

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 31, 2018
Time of Incident:	At approximately 9:35 p.m.
Location of Incident:	1800 W. 87 th St., Chicago, IL 60620
Date of COPA Notification:	June 1, 2018
Time of COPA Notification:	11:42 a.m.

On May 31, 2018, at approximately 9:30 in the evening, Chicago Police Department (“CPD”) Officers Ricardo Anguiano (“Officer Anguiano”) and Hazem Sweis (“Officer Sweis”) pulled the complainant, [REDACTED] ([REDACTED] over for a traffic infraction. The officers ran [REDACTED] name and discovered that [REDACTED] license was suspended. The officers ordered [REDACTED] from his vehicle numerous times, but [REDACTED] refused each time. The officers warned [REDACTED] to stop reaching around inside the car, and when he did not stop, the officers physically removed [REDACTED] from the vehicle and placed [REDACTED] in handcuffs and under arrest. [REDACTED] was charged with driving on a suspended license, possessing a replica firearm/pellet gun, overtaking a vehicle on the right, and failure to use turn signal. Following the incident, among other things, [REDACTED] alleged the officers’ actions violated his 4th Amendment rights. Ultimately, COPA’s investigation concluded that the officers’ actions did not constitute misconduct.

II. INVOLVED PARTIES

Accused Officer #1:	Officer Hazem N. Sweis, Star #14720, Employee # [REDACTED], Unit of Assignment: 006, Date of Appointment: October 31, 2012, Rank: Police Officer, DOB: [REDACTED], 1987, Male, White
Accused Officer #2:	Officer Ricardo Anguiano, Star #14446, Employee # [REDACTED], Unit of Assignment: 006, Date of Appointment: February 2, 2015, DOB: [REDACTED], 1985, Male, White
Complainant:	[REDACTED]. [REDACTED] DOB [REDACTED], 1975, Male African-American

III. ALLEGATIONS

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

Officer	Allegation	Finding/ Recommendation
Officers Hazem N. Sweis and Ricardo Anguiano	On or about May 31, 2018, at approximately 9:35 p.m., at or near 1800 W. 87th St., Chicago, IL 60620, Officers Hazem N. Sweis and Ricardo Anguiano committed misconduct through the following acts or omissions:	
	1. Arrested ██████ without justification;	Exonerated
	2. Directing profanity at ██████ without justification;	Exonerated
	3. Threatening to break the window of ██████ car if he did not exit the vehicle;	Exonerated
	4. Improperly searching ██████ person without his consent;	Exonerated
	5. Failing to give ██████ his <u>Miranda</u> warnings;	Exonerated
	6. Injuring ██████ while “violently” handcuffing him;	Unfounded

IV. APPLICABLE RULES AND LAWS

Constitution of the United States

1. Fourth Amendment to the Constitution of the United States
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Rules

1. Rule 1: Violation of any law or ordinance.
2. Rule 2: 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: Disobedience of a directive, whether written or oral.
4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
5. Rule 9: Engaged in any unjustified verbal or physical altercation, while on or off duty.

V. INVESTIGATION

a. Interviews

██████████¹

COPA interviewed ██████████ on June 6, 2018, about the incident that occurred on May 31, 2018. ██████████ made numerous allegations of misconduct against Officers Sweis and Anguiano. These alleged occurrences of misconduct arose during the traffic stop, at the police station, and during ██████████ transport to the hospital.²

In summary, that evening Officer Sweis and Officer Anguiano pulled ██████████ over for some type of traffic violation for passing a vehicle on the right. The officers ran a name check on ██████████ and discovered that ██████████ license was suspended. When the officers ordered ██████████ to exit his vehicle, ██████████ refused, explaining that without the officers having a warrant ██████████ believe he was not required to get out of his vehicle. ██████████ also said that he told the officers that he did not consent to a search of his person or his vehicle without a warrant. ██████████ stated that one of the officers reached into his vehicle, opened the door, and pulled ██████████ out of the car. ██████████ told investigators that he was injured when the officer twisted his spinal cord as he pulled ██████████ out of the car, and also when he was handcuffed. ██████████ also expressed that he had been handcuffed too tightly.

██████████ stated that the officers were discourteous to him and threatened to break his window if he did not get out of the car. ██████████ maintained that regardless of what he asked of the officers, they told him that they did not give a “fuck.” ██████████ believed this to be retaliation for his lawsuit, which he filed based on very similar assaults that he received at the hands of other officers circa 2016 and 2010.

██████████ maintained that the officers should not have asked ██████████ for his name due to an identity stop protection that ██████████ had placed on his driver’s license so that no one could use his name and pretend to be him. ██████████ stated that he had this stop protection, because he was a victim of identity theft. ██████████ stated that his license was under his seat, but the officers would not allow him to reach under the seat to get his license.

██████████ further explained that the vehicle in which he was driving was “trust property.” According to ██████████ when the officers ran his name without his license as credentials prior to the intrusion, they trespassed against the trust. ██████████ also said that the police could not have run his name or obtained information regarding his vehicle, without dealing with and obtaining permission from the trust officers, because the vehicle was trust property, and he was the trustee of the trust. ██████████ stated that by merely unlocking and opening the door, the officer committed a trespass on the vehicle, because the vehicle was trust property. ██████████ stated that because the vehicle was trust property, the vehicle was probably not even registered. Moreover, ██████████ claimed that the police

¹ Attachment 7

² It is important to note some things about ██████████ allegations. During his interview, ██████████ rarely stated his allegation directly, nor was ██████████ clear as to which officer committed specific acts of misconduct. COPA interpreted the allegations to the extent possible.

committed fraud when they tried to change the trust estate by naming different trustees to the trust, to the exclusion of ██████

Additionally, ██████ said he did not know that his license was suspended and told investigators that a judge in Oak Lawn told ██████ that the suspension of his license was rescinded, but the judge would not give him an order to that effect. ██████ said that he had not received any documentation stating that his license had been suspended.

██████ alleged that the officers improperly searched him and his vehicle, because he did not consent to a search of his person or his vehicle. He further alleged that the officers failed to give him *Miranda* warnings at any time.

██████ also alleged that the officers who transported him from the traffic stop to the police station also cuffed him too tightly causing injury. ██████ further stated that he was injured at the station when he was placed on a concrete bench that was very low to the ground. ██████ said the officers also refused to allow him to be placed in a different area of the station so he could be more comfortable.

██████ further alleged that the officers failed to take him to the hospital when he requested and denied ██████ his medication.³ In addition, ██████ continued on to allege that the police took him to the hospital under duress.

In addition, ██████ alleged that while he was given pop to drink and was refused water, which was necessary for him to perform Wuḍū' during this period of Ramadan.⁴

██████ said that his contractual rights under the Constitution were violated when the officers refused to tow his car to his home. According to ██████ under the trust, he had the right to have his vehicle towed to either his domicile or the location of the trust, where his car could have been stored in a garage, rather than impounding the vehicle. ██████ stated that his car was damaged when it was impounded, and he did not even know if it would run. While ██████ admittedly had not even tried to start his car, he stated that he does not even know if it will start.

██████ acknowledged that the officers allowed him to get his money and a bag with his documents out of the car. He further acknowledged that they permitted him to give the bag and the money to his mother at the station.

██████ said that an African American officer, whose name ██████ said sounds like "Brockenridge," violently and viciously handcuffed him before he transported ██████ to the hospital. According to ██████ he was again transported in a vehicle that was bumpy.

██████ further stated that a Sergeant, who ██████ described as a large African American with grayish lashes yelled at him and scared him all night at the jail.

³ Presumably ██████ wanted to go to the hospital in part to obtain his medication. He did not say that he had the medication with him or to what medication he was referring.

⁴ Wuḍū' is the Islamic procedure for cleansing parts of the body, a type of ritual of purification, or ablution.

b. Digital Evidence***Body-worn Camera Footage (“BWC”)***

COPA reviewed the involved officers’ BWC footage from this incident. The footage shows that, on May 31, 2019, Officers Sweis and Anguiano pulled ██████ over for traffic violations. Initially, the officers asked ██████ to step out of the car, but he would not do so. However, after the officers ran ██████ name, they discovered that ██████ was driving on a suspended license. At that time, the officers continued to order ██████ to exit his vehicle. The officers asked ██████ numerous times to get out of his car, but ██████ always refused. ██████ was also reaching around in his car, despite being ordered not to do so. It was at that point that Officer Sweis yelled to ██████ to stop reaching for “shit.” (That is the only profanity that can be heard on the BWC footage.) Additionally, at one point on the BWC video, one of the officers can be heard talking about breaking the window of ██████ vehicle.

c. Documentary Evidence***Original Case Incident Report***⁵

The Original Case Incident Report states that, while on patrol, Officer Sweis and Officer Anguiano observed ██████ gold Chevrolet overtaking vehicles on the right and failing to use a turn signal to change lanes. The officers activated their emergency lights and pulled the vehicle over at approximately 1800 to 2000 West 87th Street. The officers approached the vehicle and told ██████ why they pulled him over. They asked ██████ for his driver’s license, and he told them that it was between the seats. ██████ gave the officers his name and date of birth, and after they ran a name check, they found that ██████ was driving on a suspended license. ██████ refused the officers’ orders to exit the vehicle, so they opened the car door and placed ██████ in custody without further incident. During a protective pat down of ██████ the officers recovered a Ekol Kura black compact pistol Colt replica handgun, 8mm from ██████ right pants pocket.

Medical Records⁶

COPA has reviewed copies of ██████ medical records for June 1, 2018, from the emergency room at Little Company of Mary Hospital. There is no indication as to how or with whom ██████ came to be there. The records indicate that ██████ presented complaining of pain in his left wrist, right hip, and right knee. ██████ was examined and some x-rays were taken. No abnormalities were found on the exam. The report from the x-rays stated that the soft tissues were unremarkable, the bony structures were intact, and there were no fractures or dislocations.

⁵ Attachments 10 & 11

⁶ Attachment 32

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 been 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

After reviewing the evidence in this case, COPA has determined that Officers Sweis and Anguiano are exonerated with respect to all allegations relating to the traffic stop. The BWC footage is the most relevant to this conclusion, as it demonstrates that [REDACTED] allegations are not congruent with video evidence.

*Collectively, Officers Hazem N. Sweis & Ricardo Anguiano*⁷

Allegation 1

According to [REDACTED] he should not have been arrested for driving on a suspended license. However, during the traffic stop, a LEADs query with [REDACTED] information establishes that the officers checked [REDACTED] name and discovered that [REDACTED] license had been suspended at the time of the stop.⁸ COPA finds that officers' reliance on the received information regarding the status of

⁷ Because the allegations against Officer Sweis and Officer Anguiano are the same, and the officers' actions were very similar, COPA has responded to these allegations against both officers together.

⁸ Attachment 8

██████ license was reasonable. For these reasons, COPA finds there is clear and convincing evidence that the officers had sufficient probable cause to place ██████ under arrest and the allegation is Exonerated.

Allegation 2

██████ maintained that the involved officers directed profanity toward him. ██████ alleged that the officers responded to the majority of ██████ requests by stating words to the effect of, "I don't give a fuck about that." This claim is simply not supported by the BWC evidence. In fact, the officers (despite ██████ resistance) largely refrain from the use of profanity - the only profanity that can be heard on the BWC is an officer directing ██████ to, "Stop reaching for *shit!*" Accordingly, COPA has determined that Officers Sweis and Anguiano are Exonerated as to this allegation.

Allegation 3

██████ alleged that the officers improperly threatened to break the window of his vehicle. COPA finds the officers lawfully requested that ██████ exit his vehicle to be arrested for driving on a suspended license. However, ██████ repeatedly refused to get out of the vehicle. Eventually, the officers had to unlock the door and physically take ██████ out of the vehicle. Because ██████ refused to get out of the vehicle, the officers could have broken the window if necessary, to effectuate a lawful arrest. Therefore, we find the statement by an officer to ██████ explaining that officers may break ██████ window to be a warning of possible further steps against ██████ resistance, and not a threat. COPA finds that Officers Sweis and Anguiano are Exonerated as to allegation 3.

Allegation 4

██████ alleged that Officers Sweis and Anguiano improperly searched his person without a warrant and without his consent. While warrantless searches are *per se* unreasonable under the Fourth Amendment, there are exceptions to the warrant requirement. *Arizona v. Gant*, 556 U.S.332, 338 (2009); *People v. Cregan*, 2014 IL 113600, ¶ 25. One such exception is a search incident to arrest. *Gant*, 556 U.S. at 357; *Cregan*, 2014 IL 113600 at ¶ 25. Because this exception exists, the officers were not required to get ██████ consent to search his person. Accordingly, in this case, the officers were legally able to search ██████ person incident to his arrest for driving on a suspended license, and they did not need ██████ consent. Accordingly, COPA has determined that both officers are Exonerated as to this allegation.

Allegation 5

██████ alleged that he was denied his constitutional rights because the involved officers failed to give ██████ *Miranda* warnings while under arrest. However, it is not necessary to give *Miranda* warnings every time a person is in custody. *Miranda* warnings are not themselves rights protected by the Constitution. Rather, they are measures to ensure that the right against compulsory self-incrimination is protected. *People v. Patterson*, 207 Ill.App.3d 104, 121 (4th Dist. 1990) (Justice Steigmann, dissenting), quoting *New York v. Quarles*, 467 U.S. 649, 654, 104 S. Ct. 2626, 2630 (1984), quoting *Tucker*, 417 U.S. 433, 444, 94 S. Ct. 2357, 2364 (1974) (Internal quotations

omitted). Accordingly, Officers Sweis and Anguiano did not commit misconduct by not providing ██████ his *Miranda* rights. Accordingly, both officers are Exonerated as to this allegation.

Allegation 6

█████ alleged that he was injured when he was “violently” handcuffed as he was placed under arrest. An examination of the BWC footage shows that there was nothing violent about the manner in which ██████ was handcuffed. ██████ further states that he was “tightly” handcuffed behind his back, even after he asked the officers to cuff him in back due to his injury. The BWC footage shows that while ██████ was cuffed behind his back, he was actually cuffed so that his hands were almost at his sides. ██████ hands were not forced behind his back as would ordinarily be the case if one set of handcuffs were used. Instead, two sets of handcuffs were used, allowing ██████ to be able to move his arms around more freely. (One bracelet of a pair of handcuffs was attached to one of ██████ wrists, and one bracelet of another pair of handcuffs was attached to his other wrist.) The BWC footage shows that ██████ was able to use his cane while he was handcuffed.

In sum, the evidence indicates that Officers Sweis and Anguiano did not violently handcuff ██████. Accordingly, COPA has concluded that this allegation is Exonerated.

Credibility of ██████

While ██████ made additional allegations (i.e., ██████ was provided soda-pop as opposed to water; ██████ suffered an injury from sitting on a bench that was too short; ██████ was transported in a bumpy squad car; Officers failed to take ██████ to the hospital; Officers took ██████ to the hospital under duress; and so on), When considering available resources, COPA finds it unreasonable to fully explore ██████ additional allegations, as in this case any dispositive finding would require significant reliance on ██████ account of the event.

Whether ██████ was intentionally dishonest in his account or unreliable through a mixture of cognitive, memory, perception, and other temporal and environmental factors is irrelevant. Either way, COPA is unable to give ██████ account any evidentiary weight.

As addressed above, ██████ exaggerated the officers’ use of profanity and use of force. ██████ interview with COPA investigators was overly verbose and long-winded. Furthermore, we found ██████ interview to be at times incoherent, in that it was difficult to deduce exactly everything ██████ was alleging. Other claims seemed implausible and far-fetched. For example, ██████ explanation that his vehicle was “trust property.” Not only was there no evidence of that, ██████ claim that officers could not impound his vehicle, and instead were required to tow his car to either ██████ domicile or the location of the trust, is not supported by law.

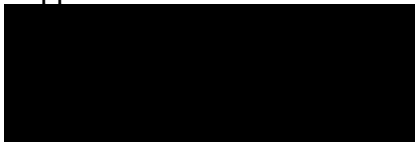
For these reasons, it is difficult to know when and if ██████ was truthful and/or reliable. And ultimately, in this case, it is therefore difficult and somewhat unreasonable for COPA expend the needed additional resources to address ██████ remaining allegations.

VII. CONCLUSION

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

Officer	Allegation	Finding/ Recommendation
Officers Hazem N. Sweis and Ricardo Anguiano	On or about May 31, 2018, at approximately 9:35 p.m., at or near 1800 W. 87th St., Chicago, IL 60620, Officers Hazem N. Sweis and Ricardo Anguiano committed misconduct through the following acts or omissions:	
	1. Arrested ██████ without justification;	Exonerated
	2. Directing profanity at ██████ without justification;	Exonerated
	3. Threatening to break the window of ██████ car if he did not exit the vehicle;	Exonerated
	4. Improperly searching ██████ person without his consent;	Exonerated
	5. Failing to give ██████ his <u>Miranda</u> warnings;	Exonerated
	6. Injuring ██████ while “violently” handcuffing him;	Unfounded

Approved:



4/29/20

Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	Michele Lavin
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten