

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 7, 2017
Time of Incident:	6:42 p.m.
Location of Incident:	XXXX W. Birchwood Ave.
Date of COPA Notification:	December 8, 2017
Time of COPA Notification:	5:02 p.m.

On December 7, 2017, at approximately 6:42 p.m., Subject 1 (“Subject 1” or “Complainant”) alleged he and passenger Civilian 1, (“Civilian 1”) were pulled over by a marked CPD SUV after failing to signal when exiting a parking lot at Howard St., onto Western Ave. in Chicago. Subject 1 said he drove the vehicle and that police officers: improperly stopped and detained him and his friend, Civilian 1, and searched the vehicle’s interior. No injuries were reported and no charges or citations were issued. The incident was captured on In-car camera (“ICC”) and Body-worn camera (“BWC”) footage.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX-XX-2016, Police Officer, XX <sup>th</sup> District, DOB: X-X-1985, M, Caucasian.
Involved Officer #2:	Officer B, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX-XX-05, Police Officer, XX <sup>th</sup> District, DOB: X-X-76, M, Hispanic.
Subject #1:	C/V Subject 1, 33, M, Hispanic, XXXX W. Oakton St., Evanston, IL XXXXX.
Subject #2:	Witness Civilian 1, 33, M, Hispanic, XXXX Hartrey, Evanston, IL XXXXX.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	1. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer A improperly detained and handcuffed Subject 1 during a traffic stop, in violation of Rule 1 and the Fourth Amendment to the United States	Unfounded

	Constitution as incorporated by Illinois Constitution, Art. 1 Sec. 6.	
Officer B	1. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly detained and handcuffed Subject 1 during a traffic stop, in violation of Rule 1 and the Fourth Amendment to the United States Constitution as incorporated by Illinois Constitution, Art. 1 Sec. 6.	Unfounded
	2. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly searched Subject 1' vehicle incident to a traffic stop, in violation of Rule 1 and the Fourth Amendment to the United States Constitution as incorporated by Illinois Constitution, Art. 1 Sec. 6.	Unfounded
	3. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly failed to activate his Body-Worn Camera during law-enforcement-related activity, including the search of a vehicle, in violation of Rules 6, 10 and S03-14.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. **Rule 1:** prohibits “Violation of any Law or Ordinance.”
  2. **Rule 6:** prohibits “Disobedience of an order or directive, whether written or oral.”
  3. **Rule 10:** prohibits “Inattention to Duty.”
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Special Orders

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1. **Chicago Police Department Special Order S03-14 (“Body Worn Camera”)** mandates, except where indicated, CPD Officers’ activation and use of Department-issued, electronic body-worn cameras for law-enforcement-related interactions with members of the general public, including, but not limited to: traffic stops, searches of people and vehicles, requests for consent to search, and statements made by individuals in the course of an investigation.

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**Federal Laws**

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**1. The Fourth Amendment to the Constitution of the United States (U.S. Const. Amd. IV as incorporated by Ill. Const. Art. I, Sec. 6).**

“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, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

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**State Laws**

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**1. Ill. Const. Art. I, Sec. 6.****V. INVESTIGATION<sup>1</sup>****a. Interviews****Interview of Complainant-Victim Subject 1<sup>2</sup>**

On December 13, 2017, Subject 1 provided his sworn statement at the COPA office. Subject 1 related that on December 7, 2017, the accused officers stopped and unlawfully searched his vehicle and handcuffed him and his passenger. No injuries were sustained and no arrests or citations were made.

Subject 1 stated that at approximately 6:25 p.m. on December 7, 2017, he and friend Civilian 1 drove out of a parking lot at Howard St. and Western Ave. where Subject 1 was working as a security guard. Subject 1 related he drove his vehicle out of the lot without signaling, and was then followed and pulled over by a marked CPD SUV. Subject 1 told the officers that he was a security guard and had a concealed-carry permit, but did not have his weapon on him at the time. The officers ordered him and Civilian 1 out of the vehicle, and Officer A<sup>3</sup> handcuffed them both together, purportedly for officer safety. Subject 1 verbally consented to the officers' request to search his vehicle, and he saw Officer B search only the vehicle's front passenger compartment.

Approximately fifteen minutes after being stopped and searched, Subject 1 and Civilian 1 were released and allowed to depart. No citations were issued and their licenses were returned.

Before departing, the officers told Subject 1 he should not hang around with Civilian 1 because his license search revealed he had prior convictions.

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

<sup>2</sup> Attachment 10.

<sup>3</sup> Officer B is depicted on video performing the actual handcuffing of the subjects, and Officer A assisted.

Subject 1 stated he was upset because he found his public handcuffing while wearing his security guard uniform to be “humiliating” and a breach of professional courtesy because of his position as a security guard.

#### **Interview of accused Officer A<sup>4</sup>**

In his January 30, 2018 interview at COPA, Officer A said that he had pre-reviewed the records and recording(s) in this case and that he recalled the December 7, 2017 incident. Officer A related that at the time of the incident, he and his partner, Officer B, were on a routine patrol. They observed and stopped Subject 1’ vehicle after it left a Walgreens parking lot and turned westbound onto Birchwood St., without first signaling. Once he and Officer B stopped the vehicle, they exited their CPD squad car, approached the vehicle and requested identification from the driver and passenger, which they provided. Officer A stated that a computer background search of the occupants’ names revealed Subject 1, had a concealed-carry permit, and that the front seat passenger, Civilian 1, had a felony history for being armed and dangerous, and was not to be in possession of any firearms.

The officers asked the driver where his handgun was and Subject 1 responded he did not have the weapon with him. Officer A then requested the occupants exit the car, and also requested permission to search the vehicle. Subject 1 verbally granted permission to search the vehicle. Officer A and Officer B then patted-down and handcuffed the two men together at the rear of the vehicle. Officer B then searched the vehicle’s passenger compartment. Officer A stayed with the driver and passenger and told Subject 1 that the handcuffing and search was done for safety reasons and was “not personal.” Neither subject complained of any injuries, although the driver was upset and inquired why he was being handcuffed. Officer A said that while the traffic offense was ticketable, the officers decided to “give them a break” and did not issue a violation for failure-to-signal.

Officer A said he had a functional body-worn camera at the time, but recalls Officer B did not. He thought Officer B did not have a body-worn camera at the time because Officer B had been out on furlough or a day off and missed the training for the cameras. Officer A explained that CPD officers had to complete training before being issued a body-worn camera.

Officer A was shown a copy of ICC footage of the incident, and he confirmed the video comported with his recollections. He did not recall any additional, noteworthy events during the incident that were not captured on the ICC or BWC videos.

#### **Interview of accused Officer B<sup>5</sup>**

In his January 30, 2018 interview at COPA, Officer B pre-reviewed the ICC recording in this case and said he recalled the December 7, 2017 incident. He related that the video fairly and accurately depicted the scene of the incident as he recalled. He confirmed the video depicted the totality of the event and he did not recall anything else significant from the incident that was not depicted on the dash-cam recording. He related he searched the vehicle’s front passenger area,

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<sup>4</sup> Attachments 14-16

<sup>5</sup> Attachment 17.

including the area under the seats, the center console area, “probably the floorboard” and likely looked in the back using his flashlight. He said he did not recall where else he looked in the front area. The driver asked why he was being handcuffed, and Officer B told him the reason for the search was because of the concealed-carry permit, because the passenger had an alert, because a bulge was seen in the passenger’s front hoodie jacket, and that the search was needed for officer safety.

Officer B otherwise confirmed the basic facts shown on the video and by the evidence. He said he did not record BWC footage on the date of the incident because he had not yet been issued a camera. He had been out on furlough from the 24<sup>th</sup> District before the incident, and as a result, missed the requisite training session date to obtain a BWC. He related that he believes the District received their first cameras in November 2017. There was a ticket made for him to receive a body-worn camera but he did not receive one until after he received his camera training, sometime later, in December 2017.<sup>6</sup>

**b. Digital Evidence<sup>7</sup>**

ICC and BWC video was obtained and reviewed. Video of the incident depicts the scene from Officer A’s Department-issued BWC, and from the squad car’s ICC – however, no BWC video was recovered by CPD from Officer B. As a result, relevant video evidence showing details of Officer B’s search of the vehicle interior was not available. The BWC video depicts Officer A standing at the rear of the subject’s vehicle, several feet away, and detailed footage of Officer B’s search of the vehicle interior cannot be seen from that vantage point.

Dash-mounted ICC footage depicting the incident was obtained from the squad car. Noteworthy details from the retrieved video(s) and their approximate times of occurrence are listed below.

Time	Description of Events

<sup>6</sup> CPD records document Officer B first received his BWC on January 15, 2018. Attachments 29, 30.

<sup>7</sup> Attachment 8.

12:11 a.m.	Responding Officers activated their emergency lights and pulled over Subject 1' white Chevrolet sedan. The activity was captured on Officer A's BWC and the officers' squad car dash camera.
12:11 a.m.	Officer A exited the squad car and approached the driver's side of the Chevrolet. Officer A told Subject 1 he was stopped for failure to signal and requests insurance information and license.
12:11 a.m.	Subject 1 stated he was a security guard at Western and Howard [parking lot] where he exited [onto the roadway without signaling]. He said he was giving his passenger a ride home.
12:14 a.m.	Officer A returned to the squad car and he and Officer B discuss a concern over the ID of the passenger, Civilian 1. "USA ID Systems." Officer B stated: "He has one on him [...] Armed and dangerous ... a convicted felon." Officers' use of the in-car computer terminal is observed.
12:16 a.m.	Officer B stated that the passenger is moving around in the car. The officers discussed concern about the individuals and need to search for weapons. Officer B instructed Officer A: "ask if he's got it with him." and "'cause if he does we should get the guy in the car too, 'cause [inaudible]."
12:17 a.m.	Officer A exited the squad car and returned to the driver's-side of the Chevrolet. Officer A asked "Do you have a gun on you?" Subject 1 replied "no," and denied his gun was in the car. From the passenger-side, Officer B asked "Do you mind if we check?" Subject 1 responded: "You can check, man." Officer A inquired if his security company used armed guards; Subject 1 affirmed and Officer A asked why he did not have his weapon with him if he was on duty. Subject 1 replied it was due to the holiday schedule.
12:18 a.m.	Officer B told Civilian 1 to exit the vehicle, and Subject 1 to remain seated. Officer A walked over to Officer B and Civilian 1 with his flashlight and patted-down Civilian 1 on the side of the car. Officer B walked Civilian 1 to the rear of the Chevrolet.

12:19 a.m.	Officer A returned to the driver's side of the vehicle and asked Subject 1 to exit, which he did. Officer A patted-down Subject 1 against the car. Officer B then handcuffed Subject 1' right arm to Civilian 1's left, standing at the trunk area of the Chevrolet.
12:20 a.m.	Officer B asked if there were weapons in the vehicle, Subject 1 denied any and Officer B walked to the front-passenger's door, opened the door and bent inside. [Details of Officer B's search from this angle are not visible because the vehicle's windows, including the rear window, are heavily, darkly tinted.] Subject 1 asked: "Why am I being treated like a criminal?" and Officer A replied, "This is just for your precautions that's all, alright [...] nothing against you, but your partner that's with you, has a record." [...] "So the fact that he's with you, were going to have to put you in the same boat. No disrespect, right."
12:20 a.m.	Subject 1 said "[...] I gave a consent to search my vehicle, for a reason, right. I don't have nothing in the vehicle."
12:21 a.m.	Officer B walked to the front, driver's-side of the vehicle, opened the door and bent into the car.
12:21 a.m.	Officer A told Subject 1: "You're just being temporarily detained 'cause [of] the partner you're driving with. That's all." Civilian 1 responded: "What are you talking about? Because of my bad record?" Subject 1 replied: "I grew up with this guy [...] since grammar school." Officer B then exited the front of the vehicle and closed the driver's door.
12:22 a.m.	Subject 1 continued to explain his relationship with Civilian 1 to Officer B, while Officer A un-handcuffed the subjects.
12:22 a.m.	Officer A told Civilian 1 he can go back inside the car.
12:22 a.m.	Subject 1 and the officers calmly discussed their respective training (as police and security guards), and the need to have handcuffed both individuals together, as a precaution; Subject 1' felt he was disrespected by being handcuffed [because he is a security guard]. Officer A said: "I am a policeman, but if I had a police officer do that to me I would shake his hand, honestly. Because I understand what he's going through. You never know who you are going to encounter."
12:24 a.m.	The officers and Subject 1 finished their conversation, he returned to his vehicle, and Officer A said Officer B would return the licenses. Officer A

	retrieved the ID's and papers from the squad car, and returned them to Subject 1, who then drives away.
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### c. Documentary Evidence

#### Department Reports and Records<sup>8</sup>

The Investigatory Stop Reports #XXXXXXXXXX and #XXXXXXXXXX documented that the subject vehicle was stopped for failure to signal when turning. The ISRs also reported a name-check showed Subject 1 had a firearm concealed carry permit and that Civilian 1 had an alert for armed and dangerous and was not to be in possession of a weapon. The reports documented Officer B alleged observing a large bulge on Civilian 1's, right front hoodie jacket pocket, and that the occupants were asked to exit the vehicle for officer safety. The ISRs reported the officers were given consent to search the vehicle for weapons. The ISRs also relate that Subject 1 was aware of Civilian 1's "violent past" but that he was "a longtime friend."

## VI. ANALYSIS

### Officer A

COPA recommends that **Allegation #1** that Officer A improperly detained Subject 1 incident to a traffic stop be **Unfounded**.

In the instant case, the officers alleged, and Subject 1 admitted, that he had a concealed-carry weapon permit, and that he told the officers he did not have the weapon with him – despite the fact he also admitted he just got off work and that he was hired as armed security. Furthermore, the officers alleged Civilian 1 was found to have a felony criminal history and was not to be in possession of any firearm, and that Subject 1 admittedly knew this.

The fact that Civilian 1, had a felony history, coupled with the fact Subject 1, admitted he had a concealed carry permit but could not definitively account for the weapon's absence, plus the observation of a bulge in Civilian 1's pocket, could lead reasonable police officers, under similar circumstances, to likewise detain the vehicle occupants to perform a limited, brief security sweep for weapons.

The mechanics of handcuffing the vehicle occupants together, outside the vehicle and away from areas inside the vehicle where weapons could have been concealed, was reasonable. Although there is no dispute that Subject 1 was detained and handcuffed, his detention was not improper, and therefore this allegation should be Unfounded.

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<sup>8</sup> Attachments 4 and 5.



**Officer B**

COPA recommends that **Allegation #1** that Officer B unlawfully detained Subject 1 incident to a traffic stop be **Unfounded**, for the reasons described above.

COPA recommends that **Allegation #2** that Officer B improperly searched Subject 1' vehicle without a warrant and incident to a traffic stop be **Unfounded**.

The statements of Subject 1 and the officers, in addition to the video evidence and other records in this case, established that Subject 1 voluntarily, verbally consented to the request to search the vehicle, thus preempting a claim of an improper search. Although there is no dispute that officers searched Subject 1' vehicle without a warrant, this search was not improper because it was consensual, and, therefore, this allegation should be Unfounded.

COPA recommends that **Allegation #3** that Officer B failed to activate his body-worn camera during the stop, detention and searches of Subject 1 and/or Civilian 1 in violation of S03-14 be **Exonerated**.

Officer B and Officer A related during their sworn statements that Officer B was on furlough at the time the cameras had been distributed at his District, and, therefore, he had not yet received his Department-issued Axon body-worn camera on the date of the incident. Department records documented that at the date of the incident, Officer B had not yet been issued a body-worn camera. As such, because he had not been assigned a camera until on or about January 5, 2018, Officer B was not in violation Department policies.

**VII. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
<b>Officer A</b>	1. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., that Officer A improperly detained and handcuffed Subject 1 during a traffic stop.	Unfounded
<b>Officer B</b>	1. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly detained and handcuffed Subject 1 during a traffic stop.	Unfounded

2. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly searched Subject 1' vehicle incident to a traffic stop.

Unfounded

2. On December 7, 2017, at approximately 6:42 p.m., at XXXX W. Birchwood Ave., Officer B improperly failed to activate his Body-Worn Camera during law-enforcement-related activity, including the search of a vehicle.

Exonerated

Approved:

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COPA Deputy Chief Investigator  
*Deputy Chief Administrator – Chief  
Investigator*

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Date

**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	X
<b>Investigator:</b>	COPA Investigator
<b>Supervising Investigator:</b>	COPA Supervising Investigator
<b>Deputy Chief Administrator:</b>	COPA Deputy Chief Investigator
<b>*Attorney:</b>	COPA Attorney