



Log # 2019-0004455

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On November 1, 2019, at approximately 11:50 pm., Lieutenant Nari N. Haro, #347, of the 11<sup>th</sup> District notified the Crime Prevention and Information Center (CPIC) that a complainant, ██████████ who had been arrested earlier that evening, alleged that he had been beaten by a black male in the district lockup. Lt. Haro found video evidence of a physical altercation, although it was incomplete. Lt. Haro reported that Detention Aide Andrew McGuire was the only black male observed on the videos at the time of the incident. Lt. Haro alleged that Det. Aide McGuire had used excessive force, failed to notify a supervisor of the use of force incident and failed to complete necessary reports. Upon review of the evidence, COPA served allegations that Det. Aide McGuire engaged in an unjustified physical altercation with ██████████ failed to notify a supervisor in the District station about the altercation; and failed to document the altercation by completing a Tactical Response Report. Following its investigation, COPA reached Not Sustained findings regarding the physical altercation and supervisor notification allegations and a Sustained finding regarding failure to complete a Tactical Response Report.

### II. SUMMARY OF EVIDENCE<sup>2</sup>

In her **Initiation Report**,<sup>3</sup> Lt. Haro said ██████████ informed her of his allegation while she was in the lockup on an unrelated matter. ██████████ stopped her and showed her his right wrist, which was swollen and bruised. ██████████ also said his right arm was numb. Lt. Haro said the only black male assigned to the lockup at the time of the incident was Det. Aide McGuire, and he was the only black male observed on the POD videos at that same time.

Lt. Haro added that she researched four POD lockup videos and found a use of force incident at approximately 7:30 pm. A physical altercation occurred, but because the video was not complete, Lt. Haro said it was unclear what transpired or what prompted the incident, much of it occurring out of camera view. Lt. Haro was unable to interview involved personnel because they were gone when she discovered the incident.

Lt. Haro completed a **Report of Extraordinary or Unusual Occurrences**<sup>4</sup> that included already-summarized information. Lt. Haro indicated she was not notified of the lockup incident by Det. Aide McGuire because under “Recommendations to prevent future occurrences,” she

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<sup>1</sup> Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from different sources, including POD camera videos and Chicago Police Department (CPD) reports.

<sup>3</sup> Att. 1.

<sup>4</sup> Att. 2.

wrote, “Notify R/Lt of any and all use of force incidents. Complete necessary reports such as TRR’s.”

The **General Order**<sup>5</sup> entitled, “Incidents Requiring The Completion of a Tactical Response Report,” G03-02-02, III, A, 1, indicated a TRR was to be completed when use of force was used involving “the active resistance of a subject.”

The **Special Order**<sup>6</sup> entitled, “Detention Facilities General Procedures and Responsibilities,” S06-01-02, III, B, 38, indicated lockup personnel were to “notify their DSS [District Station Supervisor] of any unusual occurrences in the lockup including but not limited to situations in which the arrestee may be exhibiting signs of medical distress.”

**Arrest Report**<sup>7</sup> indicated that he was arrested on November 1, 2019, at 6:08 pm at 4010 W. Congress Parkway for felony possession of a controlled substance and soliciting unlawful business. Arresting Officers reported in the narrative that █████ yelled, “Rocks, rocks,”<sup>8</sup> while two females walked by him. Officers found two small Ziploc bags of suspect crack cocaine in █████ pants pocket. Officers transported █████ to the 11<sup>th</sup> District station. The narrative also indicated that █████ was eligible for the drug deferment program. The Lockup Keeper Comments section indicated that Det. Aide McGuire noted at 7:36 pm that █████ refused to follow lockup personnel and became combative, and he could not be fingerprinted and photographed. The Movement Log indicated █████ was transported to St. Anthony Hospital<sup>9</sup> because his arm hurt. █████ was medically cleared and returned to the 11<sup>th</sup> District lockup at 3:55 am on November 2, 2019. Under Watch Commander Comments, Lieutenant Francisca Vergara, #698, reported that █████ could not be part of the diversion program because he refused to be printed. The Arrest Report indicated that █████ was 6 feet tall, 250 pounds.

A **Crime Scene Processing Report**<sup>10</sup> indicated that when Evidence Technician Hermogene Del Toro Jr. went to Stroger Hospital at approximately 1:28 am on November 2, 2019, to photograph █████ refused to allow him to photograph him.

**No Tactical Response Report**<sup>11</sup> completed by Det. Aide McGuire or other officers involved in the incident was located for dates between November 1-6, 2019.

The **Case Summary from the Cook County Circuit Court Clerk’s office**<sup>12</sup> indicated that the charges against █████ were dismissed at the Skokie courthouse on December 11, 2019.

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<sup>5</sup> Att. 38.

<sup>6</sup> Att. 43

<sup>7</sup> Att. 3.

<sup>8</sup> The Arrest Report narrative said “rocks” refers to crack cocaine.

<sup>9</sup> Later corrected to Stroger Hospital.

<sup>10</sup> Att. 8.

<sup>11</sup> Att. 33.

<sup>12</sup> Att. 37.

There was **no response to letters** sent to [REDACTED] address.<sup>13</sup> [REDACTED] medical records were not available from Stroger Hospital without [REDACTED] consent.<sup>14</sup> On June 15, 2023, COPA contacted the Cook County Medical Examiner's Office and learned that, on June 23, 2021, a male with the same name and birthdate as the subject [REDACTED] had been found dead of an accidental drug overdose on the sidewalk at 4000 W. Grand Ave.<sup>15</sup>

Four **POD cameras** that monitored the male lockup at the 11<sup>th</sup> District station recorded activity related to [REDACTED]. The cameras do not record audio. Video from **POD 8863**<sup>16</sup> depicted [REDACTED] entering the lockup processing area and then shaking his fist before moving out of camera range. Video from **POD 8864**<sup>17</sup> showed [REDACTED] waving his fists in the lockup processing area, followed by officers moving toward and then away from where [REDACTED] was located (he moves out of camera range). Video from **POD 8857**<sup>18</sup> depicted [REDACTED] being escorted near a holding cell by Det. Aide McGuire and other officers. [REDACTED] appeared to push Det. Aide McGuire, who pushed back and struggled with [REDACTED]. Det. Aide McGuire at one point placed his right arm on the right side of [REDACTED] jaw area before forcing him down, along with other officers who were involved in the struggle. Det. Aide McGuire's arm did not appear to touch the front of [REDACTED] neck. The officers appeared to put [REDACTED] onto the floor, although the officers and [REDACTED] moved out of camera range, and most of the activity was not visible.

**POD 8859**<sup>19</sup> captured activity outside and inside Cell #1 in Cell Block G. This video depicted Det. Aide McGuire pulling [REDACTED] who was handcuffed and appeared to be talking, along the floor into Cell #1. Other officers were with Det. Aide McGuire as he shut Cell #1 door, and they all left the cell block. As the video continued, [REDACTED] sat up and seemed to be talking or shouting. He then lay on the cell floor. Det. Aide McGuire entered the cell block and seemed to look at him, and he then left. At 53:12, Det. Aide McGuire and other officers entered the cell block, and Det. Aide McGuire seemed to speak to [REDACTED]. Shortly thereafter, officers including a white male sergeant appeared to be talking to [REDACTED]. At 1:09:44, Det. Aide McGuire and two officers entered [REDACTED] cell. Det. Aide McGuire removed his handcuffs and closed the cell door.

The **POD 8859** video also depicted [REDACTED] getting up off the cell floor at approximately 1:12:45. He lay on the cell bed. At 2:10:59, [REDACTED] abruptly got off his bed as two officers walked by. [REDACTED] appeared to say something and later seemed to shout as another officer walked by. He again sat and lay on his bed. At 2:55:50, two female white supervisors walked past [REDACTED] cell, and [REDACTED] talked to them and showed them his right arm. He also pointed to his back. The two female supervisors left. Other CPD personnel walked past [REDACTED] cell. At 3:33:29, several Fire Department personnel entered Cell Block G. Some of the CFD personnel eventually left with another prisoner, who was wearing white clothing. At 3:48:52, a female white supervisor entered the cell block and spoke with [REDACTED] who stood at his cell door and appeared angry. After a few minutes, Fire

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<sup>13</sup> Atts. 22, 29, 32, 44.

<sup>14</sup> Att. 31.

<sup>15</sup> Case Note CO 1097442; Medical Examiner Case #2021-06175.

<sup>16</sup> Att. 19, at 20:42-29:09.

<sup>17</sup> Att. 20, from 31:10—34:35.

<sup>18</sup> Att. 16, from 31:46-33:38.

<sup>19</sup> Att. 18, from 33:27- 3:59:00.

Department personnel talked with ██████ and possibly took his blood pressure. ██████ remained in his cell. Video ended at 3:58:59.<sup>20</sup>

In his **statement to COPA**<sup>21</sup> on July 20, 2023, Det. Aide McGuire, after observing some of the lockup video, said ██████ appeared to be angry about whether he would qualify for the drug diversion program and whether he would get out of the lockup. He was placed into Cell G-1 because that was the area for prisoners who were not cooperating or had medical issues. Det. Aide McGuire said he did not recall ██████ ever saying he was injured to him or to other CPD personnel.

After observing the POD 8857 video depicting the altercation, Det. Aide McGuire said ██████ turned toward him and extended his arm to push Det. Aide McGuire's hand off of him. This act prompted Det. Aide McGuire to "put hands"<sup>22</sup> on ██████ to try to gain control of him.<sup>23</sup> Det. Aide McGuire said ██████ was an "active resister"<sup>24</sup> in the altercation.

██████ was taken to the floor onto mattresses, according to Det. Aide McGuire. Det. Aide McGuire said he did not provoke ██████ or go out of his way to start the altercation, which happened fast. Det. Aide McGuire said he pushed ██████ away with his arm, and he and ██████ struggled for control. Det. Aide McGuire said he was underneath ██████ shoulder and above the right side of his neck, but never underneath his neck. From Det. Aide McGuire's recollection, he did not punch ██████ and ██████ did not punch him. Det. Aide McGuire recalled that ██████ was angry because he thought he (Det. Aide McGuire) and the arresting officer lied to him about when he could be released from the lockup. Det. Aide McGuire told ██████ that, based on what he was arrested for, he would be going to bond court.

When asked what ██████ was saying while being pulled along the floor into his cell, Det. Aide McGuire answered that ██████ was cursing at him. Det. Aide McGuire believed he told ██████ he and the other officers would help ██████ up off the floor. ██████ was left handcuffed on the cell floor so that he would "cool down"<sup>25</sup> and to protect lockup personnel.

Det. Aide McGuire also said he did not see a report about the incident in the lockup involving ██████. He said he believed he told an unidentified sergeant about the altercation and following that, Det. Aide McGuire believed that was when he and other personnel went to ██████ cell and removed the handcuffs. Det. Aide McGuire did not know how ██████ right wrist became swollen and bruised, but said it was possible that occurred during the altercation. He did not hear ██████ say his right arm was numb. Det. Aide McGuire referenced his note in ██████ Arrest Report about ██████ being combative.<sup>26</sup>

Regarding whether he should have completed a Tactical Response Report about the altercation, Det. Aide McGuire said at the time of the incident, he did not think a TRR was

<sup>20</sup> Approximately 10:58:59 pm.

<sup>21</sup> Atts. 42, 46.

<sup>22</sup> Att. 46, pg. 36, lns. 1 to 4.

<sup>23</sup> Att. 46, pg. 41, lns. 1 to 11.

<sup>24</sup> Att. 46, pg. 18, lns. 21 to 22.

<sup>25</sup> Att. 46, pg. 54, lns. 15 to 24; pg. 55, lns. 1 to 7.

<sup>26</sup> Att. 46, pg. 34, lns. 12-21.

necessary and did not complete one because no one claimed to him that they were injured. But he added that, after viewing the POD video of the altercation, he should have completed one to document what had happened.

### III. ALLEGATIONS

#### Detention Aide Andrew McGuire:

1. Engaging in an unjustified physical altercation with [REDACTED]
  - Not Sustained.
2. Failing to notify a supervisor in the district station about the altercation.
  - Not Sustained.
3. Failing to document the altercation by completing a Tactical Response Report.
  - Sustained, Violation of Rule 6.

### IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided a statement or information.

### V. ANALYSIS<sup>27</sup>

Regarding the first allegation, that Det. Aide McGuire COPA finds the preponderance of the evidence shows that Det. Aide McGuire's physical altercation with [REDACTED] is unavoidable. The videos from PODs 8863 and 8864 depict [REDACTED] shaking his fist toward officers shortly after he entered the lockup processing area. Further, POD 8857's video indicated [REDACTED] began the altercation and actively resisted the officers while he was being led to his cell. It was not possible to determine what injuries [REDACTED] might have sustained in the incident, but it is doubtful they were serious because he was medically cleared to return to the lockup from the hospital. During the altercation, Det. Aide McGuire did have his arm at the side of [REDACTED] neck, but video showed Det. Aide McGuire's arm not in contact with the throat. [REDACTED] was a large man, and taking him down to the floor, where Det. Aide McGuire said mattresses were present, was within use of force guidelines<sup>28</sup> for an active resister. The lack of audio from the POD cameras made it difficult to determine what words might have been exchanged between [REDACTED] and Det. Aide McGuire and how much the verbal exchange might have contributed to the altercation, on both sides. There is insufficient evidence to prove the allegation by a preponderance of the evidence. COPA recommends that Allegation 1 be **Not Sustained**.

<sup>27</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>28</sup> Att. 45, Force Options Model.

Regarding the second allegation, that Det. Aide McGuire failed to notify a supervisor about the altercation, COPA recommends a finding of **Not Sustained**. Det. Aide McGuire stated that [REDACTED] Arrest Report, on page 4, indicated that at 7:36 pm., he documented [REDACTED] being combative and that an on-duty supervisor would have seen that notation. Lt. Haro's Report of Extraordinary or Unusual Occurrences implied she did not see that notation. There is insufficient evidence to prove the allegation by a preponderance of the evidence.

Regarding the third allegation, that Det. Aide McGuire failed to document the altercation by completing a Tactical Response Report, COPA recommends a finding of **Sustained**. In his statement, Det. Aide McGuire acknowledged he did not complete a TRR, which was required.

## VI. DISCIPLINARY RECOMMENDATION

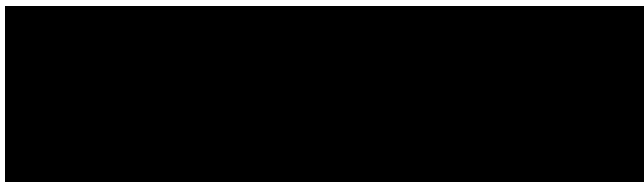
### i. Complimentary and Disciplinary History<sup>29</sup>

Detention Aide McGuire has received four awards, including two life-saving awards. He had one sustained finding in the last five years, which resulted in a two-day suspension.

### ii. Recommended Discipline

COPA has found that Detention Aide McGuire violated Rule 6 by failing to complete a Tactical Response Report following the altercation, as required by General Order G03-02-02, III, A, 1. Detention Aide McGuire described [REDACTED] as an active resister, and the General Order required completion of a TRR when use of force was used involving "the active resistance of a subject." COPA recommends a two-day suspension as his discipline.

Approved:



\_\_\_\_\_  
Angela Hearts-Glass  
Deputy Chief Investigator

9-11-2023

\_\_\_\_\_  
Date

<sup>29</sup> Att. 47, Complimentary and Disciplinary History.

**Appendix A****Case Details**

Date/Time/Location of Incident:	November 1, 2019 / 7:30 pm / 11 <sup>th</sup> District men's lockup
Date/Time of COPA Notification:	November 1, 2019 / 11:57 pm
Involved Officer:	Detention Aide Andrew McGuire, Employee ID # [REDACTED], Date of Appointment: July 1, 2014, Unit: 011, Male, Black.

**Applicable Rules**

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule \_\_:** *[Insert text of any additional rule(s) violated]*

**Applicable Policies and Laws**

- General Order G03-02-02, "Incidents Requiring The Completion of a Tactical Response Report," III, A, 1.
- Special Order S06-01-02, "Detention Facilities General Procedures and Responsibilities," III, B, 38.

## **Appendix B**

### **Definition of COPA's Findings and Standards of Proof**

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 allegation 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 a proposition is proved.<sup>30</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”<sup>31</sup>

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<sup>30</sup> 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 is found to be more probably true than not).

<sup>31</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).



**Appendix C**

**Transparency and Publication Information**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation