

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

| | |
|----------------------------|--|
| Date of Incident: | December 29, 2018 |
| Time of Incident: | 12:00 PM |
| Location of Incident: | ██ |
| Date of COPA Notification: | January 15, 2019 |
| Time of COPA Notification: | 3:40 PM |

On December 29, 2018, ██████████ attempted to access the rear of his residence, via the alley, in order to park his vehicle. ██████████ knowingly went the wrong way down a marked one-way street and was subsequently pulled over by Officer Mark Ritchey and Officer William Whalen (the Officers) for the violation. At the request of the officers, ██████████ began to exit his vehicle when he inadvertently shifted into drive and accelerated over a curb into a neighbor’s fence. ██████████ alleged that the officers used excessive force when they made physical contact with him after the crash and failed to provide him with medical attention. COPA’s investigation found the allegations against the officers to be not sustained and unfounded, respectively.

II. INVOLVED PARTIES

| | |
|-------------------------|--|
| Involved Officer #1: | Officer Mark Ritchey / Star # 14979 / Employee ID # ██████████ / DOA: 14 Dec 2012 / Unit: 213 / DOB: ██████████ 1984 / Male / White |
| Involved Officer #2: | Officer William Whalen / Star # 6620 / Employee ID # ██████████ / DOA: 19 Feb 2013 / Unit: 213 / DOB: 5 ██████████ 1985 / Male / White |
| Involved Individual #1: | ██████████ / DOB: ██████████ 1976 / Male / Black |

III. ALLEGATIONS

| Officer | Allegation | Finding / Recommendation |
|----------------------|---|--------------------------|
| Officer Mark Ritchey | 1. Used excessive force when you made physical contact with ██████████ without justification. | Not Sustained |
| | 2. Failed to provide medical attention to ██████████ | Unfounded |
| | | |

| | | |
|------------------------|---|---------------|
| Officer William Whalen | 1. Used excessive force when you made physical contact with [REDACTED] without justification. | Not Sustained |
| | 2. Failed to provide medical attention to [REDACTED] | Unfounded |

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 6 – Disobedience of an order or directive, whether written or oral.
- 2. Rule 11 – Incompetency or inefficiency in the performance of duty.

General Orders

- 1. G03-02 Use of Force – effective 16 Oct 2017
- 2. G04-01 Preliminary Investigations – effective 15 Oct 2017

V. INVESTIGATION¹

a. Interviews

COPA interviewed complainant [REDACTED] on January 15, 2019.² On the way home, [REDACTED] encountered an uninvolved police event blocking his usual path to his parking in the rear of his property. [REDACTED] knowingly turned the wrong way on a one-way street to get to the alley but was stopped by officers. Officers requested his license and insurance and while handing them over, one of the officers began to open the driver side door and asked [REDACTED] to get out. While his left foot was outside of the car on the pavement, [REDACTED] right foot was on the brake. [REDACTED] was attempting to put his car in park but the officer began to pull on his forearm. Because the officer was pulling on his forearm, [REDACTED] was unable to shift the car into park and his foot hit the accelerator resulting in the vehicle hitting a fence. [REDACTED] was not in the car when it struck the fence, but his left foot was injured in the process of being removed from the car.

Because [REDACTED] is half black and half white living in an area known for drug sales, he is frequently harassed by the police who assume he is looking for drugs. [REDACTED] admits to being fearful of the police because of previous encounters and is schizophrenic. After the crash, [REDACTED] believed that the officers were nice to him because they noticed a breathalyzer in the car and ascertained he had a pending a DUI case. [REDACTED] allowed officers to remove his personal items from the car prior to it being towed. [REDACTED] informed the officers that his leg was injured but an ambulance was never on scene. At the time the interview was conducted, [REDACTED] stated that his leg was still in pain.

COPA interviewed Officer Ritchey on March 13, 2020.³ Officer Ritchey was assigned with partner Officer Whalen to saturate a high crime area on the day of the alleged incident. The Officers were

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

² Att. 9

³ Att. 27 - Ritchey

driving westbound on a one-way street when they saw [REDACTED] vehicle driving eastbound in the opposite direction towards the alley. A traffic stop was initiated and [REDACTED] stopped on an angle facing north and at the entrance of the alley. [REDACTED] was informed of the reason for the stop, asked to provide his driver's license and insurance which Officer Ritchey began checking while seated in his vehicle's passenger seat. Suddenly, [REDACTED] vehicle lurched forward, narrowly missing Officer Whalen, and crashed into a neighbor's fence. While [REDACTED] vehicle was entangled in the fence, both Officers approached the driver's side. Despite there being damage to the driver's side door, [REDACTED] exited the vehicle and was detained by Officer Whalen

Once [REDACTED] was detained, he was placed into the rear of the Officers' vehicle. Officer Ritchey promptly requested an ambulance due to the nature of the incident. An ambulance arrived and evaluated [REDACTED] did not complain to Officer Ritchey of any injury or needing medical attention. After [REDACTED] was evaluated by CFD, he was cited and provided paperwork regarding the traffic crash. [REDACTED] vehicle was deemed undrivable and subsequently towed. When [REDACTED] was initially stopped, Officer Ritchey did not have any physical contact with him before the vehicle crashed into the fence.

COPA interviewed Officer Whalen on March 13, 2020.⁴ Officer Whalen with his partner were given a directed mission area to patrol. The Officers noticed [REDACTED] traveling the wrong way down a one-way street. While returning to their CPD vehicle to check [REDACTED] identification, Officer Whalen heard [REDACTED] vehicle's engine rev and abruptly accelerate. [REDACTED] vehicle crashed into a fence and became entangled in it in a neighbor's backyard. Officer Whalen approached the vehicle and ordered [REDACTED] to exit. [REDACTED] began to exit his vehicle and Officer Whalen grabbed his coat. Unaware of [REDACTED] intended actions, Officer Whalen grabbed his coat so that he could detain him with handcuffs. Officer Whalen stated that his grabbing of [REDACTED] coat would not require the submission of a TRR or any other paperwork.⁵

[REDACTED] was handcuffed and placed into their CPD vehicle until an ambulance arrived to evaluate him. [REDACTED] was released, evaluated by CFD personnel, and was issued a citation and provided traffic crash reports. [REDACTED] did not appear to be injured and did not tell Officer Whalen that he was injured. [REDACTED] asked if he could retrieve his vehicle but it was determined to be undrivable and towed.

b. Digital Evidence

Photographs of [REDACTED] foot injury were reviewed.⁶ Bruising of [REDACTED] foot is documented in the photographs.

c. Documentary Evidence

An **Illinois Traffic Crash Report** was reviewed⁷. Officer Whalen and Officer Ritchey observed [REDACTED] driving in the wrong direction on a one-way street and a traffic stop was initiated. While exiting the vehicle, [REDACTED] slipped hitting the gear shift into drive and accelerated into a fence. There were no signs of [REDACTED] being impaired, but officers did note that he walked with a limp which may have contributed to the accident. CFD ambulance provided on scene medical attention and the vehicle was towed.

⁴ Att. 27 - Whalen

⁵ Att. 27 – Whalen at 9:10

⁶ Att. 25

⁷ Att. 11

A **traffic citation** for ██████ was reviewed⁸. ██████ was cited by Officer Whalen for driving on a one-way street where signs were posted indicating the street designation.

A **vehicle tow report** from CPD was reviewed.⁹ The narrative states while the vehicle was being driven in the wrong direction on a one-way street, officers initiated a traffic stop. While stopped, the driver unintentionally accelerated and crashed into a fence rendering the vehicle undrivable.

An **OEMC event query** was reviewed.¹⁰ The remarks section of the query indicates that vehicle 4311B (the Officers assigned vehicle) requested an ambulance for a car that hit a fence. Notification of request was made to CFD.

A **Chicago Fire Department ambulance report** was reviewed.¹¹ Report indicates that CFD was requested to check ██████ for injuries who was involved in vehicle crash. ██████ was evaluated by paramedics. There were no visual signs of injury and ██████ had no complaints. CPD informed CFD personnel that ██████ jumped the curb and took down an iron fence.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct 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

⁸ Att. 12

⁹ Att. 10

¹⁰ Att. 14

¹¹ Att. 24

COPA finds the excessive force allegations against both officers are not sustained. Rule 6 prohibits Department members from the disobedience of an order or directive, whether written or oral. CPD policy defines force as “any physical contact by a Department member, either directly or through the use of equipment, to compel a subject’s compliance.”¹² Both Officers are alleged to have made physical contact with ██████ in an attempt to remove him from his vehicle when he was initially stopped. This physical contact resulted in ██████ acceleration into a neighbor’s fence. COPA found all witnesses to be credible in their recounting of the incident. Both officers denied that any physical contact was made with ██████ causing him to accelerate into the neighbor’s fence. Only after ██████ car was entangled on the neighbor’s fence did Officer Whalen recall any physical contact was made with ██████ Officer Whalen determined that it was necessary to physically detain ██████ because he was unsure of ██████ intended actions and the sudden acceleration of his vehicle during a traffic stop. There is no video that captures this occurrence, or independent witness. Accordingly, there is insufficient evidence to prove or disprove the allegations. COPA finds the excessive force allegations against both officers are **NOT SUSTAINED**.

COPA finds the allegations that both officers failed to provide medical attention to ██████ are unfounded. Both officers are alleged to have violated Rule 6 and Rule 11, incompetency or inefficiency in the performance of duty. CPD policy requires that Department members “immediately request appropriate medical aid for any injured person’.¹³ In ██████ statement to COPA, he alleged that he had an injury to his foot as a result of the incident and that he told the Officers of his injury. ██████ also denied being seen by CFD personnel and the presence of an ambulance. Reviewed reports refute ██████ allegations that the Officers failed to request medical attention. OEMC records indicate the request for medical assistance within approximately 1 minute of the officers report to dispatch of their initiating a traffic stop on ██████ It is further detailed in the acquired CFD Ambulance Report that ██████ was evaluated, denied injury, and declined transport to the hospital. COPA finds the allegations that both officers failed to provide medical attention to ██████ are therefore **UNFOUNDED**.

VIII. CONCLUSION

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

| Officer | Allegation | Finding / Recommendation |
|------------------------|---|--------------------------|
| Officer Mark Ritchey | 1. Used excessive force when you made physical contact with ██████ without justification. | Not Sustained |
| | 2. Failed to provide medical attention to ██████ | Unfounded |
| Officer William Whalen | 1. Used excessive force when you made physical contact with ██████ without justification. | Not Sustained |
| | 2. Failed to provide medical attention to ██████ | |

¹² Att. 30 – III. Use of Force – When Authorized. A. Definition of Force

¹³ Att. 31 - IV. Procedures: A. 1.

| | |
|--|-----------|
| | Unfounded |
|--|-----------|

Approved:



4/29/20

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

| | |
|------------------------------------|----------------|
| Squad#: | 2 |
| Investigator: | Anthony Wall |
| Supervising Investigator: | Bob Coleman |
| Deputy Chief Administrator: | Andrea Kersten |