

**INTRODUCTION:**

On November 27, 2017, off-duty Cook County Sheriff's Deputy Subject 1 was pulled over for a minor traffic violation by Officers A and B, near XXXX S. Hoyne Ave. Once Subject 1 pulled to the side of the road, Officers A and B approached Subject 1's vehicle. Officer B spoke with Subject 1 on the driver side and collected his relevant documentation. At the same time, Officer A was standing on the passenger side shining a flashlight into the vehicle when he noticed a firearm owners' identification (FOID) card in Subject 1's wallet. The officers asked Subject 1 if he had a weapon, and he responded yes. The officers then ordered Subject 1 out of the car. After briefly hesitating, Subject 1 got out of his car and Officer A placed Subject 1 in handcuffs. Subject 1 protested his handcuffing to Officer A, while Officer B continued to shine his flashlight into Subject 1's car. Officer A escorted Subject 1 to the back of his car and asked him where he took his "conceal carry" class. Subject 1 informed the officers that he did not take such a class because he is a sheriff's deputy and is authorized to carry a weapon. Officer A confirmed this with his partner, who was holding Subject 1's Cook County Sheriff's Department identification card. Officer A then immediately stated, "Cut him loose" and unhandcuffed Subject 1, who was then free to leave. Subject 1 was in handcuffs for approximately 50 seconds. He left without receiving any traffic citations.

**ALLEGATIONS:**

Complainant Subject 1 alleges that on November 26, 2017, at approximately 10:30 p.m., at XXXXS. Hoyne Ave, **Accused Officers A, #XXXX, Unit 007, and B, #XXXX, Unit XXX/XXX:**

- 1) Detained Subject 1 without justification, in violation of Rule 8; and
- 2) Searched Subject 1's car without justification, in violation of Rule 8.

**APPLICABLE RULES AND LAW:**

**Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

**United States Constitution, Amendment IV:** Prohibition against unlawful searches and seizures

**INVESTIGATION:**

In an **interview with COPA** on November 28 2017, **Complainant Subject 1** stated the allegations as listed above. According to Subject 1, the officers searched his car during the encounter. (Att. 5 and 6)

**Body Worn Camera Footage** from Officers A and B and **In Car Camera Footage** from their vehicle depict the incident as described in the Introduction section. (Att. 12)

An **Investigative Stop Report** authored by Officer A states that the officers pulled over Subject 1 after observing him violate a traffic law.<sup>1</sup> The report's description of what occurred is essentially the same as described above in the Introduction section. (Att.

## CONCLUSION:

COPA recommends a finding of **UNFOUNDED** for Allegations #1-#2, that Officers A and B detained Subject 1 and searched his vehicle without justification.

The footage from each officer's body worn camera and the in-car camera reveal that the traffic stop involving Subject 1 was entirely legal and within CPD policy. First, the law recognizes that it is reasonable for an officer to order a civilian out of a car and detain them for officer safety during a traffic stop if a weapon is present.<sup>2</sup> It is clear from the camera footage that the officers did not order Subject 1 out of his car and handcuff him until they confirmed with him that there was a firearm in his car. Considering the irrefutable evidence proving that the officers knew there was a weapon present before removing him from his car and handcuffing him, Officers A and B lawfully detained Subject 1.

Secondly, Subject 1 alleged that the officers illegally searched his vehicle. However, the camera footage shows that the officers merely shined their flashlights inside the car and looked around. They never touched or moved anything inside the car, rather, they merely remained outside the car and observed what was in plain view. Therefore, they did not search Subject 1's car as alleged. Because the allegations Subject 1 raised are clearly unfounded and do not rise to the level of misconduct, it is not necessary that Officers A and B address them in any way.

---

<sup>1</sup> Specifically, the officers alleged that Subject 1 violated MCC 9-40-200(b), indicating that they believed he failed to use his turn signal at least 100 feet before turning.

<sup>2</sup> See e.g. *Pennsylvania vs. Mimms*, 434 U.S. 106 (1977), holding that the interests of officer safety outweigh the *de minimis* intrusion on Fourth Amendment rights caused when a lawfully stopped driver was required to exit the vehicle during the stop and that the officer was justified in frisking the driver during the traffic stop when there was reason to believe that the person was armed and posed a danger to the officer; *People v. Chavez*, 327 Ill.App.3d 18 (1<sup>st</sup> Dist. 2001) holding that the mere restraint of an individual does not turn an investigatory stop into an arrest.