Ave, with members of the Chicago Police Department. Members were enforcing the City of Chicago mandated curfew during the hours of 9 pm – 6am to curtail the multiple instances of looting, violence and property damage. Thomas described the location as having multiple 10-1 emergencies and property damage after looting and violence occurred in the area.<sup>2</sup>

At approximately 2:25 a.m., Officer Thomas observed a vehicle arrive on scene. Due to the earlier emergencies, he perceived a risk of injury or danger to himself and other officers as the vehicle approached and stopped at the intersection. He initially took cover behind a squad car. Officer Thomas stated he held his weapon, unholstered, in a fashion ready for immediate use, but did not point it at anyone or the vehicle. He related “something triggered my mind that something could potentially happen.”<sup>3</sup>

He believed the vehicle was in violation of the curfew and ordered the driver to stop. Officer Thomas stated he did not observe an Uber vehicle decal or identifier. For officer safety he ordered the passengers out of the vehicle and checked the vehicle for weapons and evidence of looting.

After reviewing the BWC video, Officer Thomas stated the passenger was compliant and followed the directions to exit the vehicle. Officer Thomas recalled he grabbed the passenger’s wrist and redirected him to turn around, to maintain control and safety. He stated he did not search the passenger. A cursory search of the back seat area resulted in negative evidence of a crime. Officer Thomas observed nothing was in plain view or in reach of the passenger.

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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. 21. According to OEMC a 10-1 code refers to a police officer calling for help, immediately. (Or a citizen may be calling for P.O.)

<sup>3</sup> Att. 21 PO Thomas Interview .m4a and Att. 20 2nd Interview PO Thomas on Nov 19 (1).m4a.

Officer Thomas acknowledged his use of profanity toward the passenger, is typically not indicative of courtesy and dignity expected by the department. In consideration of the totality of the circumstances, he recalled “what was going on that night, I was halfway through my shift, and felt I needed to be that way to maintain control of the situation”.<sup>4</sup>

Officer Thomas denied using excessive force against the passenger. Officer Thomas related that the passenger was cooperative and responded to the verbal directions. He related that he “grabbed the passenger’s wrist and turned him around redirecting him away from me for safety”.<sup>5</sup> Officer Thomas stated his actions were to assist the passenger and to control the situation.

Officer Thomas stated he did not complete an Investigative Stop Report nor provide an Investigative Stop Receipt to the passenger.

Officer Thomas denied engaging in action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

**b. Digital Evidence**

**Body Worn Camera (“BWC”) video**, activated by Officer Thomas, partially captured the incident, including the moments when Officer Thomas detained the passenger.<sup>6</sup> The video clearly captured three individuals in the Uber vehicle including two African American backseat passengers.

Captured in the video background is the retail corridor and the condition of a store located across the street from the incident. (The Nordstrom Rack store has wooden boards across the windows and doors, with other boards and objects strewn on the ground).<sup>7</sup>

COPA summarized the incident depicted in the video. The BWC video captured the interaction between Officer Thomas and one of the back seat passengers. At 01:52, the vehicle approaches the intersection where Officer Thomas and several CPD members are patrolling. The vehicle’s back passenger window is lowered, and someone appears to lean out of the vehicle, facing the members. At 01:57 Officer Thomas begins to approach the right side of the vehicle. At 01:58 the passenger window is closed.

At 02:00 the audio records Officer Thomas state, “put the car in park”. He shines his flashlight into the backseat and orders the passenger to step out of the car. The passenger complies and makes remarks regarding the officer’s weapon being unholstered. As he is exiting the vehicle, Officer Thomas grabs his wrist. Officer Thomas then grabs the passenger’s right arm, and simultaneously turns him toward the vehicle and pushes him against the vehicle while pulling the

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Att. 7. Axon\_Body\_3\_Video\_2020-05-31\_0227.mp4Police PO Thomas COPA interview.

<sup>7</sup> Ibid.

passenger's right arm behind his back. Officer Thomas asks the passenger if he is "done talking shit." The passenger replies that "I saw you pull out the gun on us" and "I asked why you were pointing a gun at us, we're in an Uber heading home".<sup>8</sup>

At 02:11 BWC captured Officer Thomas shout, "play fucking games" and shine his flashlight into the interior of the vehicle. At 02:25, Thomas continued, "are you done talking shit"; at 02:41 "get back in the fucking car and take your fucking ass home." Take your fucking ass home, do you understand? Get the fuck in the car. Get the fuck in the car".<sup>9</sup>

The passenger stated, "When I saw you take your gun out, you just scared me." At 02:46 Officer Thomas stated, "I don't give a shit; I don't give a fuck. I can unholster my gun whenever I want. "I don't give a fuck. That's why I have a fucking gun"<sup>10</sup>.

"Take your fucking ass home." At 02:57 Officer Thomas tells the driver to "tell them to put their fucking seatbelts on". The duration of the stop was approximately one minute. <sup>11</sup>

**CPD in-car camera ("ICC")** footage was not recovered.<sup>12</sup>

**Police Observation Device ("POD")** camera video was unavailable for review.<sup>13</sup>

### c. Additional Evidence

COPA received an OIG Consent Decree Notification on October 15, 2020.<sup>14</sup>

COPA received the approval of the Affidavit Override on September 10, 2021.<sup>15</sup>

## 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.

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<sup>8</sup> Ibid

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> CPD ICC video footage retention period is 90 days. The video was not preserved prior to the COPA investigation.

<sup>13</sup> Att. 4. COPA's request for POD video was returned as video is no longer available, as the incident occurred too long ago for the video retention.

<sup>14</sup> Atts. 120-1388 Referral Correspondence.pdf OIG Referral and 8 OIG Complaint Notification to COPA 2020-0002428.pdf.

<sup>15</sup> Att. 13 Approval of AO 2020 - 4726 (1).pdf.

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.

## VII. ANALYSIS

1. COPA finds Allegation #1, that Officer Tyler Thomas conducted a search and seizure of the unidentified passenger without justification, is **EXONERATED**.

The relevant, underlying facts of this case are – an unidentified black male passenger in the backseat of an Uber network provider ("Uber") was stopped and detained after Officer Thomas purportedly observed the car travelling on the public way during the City of Chicago mandated curfew.<sup>16</sup>

Department members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.<sup>17</sup> The vehicle exception to the U.S. Constitution fourth amendment, provides that, if a law enforcement officer has probable cause to believe that a readily mobile vehicle has evidence or contraband located in it, a search of that vehicle may be conducted without first obtaining a warrant. Officer Thomas' actions were not unreasonable or inconsistent with his duty to ensure compliance with the order using any means necessary (warning, fine and /or arrest) as authorized by municipal code<sup>18</sup>.

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<sup>16</sup> Noted, is Officer Thomas' COPA statement that he was not aware of the transportation exception to the curfew.

<sup>17</sup> *United States v. Rodriguez-Escalera*, 884 f.3d 661, 667-68 (7<sup>th</sup> Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 91979)).

<sup>18</sup> Municipal Code of City of Chicago Order No. 2020-3 (Second Amended and Reissued, issued and effective May 30, 2020).

The exception to the curfew mandate allowed for transportation services like Uber to continue operating without violating the law. Officer Thomas initially stopped the vehicle because he believed he observed a violation of the curfew and was not aware that the vehicle was an Uber. Officer Thomas' COPA statement was notably consistent with the video as it relates to when he became aware the vehicle was an Uber and therefore was authorized to stop and transport the passenger, bolstering his credibility for COPA's purposes of review.

Officer Thomas acted under the belief that he observed a violation of the curfew which led him reasonably to conclude that criminal activity may be afoot. He briefly stopped the vehicle and suspicious person and made inquiries aimed at confirming or dispelling his suspicions<sup>19</sup>. His cursory search of the passenger and vehicle were consistent with department policy on investigations of a traffic stop. Additionally, the video captured the exterior of the vehicle, absent was any indication that it was an Uber vehicle. As such, it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

For the reasons set forth above, a finding of **EXONERATED** is warranted.

2. COPA finds Allegation #2, that Officer Thomas engaged in verbal abuse when he stated to the unidentified passenger, "I don't give a fuck" and "take your ass home" or words to that effect, is **SUSTAINED**.

BWC video captured the profanity-laden and tense interaction between Officer Thomas and the passenger. The use of expletives does not adequately communicate commands, especially where the passenger has not shown resistance to the officer's initial show of force. In Officer Thomas' COPA interview, he admitted that he used profanity toward the passenger. The use of profanity is a matter of department policy in the context of *courtesy*, and it is within the discretion of the law enforcement agency to restrict or prohibit the use of profanity when dealing with citizens.<sup>20</sup> Officer Thomas violated department policy.<sup>21</sup> As such, it is determined the allegation is supported by a preponderance of the evidence.

For the reasons set forth above, a finding of **SUSTAINED** is warranted.

3. COPA finds Allegation #3, that Officer Thomas used excessive force toward an unidentified passenger when he grabbed his wrist, forced his arm behind his back and pushed him against the vehicle without justification, is **SUSTAINED**.

In the BWC video the passenger appears cooperative and exits the vehicle following the verbal direction of Officer Thomas. There is no evidence of resistance by the passenger to the officer's initial verbal direction that would justify the control and holding techniques used by the officer. In his interview statement, Officer Thomas stated the passenger was compliant. Yet, Officer Thomas grabbed his wrist and forced his arm behind his back and pushed him against the vehicle. Officer Thomas stated his response of physically holding the passenger was based on the

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<sup>19</sup> Moreover, if Officer Thomas believed the vehicle was violating curfew, he did not mention it to the passenger.

<sup>20</sup> CPD, Resources, Rules and Regulations of the Chicago Police Department, effective date 16 April 2015.

<sup>21</sup> Ibid.



way in which the vehicle approached the intersection and the totality of the circumstances; although he acknowledged that the passenger was not resisting. Officer Thomas stated he reacted to control the situation and wanted to prevent the passenger from doing anything to him. His statement and conduct are inconsistent and do not conform with department policy.

Under the Force Options Model, a cooperative subject is a person who is compliant without the need for physical force. A person who is uncooperative is a passive resister when he fails to comply with verbal or other direction. Under department guidelines, department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or control a subject.<sup>22</sup> There is no evidence that the passenger was a passive resister. Officer Thomas does not verbally direct the passenger to turn around rather he forces him around. There was no reason to suspect the passenger did anything more than break curfew, the passenger gave little indication that he was a threat to the officers, and he complied with all commands rather than resisting or fleeing. As such, the use of force was not reasonable.

Officer Thomas' use of force was unreasonable based on the surrounding facts and circumstances. As such, it is determined that the allegation is supported by a preponderance of the evidence.

For the reasons set forth above, a finding of **SUSTAINED** is warranted.

4. COPA finds Allegation #4, that Officer Thomas failed to complete and /or provide an Investigative Stop Report/Receipt as required by Department policy and procedures, is **SUSTAINED**.

Officer Thomas' actions involving the passenger were not documented. He did not complete an investigative stop report nor provide a stop receipt to the passenger. COPA's search for a stop report and receipt did not result in findings related to the incident.

Officers are required to document and enter into the Investigatory Stop Database information concerning the individual temporarily detained and a narrative section to include statement of facts to establish Reasonable Articulate Suspicion in order to justify an Investigatory stop of an individual. The Chicago Police Department's investigatory stop database consists of information obtained in the field and entered in the system. Sworn members who conduct an investigatory stop are required to submit an Investigatory Stop Report into the Investigatory Stop Database. Upon completion of an investigatory stop, that involves a search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.<sup>23</sup>

Officer Thomas's failure to complete the required report and or provide a stop receipt is a violation of department policy. As such, it is determined that the allegation is supported by a preponderance of the evidence.

For the reasons set forth above, a finding of **SUSTAINED** is warranted.

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<sup>22</sup> CPD, General Order G03-02, Use of Force, effective 29, 2020.

<sup>23</sup> S04-13-09, VII (A)(1), Investigatory Stop System, (effective July 10, 2017, to current).

5. COPA finds Allegation #5, that Officer Thomas engaged in action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. (Conduct Unbecoming – Altercation/Disturbance), is **SUSTAINED**.

The display of a weapon while approaching a vehicle ordered to stop involves the immediate threat of deadly force. Such a show of force should be predicated on at least a perceived risk of injury or danger to the officer based upon what the officer knew at that time. Officer Thomas could not recall if other officers unholstered their weapons and no evidence supported his suspicion that the passenger participated in an unlawful act. Given the events that unfolded earlier in the day across most of the city, Officer Thomas supposition was of a threat.

The totality of Officer Thomas' tactics of displaying his weapon, shouting commands, shining his flashlight into the vehicle, his excessive use of profanity and unreasonable use of force placed the passenger in fear (considering the cooperative nature of the passenger) and did not uphold the goals of the department. Officer Thomas' actions and behavior violated the standards of conduct required by all members. His actions did not promote respect and cooperation of all citizens for the law and for those sworn to enforce it.<sup>24</sup> He exhibited conduct unbecoming a member of CPD.

A member must scrupulously avoid any conduct which might compromise the integrity of himself and his fellow members or the Department.<sup>25</sup> As such, it is determined that the allegation that the accused officer engaged in action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department is supported by a preponderance of the evidence.

For the reasons set forth above, a finding of **SUSTAINED** is warranted.

## **VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS<sup>26</sup>**

### **a. Officer Tyler Thomas**

#### **i. Complimentary and Disciplinary History**

Officer Thomas' complimentary history consists of the following: (1) 2019 Crime Reduction Award; (1) Attendance Recognition Award; (3) Department Commendation; (1) Emblem of Recognition – Physical Fitness; (128) Honorable Mention; (1) Honorable Mention Ribbon Award; (1) Military Service Award; (2) Police Officer of the Month Award; (2) Top Gun Arrest Award; (1) Unit Meritorious Performance Award. Total of (141) Award As of March 17, 2022, there is no Sustained Complaints History. There is no SPAR History.

#### **ii. Recommended Penalty**

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<sup>24</sup> CPD Resources, Rules and Regulations of the Chicago Police Department, effective date 16 April 2015.

<sup>25</sup> Ibid.

<sup>26</sup> Only include this section for investigations with at least one sustained allegation.

COPA recommends of a penalty of 10 days Suspension/ Training in Use of Force for Officer Tyler Thomas. Officer Thomas’ actions and language were completely unnecessary and brought discredit to the department. Officer Thomas made an Uber driver stop, passengers exit, verbal abuse them for no valid reason. The behavior exhibited by Officer Thomas r does not reflect his Complimentary History. Officer Thomas accused the passengers in the rear seat of an Uber of driving up on him and playing games. Officer Thomas repeatedly verbally abused the passengers and claimed he had the authority to do so because he has a gun. Officer Thomas illustrated a clear abuse of power and lack of understanding of his position as a Law Enforcement Officer.

**IX. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer Tyler Thomas	<p>It is alleged that on or about May 31, approximately 02:25 at or near 1551 N. Sheffield Ave., the accused officer committed misconduct through the following acts or omissions by:</p> <ol style="list-style-type: none"> <li>1. Engaging in improper search and seizure of two African American passengers without justification.</li> <li>2. Engaging in verbal abuse toward an African American passenger with justification.</li> <li>3. Engaging in excessive force toward an African American passenger without justification</li> <li>4. Failing to complete and/or provide an Investigative Stop Report/Receipt as required by Department policy and procedures, and / or</li> <li>5. Engaging in action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department</li> </ol>	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

Approved:



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Angela Hearts-Glass  
*Deputy Chief Investigator*

3-31-2022

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	17
<b>Investigator:</b>	Emmily Stokes
<b>Supervising Investigator:</b>	Gregory Little
<b>Deputy Chief Investigator:</b>	Angela Hearts-Glass