



Log # 2024-0002187

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

### I. EXECUTIVE SUMMARY

On February 1, 2024, the Civilian Office of Police Accountability (COPA) received an Initiation Report from the 004<sup>th</sup> District reporting alleged misconduct by a member of the Chicago Police Department (CPD). Lieutenant Mark Kochan alleged that on February 1, 2024, Officer Derek McMahon failed to properly secure [REDACTED] while in handcuffs and utilized excessive force by placing his knee on [REDACTED] back.<sup>2</sup> Upon review of the evidence, COPA served the additional allegation that Officer McMahon searched [REDACTED] vehicle without justification. Following its investigation, COPA reached a sustained finding regarding the allegation that Officer McMahon failed to properly secure [REDACTED]

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On February 1, 2024, at approximately 10:24 am, Officer McMahon and Sgt. Jacob Tracy<sup>4</sup> were on duty in an unmarked CPD vehicle near 8840 S. Stony Island Ave. The officers observed [REDACTED] driving a SUV and initiated a traffic stop for a tinted license plate cover and seat belt violation.<sup>5</sup> Upon approaching the SUV, Sgt. Tracy asked [REDACTED] and his passengers for their IDs.<sup>6</sup> Two of the passengers stated that they did not have an ID and were instructed to give their information to Officer McMahon. Sgt. Tracy noticed the smell of cannabis and asked [REDACTED] if there was any weed in the car.<sup>7</sup> Officer McMahon also noticed the smell of burnt cannabis coming from inside the car.<sup>8</sup> [REDACTED] replied that yes, there was weed in the car, and they had smoked earlier.<sup>9</sup>

Officer McMahon approached the passenger side of the SUV and spoke with the front seat passenger, [REDACTED] who gave the name [REDACTED] along with a date of birth.<sup>10</sup> Officers

<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> One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>3</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body-worn camera video, CPD reports, medical records, evidence technician photos, court records and officer interviews.

<sup>4</sup> On the date of this incident, Sgt. Tracy held the rank of officer. Sgt. Tracy was promoted to sergeant during the pendency of this investigation. COPA will refer to Sgt. Tracy by his current rank throughout this report.

<sup>5</sup> Att. 3 at 2:15 and from to 2:42 to 2:48.

<sup>6</sup> Att. 3 at 2:28

<sup>7</sup> Att. 18, pg. 2; Att. 40, pg. 19, lines 6 to 9.

<sup>8</sup> Att. 41, pg. 9, lines 2 to 7.

<sup>9</sup> Att. 3 at 3:08 to 3:20.

<sup>10</sup> Att. 4 at 2:45

obtained a name and date of birth from the backseat passenger, then returned to their patrol vehicle to conduct a name check. The name ██████ came back as not on file; however, the officers confirmed the identifiers of ██████ and the rear passenger. While conducting a name check, officers noticed the occupants arguing inside of the SUV and called for an additional unit to assist.

Officer McMahon and Sgt. Tracy asked all occupants to step out of the SUV.<sup>11</sup> The officers conducted a pat down search of each person exiting the SUV and asked them to step to the rear of the SUV.<sup>12</sup> Sgt. Tracy and Officer McMahon conducted a search of the vehicle and found a small plastic bag containing 3.5 oz of cannabis and a bottle labeled THC containing three pills.<sup>13</sup> Sgt. Tracy again asked ██████ for his name and date of birth and he replied with the same false information.

All occupants were allowed to return to the SUV while Sgt. Tracy returned to the patrol vehicle and conducted another name check. Once again Sgt. Tracy was unable to identify ██████ by the name and date of birth he had given. Officer McMahon then placed ██████ under arrest and put him in handcuffs, but did not secure him inside of a patrol vehicle.<sup>14</sup> Officer McMahon instructed ██████ to take a seat in the backseat of the CPD vehicle. ██████ turned his back toward the vehicle and sat down, but kept his feet planted on the ground as he faced the sidewalk, while being surrounded by officers.<sup>15</sup> Officer McMahon explained that he did not secure ██████ in the back of a CPD vehicle because they did not have a cage car.<sup>16</sup> He also explained that it is sometimes his practice to hold a detainee by the arm while they are in handcuffs.<sup>17</sup> ██████ eventually stood up and stepped out of the CPD vehicle, but was surrounded by the officers. ██████ protested his detention and began to walk away when Officer McMahon grabbed his sweatshirt and pulled him back.<sup>18</sup> Officer McMahon then released ██████ sweatshirt.<sup>19</sup>

A bystander claiming to be ██████ relative approached the scene and spoke with the assisting officers while Officer McMahon continued to question ██████ about his identity. Officer Matthew Dahill obtained ██████ name from the bystander. Officer Dahill repeated ██████ true name to ██████ causing ██████ to flee from officers onto Stony Island Ave.<sup>20</sup> Officer McMahon grabbed ██████ by his sweatshirt and pulled him toward the curb.<sup>21</sup> ██████ fell over the curb onto the sidewalk. As officers struggled to gain control, Officer McMahon placed his knee on ██████ back for approximately four seconds.<sup>22</sup>

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<sup>11</sup> Att. 4 at 8:45

<sup>12</sup> The involved CPD members completed investigatory stop reports (ISRs) for all the vehicle occupants. See Atts. 17, 18, and 19.

<sup>13</sup> Att. 17, pg. 2; Att. 41, pg. 9, lines 8 to 9.

<sup>14</sup> Att. 41, pg. 12, ln.11 to pg. 13, ln. 4; Att. 4 at 23:20 to 24:30.

<sup>15</sup> Att. 4 at 25:05 to 25:20.

<sup>16</sup> Att. 41, pg. 14, lines 15 to 19.

<sup>17</sup> Att. 41, pg. 14, lines 11 to 14.

<sup>18</sup> Att. 4 at 26:55.

<sup>19</sup> Att. 4 at 27:02.

<sup>20</sup> Att. 5 at 21:20 to 21:27.

<sup>21</sup> Att. 4 at 28:00 to 28:09 and Att. 5 at 28:00 to 28:09.

<sup>22</sup> Att. 5 at 21:40 to 21:44.



Figure 1: Screenshot from Officer Jakub Maj's BWC video depicting Officer McMahon placing his knee on [REDACTED] back.<sup>23</sup>

Officer McMahon explained that there are times when he might place his knee on someone's back.<sup>24</sup> For example, he cited a fleeing subject trying to escape, explaining that if someone is attempting to defeat arrest, he would try to pin them to the ground.<sup>25</sup> Officer McMahon related that he did not recall placing his knee on [REDACTED] back.<sup>26</sup>

Once they gained control of [REDACTED] the officers rolled him onto his right side into the recovery position.<sup>27</sup> [REDACTED] then stated that he could not breathe.<sup>28</sup> The officers instructed [REDACTED] to remain on his side and relax, but [REDACTED] continually moved around and called out to family members on scene. [REDACTED] threatened to beat the officers, as the officers again instructed him to relax.<sup>29</sup> Officer McMahon related to COPA that [REDACTED] attempted to flee and defeat arrest after he was on the ground.<sup>30</sup>

A few minutes later, a CPD squadrol arrived on scene and the officers placed [REDACTED] inside for transport. Upon [REDACTED] arrival at the 004<sup>th</sup> District, Lt. Kochan arranged for [REDACTED] to be transported to the hospital for treatment and for a CPD evidence technician (ET) to photograph [REDACTED] injuries.<sup>31</sup> Medical records from [REDACTED] Hospital show that [REDACTED] complained of wrist

<sup>23</sup> Att. 6 at 21:42.

<sup>24</sup> Att. 41, pg. 17, lines 6 to 9.

<sup>25</sup> Att. 41, pg. 17, lines 10 to 12.

<sup>26</sup> Att. 41, pg. 17, lines 3 to 4.

<sup>27</sup> Att. 4 at 28:15 to 28:30.

<sup>28</sup> Att. 4 at 28:31 to 28:42.

<sup>29</sup> Att. 4 at 29:30 to 29:36.

<sup>30</sup> Att. 41, pg. 17, lines 13 to 23.

<sup>31</sup> Att. 1, pg. 2.

pain and was diagnosed with a wrist sprain.<sup>32</sup> The ET photos depict minor injuries, including a small abrasion on [REDACTED] right wrist and redness to both of [REDACTED] wrists.<sup>33</sup>

[REDACTED] was charged with multiple criminal offenses related to this incident, including resisting an officer and obstructing identification.<sup>34</sup> He was also held on a preexisting felony warrant stemming from his failure to appear in court in November 2023.<sup>35</sup>

### III. ALLEGATIONS

#### Officer Derek McMahon:

1. Failing to properly secure a handcuffed person, without justification.
  - Sustained, in violation of Rules 2, 3, 5, 6, and 10.
2. Utilizing excessive force by placing your knee in the back of [REDACTED] without justification.
  - Not Sustained.
3. Searching the vehicle of [REDACTED] without justification.
  - Exonerated.

### IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. Here, Officer McMahon's and Sgt. Tracy's statements were consistent with each other, as well as with the video footage and written reports. Overall, COPA found both CPD members to be credible in their statements.

COPA was unable to interview [REDACTED] as such, COPA is unable to fully assess his credibility.<sup>36</sup>

### V. ANALYSIS<sup>37</sup>

#### **a. Failing to properly secure a handcuffed person.**

COPA finds allegation #1, that Officer McMahon failed to properly secure a handcuffed person without justification, is **sustained**. CPD policy states, "Department members taking persons into custody or accepting custody from other Department members will be responsible for conducting a thorough search and ensuring that the persons are appropriately restrained to prevent

<sup>32</sup> Att. 33, pgs. 2 and 4.

<sup>33</sup> Att. 46.

<sup>34</sup> Att. 47, *People of the State of Illinois vs. [REDACTED]* Case No 24119163701.

<sup>35</sup> Att. 48, pg. 7. *People of the State of Illinois vs. [REDACTED]* Case No 23CR1175501.

<sup>36</sup> Att. 15.

<sup>37</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

escape or injury.”<sup>38</sup> CPD further specifies that, “An arrestee will not normally be transported in a passenger vehicle not equipped with a protective divider.”<sup>39</sup>

In this case, Officer McMahon placed ██████ under arrest, put him in handcuffs, and instructed him to sit in a CPD vehicle. Officer McMahon explained that he did not secure ██████ in the back of his CPD vehicle because it was not a cage car. ██████ did not remain seated for long, instead standing up and moving about the sidewalk. This prompted Officer McMahon to grab ██████ sweatshirt and pull him back. Then, Officer McMahon released ██████ from his grip. When ██████ relative informed the officers of ██████ true identity, he attempted to flee the scene, resulting in Officer McMahon conducting a takedown and ██████ sustaining a wrist sprain.

On the one hand, Officer McMahon followed CPD policy when he chose not to transport ██████ in his unmarked CPD vehicle, because it was not equipped with a protective divider. On the other hand, Officer McMahon told COPA that he sometimes holds onto handcuffed subjects as a means of controlling them. Indeed, Officer McMahon grabbed ██████ by his sweatshirt and pulled him back before his escape attempt. Despite ██████ restlessness and his initial attempt to walk away, Officer McMahon did not continuously hold onto ██████. This allowed ██████ to break free from the officers, leading Officer McMahon to conduct a takedown and ██████ to sustain an injury.

Although Officer McMahon did not initially have access to a vehicle with a protective divider and ██████ was immediately apprehended after his escape attempt, Officer McMahon was still responsible for ensuring that ██████ was appropriately restrained to prevent injury or escape. He did not do so. Therefore, allegation #1 is sustained by preponderance of the evidence, in violation of Rules 2, 3, 5, 6, and 10.

#### **b. Excessive Force.**

COPA finds allegation #2, that Officer Derek McMahon utilized excessive force by placing his knee in the back of ██████ without justification, is **not sustained**. CPD’s use of force policy states that, immediately upon gaining control and a restraining a person, CPD members will “not sit, kneel, or stand on the person’s chest or back which may reduce the person’s ability to breathe or cause unnecessary physical stress on the person, unless the person continues to pose a threat to the Department member or any other person.”<sup>40</sup>

Officer McMahon conducted a takedown of a handcuffed ██████ after ██████ attempted to escape. As Officer McMahon struggled to regain control over ██████ he placed his knee on ██████ back for approximately four seconds. Approximately ten seconds after Officer McMahon removed his knee from ██████ back, ██████ repeatedly claimed that he could not breathe. ██████ continued to struggle with officers and ultimately threatened them by claiming he would beat them.

<sup>38</sup> Att. 25, G06-01-02(IV)(B), Restraining Arrestees (effective December 8, 2017 to present).

<sup>39</sup> Att. 25, G06-01-02(V)(C)(3)(a).

<sup>40</sup> Att. 26, G03-02-01(V)(B)(2), Response to Resistance and Force Options (effective June 28, 2023).

CPD policy prohibits officers from kneeling on a subject's back in a manner that restricts their breathing, unless the person continues to pose a threat to the CPD member. Here, BWC video shows Officer McMahon conducting a takedown of ██████ who was restrained in handcuffs, and then briefly placing his knee on ██████ back. ██████ claimed he could not breathe, but he did not make this claim until at least ten seconds after Officer McMahon removed his knee. In addition, COPA was unable to interview ██████ so COPA did not receive any clarification on why ██████ could not breathe. Finally, COPA notes that ██████ failed to follow the officers' commands and continually struggled after the takedown, even threatening the officers with physical violence. This suggests that the officers had not fully gained control of ██████ and that ██████ continued to pose a threat, at the time Officer McMahon placed his knee on ██████ back.

In light of this evidence, COPA is unable to prove this allegation by a preponderance of the evidence, and it is therefore not sustained.

### c. The Vehicle Search.

COPA finds allegation #3, that Officer McMahon searched ██████ vehicle without justification, is **exonerated**. The Fourth Amendment to the U.S. Constitution protects citizens from unreasonable searches.<sup>41</sup> Searches without a warrant are presumed to be unreasonable except under certain circumstances. Under the "automobile exception" to the search warrant requirement, "law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize."<sup>42</sup> When officers have such probable cause, the search may extend to "all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks."<sup>43</sup> Officers are not limited to searching the driver's possessions; "police officers with probable cause to search a car may [also] inspect passengers' belongings found in the car that are capable of concealing the object of the search."<sup>44</sup>

"Probable cause exists when based on known facts and circumstances, a reasonably prudent person would believe that contraband or evidence of a crime will be found in the place to be searched."<sup>45</sup> The standard is an objective one, viewed from the perspective of a reasonable officer, who is allowed to rely on their training and experience.<sup>46</sup>

Illinois legalized recreational use of marijuana in 2020.<sup>47</sup> Relevant to this analysis, Illinois residents over 21 years of age may possess 30 grams (approximately one ounce) of cannabis flower, no more than 500 milligrams of THC contained in a cannabis infused product, and 5 grams

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<sup>41</sup> U.S. Const. amend. IV.

<sup>42</sup> *People v. James*, 163 Ill. 2d 302, 312 (111. 1994) (citing *Carroll v. United States*, 267 U.S. 132 (1925)).

<sup>43</sup> *United States v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010)).

<sup>44</sup> *Wyoming v. Houghton*, 526 U.S. 295, 307 (1999).

<sup>45</sup> *U.S. v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013).

<sup>46</sup> *U.S. v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013).

<sup>47</sup> Illinois.gov, Adult Use Cannabis Summary, available at [https://www2.illinois.gov/HISNews/20242-Summary\\_of\\_HB\\_1438\\_The\\_Cannabis\\_Regulation\\_and\\_Tax\\_Act.pdf](https://www2.illinois.gov/HISNews/20242-Summary_of_HB_1438_The_Cannabis_Regulation_and_Tax_Act.pdf) (last accessed May 9, 2024).

of cannabis concentrate.<sup>48</sup> The Chicago Municipal Code and Illinois law prohibits possession of cannabis in a vehicle unless it is in a reasonably secured, sealed container that is odor-proof and child resistant.<sup>49</sup> No one may use cannabis in a vehicle.<sup>50</sup>

Here, BWC video captured Sgt. Tracy promptly noting the smell of cannabis coming from inside ██████ car. ██████ readily admitted to having cannabis in his car and added that he had smoked cannabis inside of it. Upon searching the vehicle Sgt. Tracy and Officer McMahon found a small plastic bag labeled 3.5 oz cannabis and a bottle labeled THC containing three pills. Because Illinois law prohibits the use of cannabis inside of a vehicle, the smell of burnt cannabis and ██████ admissions of having cannabis in the vehicle and having recently smoked it, gave the officers probable cause to search the vehicle. For these reasons, allegation #3 is exonerated by clear and convincing evidence.

## VI. DISCIPLINARY RECOMMENDATION

### a. Officer Derek McMahon

#### i. Complimentary and Disciplinary History<sup>51</sup>

Officer McMahon has been a CPD officer for over seven years. His complimentary history is comprised of 70 awards, the highlights of which include one Superintendent's Honorable Mention Certificate, two Life Saving Awards, one Honorable Mention Ribbon award, and three Department Commendation Awards. Officer McMahon's disciplinary history is comprised of four SPARs: 1) a December 2024 BWC violation, resulting in a reprimand, 2) a December 2024 failure to perform any duty, resulting in 2 days off, 3) a February 2025 failure to timely activate BWC, resulting in a reprimand, and 4) a February 2025 inattention to duty, resulting in 1 day off.<sup>52</sup>

#### ii. Recommended Discipline

COPA has found that Officer McMahon violated Rules 2, 3, 5, 6, and 10 when he failed to properly secure a handcuffed person. In recommending discipline, COPA notes that ██████ sustained an injury, albeit minor, when Officer McMahon utilized a takedown after ██████ tried to escape. Had Officer McMahon properly restrained ██████ this injury could have potentially been avoided. In addition, Officer McMahon had been an officer for six years at the time of this incident, so his failure to properly secure ██████ cannot be attributed to a lack of training or experience. In mitigation, COPA notes Officer ██████ impressive complimentary history.

In light of these factors, as well as Officer McMahon's SPAR history, COPA recommends that he receive a **1 to 29 day suspension and retraining** on CPD's Restraining Arrestees policy.

<sup>48</sup> 410 ILCS 705/10-10; *see also* S04-32: Cannabis Enforcement (effective July 9, 2020 to present).

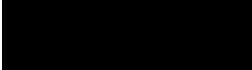
<sup>49</sup> M.C.C. § 7-24-099; 410 ILCS 705/10-10.

<sup>50</sup> M.C.C. § 7-24-099; 410 ILCS 705/10-10.

<sup>51</sup> Atts. 49 and 50.

<sup>52</sup> COPA previously investigated Officer McMahon for an allegation of excessive force under Log 2022-0000393. CPD concurred with COPA's sustained finding and agreed to a penalty of a 3-day suspension and retraining. However, this case is subject to the grievance process and has not yet been finalized.

Approved:



9/12/2025

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Steffany Hreno  
*Acting Deputy Chief Administrator*

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Date

Appendix ACase Details

Date/Time/Location of Incident:	February 1, 2024 / 10:50am / 8840 S. Stoney Island Ave, Chicago, IL 60617
Date/Time of COPA Notification:	February 1, 2024 / 1:56pm
Involved Officer #1:	Officer Derek McMahon, Star # 3920, Employee ID# [REDACTED] Date of Appointment: 01/16/2018, Unit of Appointment: 004, Male, White
Involved Officer #2:	Sgt. Jacob Tracy, Star # 1439, Employee ID# [REDACTED] Date of Appointment: 04/16/2018, Unit of Appointment: 007, Male, White
Involved Individual #1:	[REDACTED] Male, Black
Involved Individual #2:	[REDACTED] 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.

Applicable Policies and Laws

- U.S. Const. amend. IV
- 410 ILCS 705/10-10
- M.C.C. § 7-24-099
- G03-02-01: Response to Resistance and Force Options (effective 28 June 2023 to present)
- G06-01-02: Restraining Arrestees (effective 08 December 2017 to present)

## 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 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 a proposition is proved.<sup>53</sup> For example, 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. 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>54</sup>

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<sup>53</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>54</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 Categories**

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