

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 31, 2020
Time of Incident:	10:30 a.m.
Location of Incident:	2447 W. 63rd Street, Chicago IL, 60629 and ██████████ ██████████ Chicago IL, 60629
Date of COPA Notification:	June 10, 2020
Time of COPA Notification:	9:33 a.m.

On May 31, 2020, Complainant, ██████████ (“██████████” or “Complainant” or ██████████) was driving near 63rd Street and Campbell Avenue in her dark-blue van with her boyfriend, ██████████ (██████████). When ██████████ arrived in the vicinity of The Villa retail store, located on 2447 W. 63rd Street, the store was being looted by several people. ██████████ exited the van and sometime on or around 10:30 a.m., ██████████ turned into an alley between Campbell Avenue and Artesian Avenue. Officer Michael Mayhew (“Officer Mayhew”)¹ and Officer Tim Silder (“Officer Silder”),² riding in a gold-toned unmarked vehicle, stopped ██████████ van as she made a left into a parking lot adjacent to the alley. Officer Mayhew exited his vehicle and approached ██████████ van. Moments later, Officer Mayhew shattered the back passenger-side window of ██████████ van with his baton as ██████████ began to drive away. A description of ██████████ van was provided over radio dispatch. Officer Luis Alvarado (“Officer Alvarado”) observed a vehicle matching the description. He followed it until it stopped at ██████████ residence. ██████████ was then taken into custody. Officer Alvarado and Officer Mayhew separately search ██████████ van.

II. INVOLVED PARTIES

Involved Officer #1:	Michael Mayhew, Star No. 14138, Employee ID No. ██████████ ██████████ Date of Appointment: August 4, 1997, PO, Unit of Assignment, 008, DOB: ██████████ ██████████ 1966, Male, White
Involved Officer #2:	Luis Alvarado, Star No. 15180, Employee ID No. ██████████ Date of Appointment: September 27, 2018, PO, Unit of Assignment, 006, DOB: ██████████ ██████████ 1996, Male, Hispanic
Involved Individual #1:	██████████ DOB ██████████ ██████████ 1990, Female, White

¹ Officer Mayhew retired on January 15, 2022 after being served allegations and interviewed by COPA.

² Officer Silder retired on September 15, 2020. See att. 58.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Michael Mayhew	<p>It is alleged that on or about May 31, 2020, beginning at approximately 10:30 am, in the vicinity of 2447 W. 63rd Street and [REDACTED] you committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Spitting in the direction of [REDACTED] without justification. 2. Breaking the car window of [REDACTED] without justification. 3. Searching the vehicle of [REDACTED] without justification. 4. Failing to activate your BWC. 	<p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p> <p>Close Hold</p>
Officer Luis Alvarado	<p>It is alleged, that on or about May 31, 2020, at approximately 10:36 am, in the vicinity of [REDACTED] Ave., you committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Searching the vehicle of [REDACTED] without justification. 2. Failing to notify a supervisor and / or prepare a written report after receiving an allegation of misconduct. 3. Failing to properly secure [REDACTED] during transport. 	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

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 goals or bring discredits upon the Department.

3. Rule 6: Disobedience of an order or directive, whether written or oral.
4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. G02-01 Human Rights and Human Resources (effective October 5, 2017)
2. G08-01-02 Specific Responsibilities Regarding Allegations of Misconduct (effective May 4, 2018)

Uniform and Property

1. U02-01 Department Vehicles (effective February 29, 2020)

Special Orders

1. S03-14 Body Worn Cameras (effective April 30, 2018)
2. S04-13-09 Investigatory Stop System (effective July 10, 2017)

Federal Laws

1. U.S. Constitution, Amendment IV

State Laws

1. Illinois Constitution, Article 1, Section 6. Searches Seizures.
2. 50 ILCS 706/10
3. 625 ILCS 5/12-603.1

Municipal Codes

1. 9 MCC 76-180

V. INVESTIGATION³

a. Interviews

Complainant, Ms. [REDACTED] ([REDACTED] provided a statement to COPA via telephone on June 12, 2020.⁴ The following is a summary of her statement.

On May 31, 2020, [REDACTED] and [REDACTED] left her home at 10:15 a.m. to drive to a corner store near 6301 S. Artesian to purchase tobacco. While [REDACTED] was in the store, [REDACTED] entered

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ At the time of the statement, COPA offices were closed due to precautions relating to the Covid-19 pandemic.

a different store where looting was occurring.⁵ [REDACTED] exited the corner store, and, when she did not see [REDACTED] drove around the block twice. There were crowds of people in the area.

When [REDACTED] made a turn into an alley between Campbell Avenue and Artesian Avenue, she noticed a gold police car that had sirens on moving quickly behind her. [REDACTED] made a left into a nearby parking lot to get out of the way. The gold car blocked [REDACTED] in the parking lot on the passenger-side of her car. Officer Mayhew exited the gold car and leaned back with the intention of spitting on [REDACTED]. [REDACTED] stated that the Officer Mayhew's spit landed on her vehicle. [REDACTED] began to drive off and Officer Mayhew knocked out [REDACTED] back passenger side window. Frightened, [REDACTED] drove to 62nd Street and Artesian Avenue where she parked, exited her car, and went to locate [REDACTED]. When she did, [REDACTED] placed clothes and shoes in [REDACTED] vehicle. [REDACTED] and [REDACTED] then drove to [REDACTED] home with the clothes and shoes in her car.

As the pair was exiting [REDACTED] car and heading into the house, [REDACTED] noticed Officer Alvarado. Officer Alvarado began calling to her. He then walked up [REDACTED] front stairs and placed a handcuff on [REDACTED] left wrist as she entered her home. [REDACTED] dog began to come out of the house through the partially opened door, so Officer Alvarado released [REDACTED] and she went into the house. While in the house, [REDACTED] told her parents that the police were chasing her and that she did not know what they wanted.

[REDACTED] came out of her house and asked Officer Alvarado what was going on. He informed her that she was being detained. Officer Alvarado handcuffed [REDACTED] and let her continue to smoke her cigarette. Officer Alvarado then sat [REDACTED] in the back of his police car. [REDACTED] sister and her daughter came out of the house while [REDACTED] was in custody. [REDACTED] parents were sitting on the porch.

[REDACTED] was taken to the 8th District lock-up where she was told she was being charged with looting and that she was on video looting The Villa store. [REDACTED] stated that she never set foot in the store. She was told that the arresting officer was going to come to speak to her, but no one came. [REDACTED] stated that the arresting officer was not the officer who spit on her and knocked out her window. While at the 8th District station, [REDACTED] heard Officer Mayhew state that she was lucky he did not charge [REDACTED] with attempted murder because she almost ran over his foot.

[REDACTED] was held at the 8th District station for two to three hours. When [REDACTED] arrived home, her family told her that the police placed an impound sticker on her car. The officers that drove the gold car told [REDACTED] mom and dad that no one could touch the vehicle and if they did, they would be arrested. The officers also took pictures of property in the vehicle on cell phones and removed the property from the vehicle. At no time was [REDACTED] asked for permission to search her car. When [REDACTED] called the 8th District to follow-up on the impound, she was told that the vehicle was never impounded. No one came to impound the vehicle. [REDACTED] stated that when she returned to her vehicle everything inside was gone and her property was not inventoried.

⁵ This incident occurred during a period of protesting related to the murder of George Floyd. Looting was occurring throughout the city during this time.

██████████ provided a witness statement to COPA via teleconference on July 16, 2020, at 11:00 a.m.⁶ The following is a summary of his statement.

██████████ is the boyfriend of ██████████ and was with her on the day of the incident at her home. ██████████ stated that as he and ██████████ were walking up the stairs of ██████████ home, Officer Alvarado pulled up behind them. ██████████ expressed surprise that the officers approached ██████████ and walked past him because ██████████ had not participated in looting and ██████████ did participate. Officer Alvarado told ██████████ that ██████████ was involved in looting. Officer Alvarado asked for ██████████ ID and the keys to her car. ██████████ provided ██████████ ID but could not find the car keys. ██████████ said that Officer Alvarado never approached ██████████ car. ██████████ tried to explain to Officer Alvarado that he was the one looting, but Officer Alvarado arrested ██████████ anyway and drove off with her.

██████████ stated that roughly ten to twenty minutes after Alvarado left, two officers in a gold Ford police car arrived. ██████████ stated that the officers took pictures with cell phones. The officers removed items from the car and put an orange impound sticker on the car. The items removed included looted items such clothing and shoes, as well as items ██████████ stated were in the car before the looting, such as a bag of tools some personal clothing items. The officers then told ██████████ and ██████████ parents not to touch the car. ██████████ stated that when ██████████ called inquiring about the tow, she was told that the tow was not in the system.

Earlier that day, ██████████ and ██████████ went to a store near 63rd Street and Campbell Avenue. ██████████ and ██████████ became separated when ██████████ went looting. When ██████████ and ██████████ reunited, ██████████ told him that while he was inside stores looting, she was in a parking lot off Campbell Street near the Villa store when officers in a gold truck cut her car off, came at her in an aggressive manner and spit at her. She described the officers as two white men. ██████████ stated that ██████████ was frightened and that one of the officers broke her window. ██████████ said that ██████████ stated that the officer broke her window with a baton and ██████████ drove off. ██████████ stated that there was broken glass in the car from the broken window.

██████████ (██████████) provided a witness statement to COPA via teleconference on July 30, 2020, at 11:04 a.m.⁷ The following is a summary of his statement.

██████████ is the father of the ██████████⁸ He lives with the ██████████ and other family members. The morning of the incident, ██████████ told ██████████ that people were looting, and that she was going to ride around to see what was going on. When ██████████ returned to the house, she came into ██████████ room and told him that the police were trying to arrest her. ██████████ told her to go outside and see what the police wanted because he did not want the police kicking in his door. When ██████████ and his wife went outside, ██████████ saw one patrol car that was parked behind the ██████████ car and Officer Alvarado. ██████████ and his wife sat on the bench on their porch and observed what was occurring, but they did not speak to Officer Alvarado.

⁶ Att. 44.

⁷ Att. 49.

⁸ For the sake of clarity, ██████████ will be referenced as “the Complainant” in the summary of ██████████ statement.

While outside, ██████ observed that the back, passenger-side window of ██████ car was broken. He recalled that prior to ██████ leaving that morning, the back, passenger-side window was intact. ██████ stated that right before Officer Alvarado left, Officer Mayhew and Officer Silder, pulled up in a taupe colored, unmarked SUV. A third member, who ██████ believed to be a sergeant because he was wearing a white shirt, pulled up as well in a marked vehicle. ██████ described the sergeant as an older Italian-looking man with glasses. ██████ stated Officer Alvarado did not do anything before the other officers arrived and that he did not observe Officer Alvarado go near ██████ vehicle. After the other officers arrived, Officer Alvarado placed ██████ in custody and drove away.

The officers, who arrived after Officer Alvarado, looked over items inside of ██████ car, and the sergeant took photos. The officers began pulling items, which appeared to be shoes and clothing, out of the car and threw them in the back of their police car. ██████ believed that the sergeant put an orange sticker on the window. ██████ was told by the officers not to move the car, and then the officers left. The police never came back to get the car. An hour later, ██████ came home, released on bond. She told ██████ that the officers were supposed to give her impound paperwork and they did not. ██████ also told ██████ that she was on 63rd Street and Artesian Avenue and people were looting stores. A tall officer, who was always harassing her, blocked ██████ in an alley and spit on her through the driver-side window. She became scared and began to drive away when the officer used a club to knock out the back passenger-side window.

██████ told COPA investigators that Officer Mayhew had previous run-ins with the Complainant and, in the past, pulled her over two to three times a week. ██████ believed ██████ was being harassed because she is white and has a black boyfriend. ██████ also stated that when ██████ was stopped, the officers messed up her car.

Officer Luis Alvarado provided a statement to COPA on May 19, 2021, at COPA offices.⁹ Officer Alvarado told COPA investigators that he had reviewed reports relating to the incident in preparation for the statement. The following is a summary of his statement.

Officer Alvarado was on duty, and working without a partner, during the time of the incident. Over the radio, Officer Alvarado heard that a woman was seen taking items from a store around 63rd Street and Artesian Avenue and loading them into a car. The vehicle had been caught on camera and a description of the vehicle was provided. It was also broadcast that two officers confronted the vehicle, but the vehicle sped off. The vehicle's license plate and the address where the vehicle was registered was also provided in the flash message. The address provided was on Officer Alvarado's beat, so he kept an eye out for the described vehicle.

Officer Alvarado saw the vehicle drive westbound on 64th Street and turn northbound onto Kilbourn Avenue. Officer Alvarado turned his lights on and attempted to pull the vehicle over. The vehicle pulled into a parking space and ██████ exited, walking rapidly toward a house. Officer Alvarado also saw a black male get out of the passenger seat of the car.

He followed ██████, grabbed one of her arms and attempted to put a handcuff on her while ██████ fell in toward her house, pulling away from Officer Alvarado. Officer Alvarado heard a

⁹ Att. 59.

dog inside the home, and because he did not want to get bitten, he let [REDACTED] go into the house. [REDACTED] came back outside, and Officer Alvarado handcuffed her and put her in his vehicle. Officer Alvarado stated that [REDACTED] was not threatening. He remembers speaking with [REDACTED] but did not recall the content of their conversation. He then asked, over the radio, whether the officer from whom [REDACTED] drove away, wished to sign complaints. The officer responded that he did. Officer Alvarado also looked in [REDACTED] vehicle and saw a lot of shoe boxes and clothes that were still tagged. Officer Alvarado denied that he searched [REDACTED] vehicle without justification. He stated that he decided to look in the car because the car was part of a crime that [REDACTED] was seen committing based on the flash message. Officer Alvarado did not ask [REDACTED] permission to search, and [REDACTED] did not provide consent.

Officer Alvarado transported [REDACTED] to the 8th District where he met with the other officers to complete the arrest and case reports.

After reviewing his BWC, Officer Alvarado admitted that he failed to secure [REDACTED] seatbelt and that he failed to report her complaint of misconduct. Officer Alvarado said his understanding was that if a civilian complained about the misconduct of an officer, an officer had an obligation to let a supervisor know and that a civilian did not have to know the name of an officer before a report to a supervisor could be made. He recalled that [REDACTED] told him that there were two white officers in a gold car and one of them spit on her and broke her window. Officer Alvarado considered an officer deliberately spitting on a civilian to be misconduct, but whether it was acceptable for an officer to break a car window depended on the situation. Officer Alvarado gave the example of the action being acceptable if an officer needed to get in a vehicle for someone's safety. Officer Alvarado said that he did not secure [REDACTED] in the vehicle but did not recall why not. He stated that he usually put a seatbelt on arrestee. An example of a circumstances where he would not do so included when an arrestee was being difficult or trying to cause an officer harm. Officer Alvarado stated that after watching the BWC, he would have taken [REDACTED] complaint more seriously and would have secured her seatbelt.

Officer Michael Mayhew provided a statement to COPA at COPA offices on July 16, 2021.¹⁰ Prior to providing his statement, Officer Mayhew reviewed the original case incident report and the arrest report relating to the incident. Officer Mayhew reported that he also spoke to his partner, Officer Silder, about the incident prior to providing his statement to see if his partner recalled the incident. The following is a summary of his statement.

Officer Mayhew and Officer Silder were on duty the day of the incident. Included in the equipment he was wearing was a baton and a body worn camera that was functional. Officer Mayhew was in an unmarked tactical vehicle that he believed to be a tan gold color.

Officer Mayhew received a call that there was a dark colored van near the vicinity of 2447 W. 63rd Street that was loading stolen merchandise through the window of The Villa clothing and shoe store. Officer Mayhew and Officer Silder had previously been at the location but returned when they received the call. When they arrived at The Villa, Officer Mayhew stated that he saw people going in and out of the store with merchandise. He recalled that there were hundreds of people looting around 63rd Street at that time. Officer Mayhew and Officer Silder were the only

¹⁰ Att. 66.

officers present when they arrived. Officer Mayhew said that during this time, people were throwing bricks at his vehicle.

After driving around the block and going through an alley, Officer Mayhew observed the van driven by [REDACTED] in a vacant lot at the back of the store. [REDACTED] was the only person in the vehicle. Officer Mayhew described [REDACTED] as a white female, in her mid-30s, with blond hair. [REDACTED] was stopped in the lot, and Officer Mayhew pulled his vehicle up to her vehicle. Officer Mayhew and Officer Silder then exited their vehicle. Officer Mayhew stated that he did not activate his BWC as he exited the vehicle.

Officer Mayhew directed [REDACTED] several times to turn her vehicle off, at which point [REDACTED] attempted to go around him. There was no conversation with [REDACTED] other than Officer Mayhew's direction to turn her vehicle off. Officer Mayhew denied spitting at [REDACTED] and stated that [REDACTED] stayed still for only seconds before pulling off. As [REDACTED] drove off, Officer Mayhew said he was standing on the driver's side of the vehicle. Officer Mayhew stated that he could not recall if there was any damage to [REDACTED] vehicle when he initially stopped her, and he could not see inside of her vehicle. Officer Mayhew said he was holding his baton when he was interacting with [REDACTED] and that he unintentionally broke her window as she was leaving. He did not recall how it happened. Officer Mayhew stated that he would like to think it was a self-defense move.

Officer Mayhew and Officer Silder called out the license plate and provided a description after [REDACTED] left. Officer Mayhew stated that the SST¹¹ camera room already had a description. Officer Mayhew and Officer Silder reported that [REDACTED] vehicle drove away from them and was moving westbound on 63rd street. Officer Mayhew stated he was in fear of being hit by the vehicle.

Officer Mayhew and Officer Silder arrived at [REDACTED] when another officer, now known to be Officer Alvarado, found [REDACTED] vehicle at that location. Officer Alvarado inquired whether the person was to be arrested. Officer Mayhew and Officer Silder replied that if it was the lady that was driving the vehicle they encountered, they wanted her arrested and would sign the complaints. Officer Mayhew stated that when he arrived, [REDACTED] was in custody in the beat vehicle which was still on scene. In addition to the officers, there were a couple of people on the porch at the address. Officer Mayhew stated that he briefly spoke to Officer Alvarado. Officer Mayhew observed [REDACTED] vehicle on the scene. He stated that a woman approached him about getting objects out of the vehicle if they were going to tow it, and he told the woman, that when the officers were done, that would be fine. Officer Mayhew observed tagged clothing and shoes in [REDACTED] vehicle. The items were clearly visible. Officer Mayhew and Officer Silder entered the vehicle and searched, removing all the tagged items. Officer Mayhew stated that they inventoried everything taken from the vehicle. Based on information from the SST Room, a person was observed loading items into the vehicle. Officer Mayhew stated that the vehicle should have been impounded but was not due to the hurried nature of the day. Officer Mayhew denied that he searched the vehicle without justification.

¹¹ Shot Spotter Technology

Officer Mayhew stated that it was a crazy day but that the BWC deactivation and the breaking of the window with the baton were not intentional. He added that he was going to EAP¹² and was retiring in six months.

b. Digital Evidence

The **body worn camera (“BWC”) of Officer Alvarado¹³** shows ██████ attempting to enter the front door of her home while Officer Alvarado attempts to handcuff her. ██████ is also in the door frame. Officer Alvarado places a handcuff on ██████ left wrist. A dog appears to be attempting to get out of the house and Officer Alvarado releases the handcuffs. ██████ shuts the door and Officer Alvarado and ██████ remain outside. A few minutes later, ██████ steps out of the house smoking a cigarette. Officer Alvarado tells her that she is being detained and places ██████ in handcuffs with her arms in the front. Officer Alvarado guides ██████ to the back seat of his vehicle and leaves the door open. He asks ██████ repeatedly for the keys to her vehicle. She replies that she does not know where they are and that they are either in her car or in the house. Officer Alvarado asks ██████ to get the keys.

Officer Alvarado asks ██████ whether she was on “Artesian,” referring to the area where the looting of The Villa took place. ██████ says that she was there but claims that she was waiting for ██████ who went to a nearby store to pick up some cigarettes for her. She also tells Officer Alvarado that there were items on the ground that she picked up and put in her van. ██████ said that she went to the alley looking for ██████ but there were a lot of people, and she couldn’t get through. ██████ said that a cop then came “flying” through the alley in a gold truck and that she did not know what he was doing so she went the other way. She tells Officer Alvarado that the officer in the gold truck spit at her and “knocked her back window out.”¹⁴ ██████ stated she then “took off” and came home. ██████ denies looting. She asks Officer Alvarado, “So what happens with the police spitting on me and breaking my windows out?”¹⁵ Officer Alvarado replied that he didn’t know anything about that. ██████ tells Officer Alvarado that a gold truck carrying two white officers were involved.

Officer Alvarado runs ██████ identification. He then exits his vehicle and goes to ██████ van which is parked directly in front of his vehicle. The front passenger window is partially rolled down and Officer Alvarado sticks his hand inside to unlock the door. A missing back passenger window is visible. Inside the van, merchandise is visibly stacked on the seats. Officer Alvarado reaches into the broken back window as he walks back to his vehicle. Back in his vehicle, Officer Alvarado asks ██████ whether she got all the merchandise from the ground. ██████ replies that people she did not know opened her door and put things in her car. When ██████ asks if she is going to be let go, Officer Alvarado replies that she will not, and that ██████ is being taken in for looting. ██████ attempts to convince Officer Alvarado to not take ██████ in. Officer Alvarado does not agree to let ██████ go and drives off with ██████ in custody.

¹² Employee Assistance Program

¹³ Att. 68.

¹⁴ Att. 3, T15:36:03Z.

¹⁵ Att. 3, T15:37:40Z.

As Officer Alvarado drives ██████ to the station, she asks again about the officers breaking her window and spitting on her. Officer Alvarado tells her that he does not know who she is talking about and that police officers do not drive in a gold car.¹⁶ A few moments later, ██████ asks again what happens with the police who broke her window and spit on her. Officer Alvarado replies that he does not know who broke ██████ windows and responds that nothing can be done unless ██████ knows the officer who did it.¹⁷

A **POD video**¹⁸ recorded on the day of the incident shows a crowd in front of The Villa retail store. The store's display windows are broken. People are entering the store through the broken windows and exiting the same way, holding merchandise. ██████ can be seen standing in front of the store, with blond hair, wearing a black hoody and black sweatpants.¹⁹ At one point ██████ picks up a hammer from the ground in front of the store and appears to help clear remaining broken glass from around the storefront windowpane.²⁰ A dark blue van is parked at the curb in front of the store, facing eastbound. ██████ receives a large box from someone inside the store and loads it into the vehicle.²¹ ██████ has a heated discussion with ██████ who is identifiable from BWC footage. She then enters the van alone and drives off with the merchandise from the store inside the van. As ██████ leaves, damage to the middle passenger-side window, which is covered with black plastic, is visible.²² The back passenger-side window is intact.²³ The license plate of the van is visible. ██████ makes a U-turn and then heads southbound on Campbell Street. Minutes later, ██████ returns in the van to The Villa storefront, pulls over, and appears to look for someone. This time, the back passenger-side window is shattered.²⁴ Officer Mayhew and Officer Silder pull up to The Villa store in a gold-toned unmarked vehicle about ten minutes after ██████ leaves. They clear people from around the store.

Audio of OEMC dispatch radio from the incident records conversations between dispatch and officers relating to ██████²⁵ A description of a minivan with the license plate, ██████ and a description of its driver is provided.²⁶ The driver is described as a fat, female Hispanic, between the ages of 25 and 30 with dyed blond hair. Dispatch confirms that the license plate was reported as being for a 2005 Chrysler van registered to ██████ at ██████²⁷ Later, the audio records Unit 865 E, Officer Mayhew's unit, stating that he would sign a complaint against ██████

¹⁶ Att. 3, T15:45:29Z.

¹⁷ Att. 3, T15:46:25Z.

¹⁸ Att. 68.

¹⁹ Att. 68, 24 minutes, and 14 seconds.

²⁰ Att. 68, 24 minutes, and 41 seconds.

²¹ Att. 68, 25 minutes, and 49 seconds.

²² Att. 68, 29 minutes, and 26 seconds.

²³ Att. 68, 29 minutes, and 25 seconds.

²⁴ Att. 68, 31 minutes, and 28 seconds.

²⁵ Att. 7, Z6 0945-110.

²⁶ Att. 7, Z6 0945-110 at 33 minutes and 57 seconds.

²⁷ Att. 7, Z6 0945-110 at 37 minutes.

c. Physical Evidence

Photos submitted to COPA by ██████ depict a damaged, dark blue, van. Two photos show window glass missing from the rear passenger-side window.²⁸ Two other photos show dark glass inside the vehicle, just under the rear, passenger-side window.²⁹

d. Documentary Evidence

An **Arrest Report**³⁰ related to the incident states that ██████ was charged with theft. Officer Mayhew and Officer Silder are listed as the arresting officers. The narrative in the report states that the reporting officers responded to a looting in progress at The Villa sneaker store and observed several people running from the inside of the store, carrying shoes. It further states,

“r/o’s then responded to call from the SDSC room related that a black van with the lic plate ██████ which a leads results came back to ██████, registered to listed offender. r/o’s responded to that location and observed listed subject in that vehicle r/o’s were enroute to Kilbourn when BT813 related that the listed offender was located and in custody, with the vehicle and proceeds parked outside. r/os’s relocated to said house vehicle on scene r/o’s recovered a large amount of proceeds taken from the store...”

A black, 2005 Chrysler Grand Voyager is listed as impounded.

An **Original Case Incident Report (OCIR)**³¹ contains a narrative that is largely consistent with that in the arrest report. The OCIR describes the vehicle involved in the incident as a “dark blue Chrysler minivan.”

A **Case Supplementary Report (“CSR”)**³² relating to the incident lists Officer Mayhew as the complainant/victim and ██████ as the offender. The detective narrative summary included in the report is consistent with the narrative in the arrest report.

An **Inventory Report**³³ lists “4 Bags of Miscellaneous Clothing” retrieved from ██████ vehicle as inventoried under Inventory No. ██████

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;

²⁸ Atts. 47 and 57.

²⁹ Atts. 45 and 46.

³⁰ Att. 20.

³¹ Att. 30.

³² Att. 39.

³³ See also att. 37.

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. 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

a. Officer Alvarado's and Officer Mayhew's searches of ██████'s vehicle were justified.

An unjustified search of ██████ vehicle would be a violation of the Fourth Amendment of U.S. Constitution and Department Rule 1, Rule 2, and Rule 6. "The fourth amendment guarantees: '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.' U.S. Const., amend. IV; accord Ill. Const.1970, art. I, § 6." Probable cause, as defined in Department policy, is "where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it."³⁴

Here, clear and convincing evidence establishes that both Officer Alvarado and Officer Mayhew had probable cause to search the vehicle. ██████ and the vehicle, including its license plate, were clearly identified on POD video in front of The Villa store when looting was occurring. Descriptions of the vehicle, its license plate, and ██████ were provided over the radio and Officer Alvarado heard the description prior to approaching the vehicle. Officer Mayhew previously stopped the vehicle near the looting. Also, ██████ admitted to Officer Alvarado that she was present when the looting occurred and that she put merchandise, that she claimed to have found on the ground in front of the store, in her vehicle. Merchandise from the store was in plain view inside of the vehicle. COPA finds the allegations against Officer Alvarado to be **Exonerated** with

³⁴ S04-13-09(II)(D).

respect to ██████ allegations relating to the search of her vehicle. Due to Officer Mayhew's employment status with the Department, the allegations against him are to be placed in a **Close Hold** status.

b. Officer Alvarado failed to properly secure ██████ in his vehicle.

Department Directive³⁵ references Illinois law³⁶ and the Chicago Municipal Code³⁷ which require drivers and passengers of motor vehicles being operated on the public way to be secured by safety seatbelts. Failure to follow to follow this requirement is a violation of Rule 1 and Rule 6.

BWC video shows that Officer Alvarado did not fasten a handcuffed ██████ into a seatbelt in his vehicle. The video also indicates that no extenuating circumstances existed that would exempt Officer Alvarado from having to meet the safety seatbelt requirement. Officer Alvarado admitted that he failed to secure ██████ seatbelt and did not provide a basis for exemption from the seatbelt requirement. COPA finds that this allegation is **Sustained**.

c. Officer Alvarado failed to take appropriate action after receiving multiple complaints from ██████

When a member receives an allegation of misconduct, that member must immediately notify a supervisor and prepare a written report to his or her unit commanding officer.³⁸ Failure to follow these requirements is a violation of Rule 6. ██████ claim that she complained to Officer Alvarado about Officer Mayhew's misconduct is supported by the record. BWC video captures ██████ complaining to Officer Alvarado about Officer Mayhew's alleged actions multiple times. At one point, Officer Alvarado erroneously tells ██████ that she would have to know the officer's name before her issues could be addressed. Officer Alvarado acknowledged to COPA that that was not the case. He also admitted that he did not report ██████ complaint of an officer spitting and breaking her car window to a supervisor and that in retrospect he should have taken ██████ complaints of misconduct more seriously. This allegation is **Sustained**.

d. Officer Mayhew broke a window in ██████ vehicle, without justification.

Destroying the property of a civilian without justification runs afoul of Department policy requiring members to behave in a professional manner and to safeguard life and property.³⁹ It is therefore the type of behavior that violates Rule 2 and Rule 6. Officer Mayhew admits to breaking a window in ██████ vehicle with his baton. He stated that it was not his intention to break the window, but he could not recall what happened. Officer Mayhew's professed hope that he broke the window out of self-defense, does not provide justification for his action. Due to Officer Mayhew's employment status with the Department, the allegations against him are to be placed in a **Close Hold** status.

³⁵ U02-01 (IV)(A).

³⁶ 625 ILCS 5/12-303.1.

³⁷ 9 MCC 76-180.

³⁸ G08-01-02 (II)(B)(1).

³⁹ G02-01(III)(B).

e. There is insufficient evidence to support that Officer Mayhew spat in the direction of ██████

Deliberately spitting in the direction of a citizen is disrespectful and undermines Department goals of respecting and protecting human rights.⁴⁰ Thus, if Officer Mayhew spat in the direction of ██████ he would be in violation of Rule 6 and Rule 8. However, unlike the case with ██████ broken vehicle window, there is little evidence here supporting ██████ claim that Officer Mayhew spat in her direction.

As a preliminary matter, ██████ credibility is compromised by her dishonesty regarding her participation in the looting of The Villa store. Verifiable POD video evidence contradicts many of the statements ██████ made to Officer Alvarado and to COPA with respect to her actions. Also, Officer Mayhew denies spitting in the direction of ██████ And, while Officer Mayhew's breaking of ██████ vehicle window is indicative of the sort of behavior that could be considered consistent with spitting, his admissions with respect to his other actions enhance his credibility with respect to this allegation. Due to Officer Mayhew's employment status with the Department, the allegations against him are to be placed in a **Close Hold** status.

f. Officer Mayhew failed to activate his BWC.

Illinois law and Special Order S03-14 (III)(A)(2) require officers to activate their body-worn cameras "at the beginning of an incident" and require that the cameras "record the entire incident for all law enforcement related activity."⁴¹ Failure to follow to follow these requirements violates Rule 1 and Rule 6.

A traffic stop, like the one Officer Mayhew performed with ██████ is a law enforcement related activity. Officer Mayhew stated that at the time of the incident, he was wearing his BWC and that it was functioning. He admits that when he exited his vehicle to speak with ██████ during the stop, he did not activate his BWC but states that the lapse was unintentional. Due to Officer Mayhew's employment status with the Department, the allegations against him are to be placed in a **Close Hold** status.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Michael Mayhew

i. Complimentary and Disciplinary History

Officer Michael Mayhew has been a member of the Chicago Police Department since August 4, 1997. Since that time, he has received one Crime Reduction Ribbon; two Crime Reduction Awards; four Attendance Recognition Awards; three Complimentary Letters; two Department Commendations; one hundred and forty-seven Honorable Mentions; one Honorable

⁴⁰ G02-01(III)(A).

⁴¹ S03-14 (III)(A)(2).

Mention Ribbon Award; one Life Saving Award; one Military Service Award; one NATO Summit Service Award; one Presidential Election Deployment Award; one Problem Solving Award; and one Superintendent Award of Valor. Officer Mayhew was disciplined on September 23, 2019, for Unnecessary Display of Weapon during an off-duty incident that occurred on October 7, 2017, for which he received a 5-day Suspension.

ii. Recommended Penalty

Due to Officer Mayhew’s employment status with the Department, the allegations against him are to be placed in a **Close Hold** status.

b. Officer Luis Alvarado

i. Complimentary and Disciplinary History

Officer Alvarado has been a member of the Chicago Police Department since September 27, 2018. Since that time, he has received one Crime Reduction Award, one Attendance Award, one Life Saving Award, and eight Honorable Mentions. He has no disciplinary history.

ii. Recommended Penalty

COPA recommends that that Officer Luis Alvarado receive a 10-day Suspension. COPA has considered Officer Alvarado’s complimentary history, as well as his lack of disciplinary history, in mitigation. Officer Alvarado acknowledged that he failed to secure [REDACTED] in a safety belt when he was transporting her to the station. He also admitted that he did not notify a supervisor or prepare a report regarding [REDACTED] allegation of misconduct. COPA appreciates Officer Alvarado’s recognition that he should have taken [REDACTED] allegations more seriously. COPA also recognizes the importance of ensuring that allegations of misconduct are reported, so they can be thoroughly investigated. Failure to report allegations of misconduct, especially by police officers, undermines public trust in the Department. For the foregoing reasons, COPA recommends a 10-day Suspension.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Investigator

4/28/22

Date