

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 30, 2016
Time of Incident:	12 PM
Location of Incident:	XXXX W. Arcade Place
	January 23, 2018
Time of COPA Notification:	2:46 PM

On November 30, 2016 at approximately 12 PM, Subject 1 (“Subject 1”), his father, Civilian 1, and cousin, Civilian 2 were near XXXX W. Arcade Place discussing what gun range to use. Around the same time, dispatch informed Officers A #XXXX (“Officer A”), Officer B #XXXX (“Officer B”), and Officer C #XXXX (“Officer C”) about a call that narcotics were being sold in the area of XX S. Paulina Avenue. Officers A, B, and C arrived at the location, did not see anyone at the location, however, observed Subject 1 on Arcade Place. The officers approached Subject 1 to determine whether he knew any information about the call. Subject 1 alleges misconduct during the consensual interaction between himself and the officers, COPA reviews these allegations.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXX, Employee #XXXX, Date of Appointment: XX/XX/2007, Police Officer, Unit of Assignment: XXX, Date of Birth: XX/XX/1983, Male, White
Involved Officer #2:	Officer B, Star #XXXX, Employee #XXXX, Date of Appointment: XX/XX/2006, Police Officer, Unit of Assignment: XXX, Date of Birth: XX/XX/1973, Male, Hispanic
Involved Officer #3	Officer C, Star #XXXX, Employee #XXXX, Date of Appointment: XX/XX/2004, Police Officer, Unit of Assignment: XXX, Date of Birth: XX/XX/1981, Male, White
Subject #1:	Subject 1, Date of Birth: XX/XX/1978, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
----------------	-------------------	----------------

<p>Officer A</p>	<p>1. Searched Subject 1's vehicle without justification, in violation of Rule 1</p> <p>2. Seized Subject 1's firearm without justification, in violation of Rule 1</p> <p>3. Charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification, in violation of Rules 2, 3, 8, 10, and 11</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p>
<p>Officer B</p>	<p>1. Searched Subject 1's vehicle without justification, in violation of Rule 1</p> <p>2. Seized Subject 1's firearm without justification, in violation of Rule 1</p> <p>3. Charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification, in violation of Rules 2, 3, 8, 10, and 11</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</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 and goals or brings discredit upon the Department
3. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals
4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty
5. Rule 10: Inattention to duty
6. Rule 11: Incompetency of inefficiency in the performance of duty

Special Orders

1. S06-05-01: Unlawful Use of Weapons Arrests
 2. S06-05-02: Firearm Concealed Carry Act
 3. S07-01-04: Firearms Taken into Custody or Turned In
-

Federal Laws

1. The Fourth Amendment of the United States Constitution
-

State Laws

1. Firearm Concealed Carry Act (430 ILCS 66)
2. Deadly Weapons (720 ILCS 5/24)
3. Aggravated Unlawful Use of a Weapon (720 ILCS 5/24-1.6(a)(1))

V. INVESTIGATION¹**a. Interviews**

COPA interviewed **Subject 1** (“Subject 1”) on January 24, 2018. Subject 1 stated that on November 30, 2016, he was conversing with his father, Civilian 1 (“Civilian 1”) and cousin, Civilian 2 (“Civilian 2”). He stated that Civilian 1 told them that officers were approaching in a vehicle. Subject 1 stated the driver, who had white skin, and the passenger, who was of Indian descent, exited their vehicle² and approached Subject 1. Subject 1 said Officer A asked him about a call about narcotics. Subject 1 said he told the officers he did not know anything about the call. Subject 1 stated the officers asked if he had anything on him and he replied that he and his cousin Civilian 2 were deciding on what gun range to use. Subject 1 indicated that this is when the officers illegally searched the car and seized his backpack. Subject 1 stated that the officers did not ask for permission to search the vehicle and he did not speak while they searched the vehicle. Subject 1 stated the vehicle’s door was open when the officers arrived.

Subject 1 said the officers took the backpack to their squad car and opened it. Subject 1 stated the backpack contained a lockbox which the officers opened and from which removed Subject 1’s firearm, a box of ammunition, and an empty clip. Subject 1 stated that he did not inform the officers that he had a firearm on his person. Subject 1 indicated the firearm was unloaded and broken down. Subject 1 stated the officers placed him in handcuffs and placed him inside the police vehicle. While he was inside the police vehicle, Subject 1 stated the officers stood behind the vehicle talking for ten minutes. Subject 1 said the officers transported him to the XXth District.

Subject 1 stated he was charged with aggravated unlawful use of a weapon by a felon. Subject 1 said the gun was registered to him, he possesses a Firearm Owners Identification (“FOID”) card, but does not possess a concealed carry license. Subject 1 stated he possessed an active Permanent Employee Registration Card (“PERC”) because he works as a security guard. Subject 1 said this card did not allow him to be armed.

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

² Now known to be Officers A and B.

Subject 1 stated he had no interaction with the second, white officer³ because this officer was only observing the interaction. Subject 1 indicated that Civilian 1 is currently incarcerated in Illinois Department of Corrections.⁴ Subject 1 stated approximately ten to twelve individuals about forty to sixty years of age were present, however, he does not know their names, telephone numbers, or residential addresses. Subject 1 stated one of the individuals present was his uncle, Civilian 3, but he has since passed away.⁵

COPA interviewed Officer A #XXXX (“Officer A”) on May 15, 2018. While working with Officers B and C, Officer A stated that dispatch informed them of a call about the sale of narcotics near XX S. Paulina Avenue. Officer A did not recall the specifics of the call. When they arrived at XX S. Paulina Avenue, Officer A stated he observed Subject 1 exit a vehicle on W. Arcade Place, so he and the other officers drove over to where he was. Officer A stated the officers approached Subject 1 to determine whether he had any information about the call. Officer A said he did not believe Subject 1 committed a crime when they stopped him. Officer A stated Subject 1 consented to the stop, continued the conversation, and was cooperative. As the officers approached Subject 1, Officer A stated the officers greeted Subject 1, and Officer A asked Subject 1 whether he had any weapons on him for officer safety. Officer A stated Subject 1 told him he had a gun on the right side of his person. Officer A said he asked Subject 1 if he had a FOID card or a concealed carry license to which Subject 1 replied that he had a FOID card but did not have a concealed carry license. Officer A indicated he told Subject 1 to not move and he recovered the gun from Subject 1’s right side. Officer A stated the gun was not broken down, it was fully loaded, and not in a case. Officer A stated he seized the gun because Subject 1 told the officers he had a gun on his person but did not have concealed carry license which is against the law. Officer A stated the officers placed Subject 1 into custody, handcuffed him, and informed Subject 1 that he was under arrest. Officer A said Subject 1 did not resist. When he arrested Subject 1, Officer A stated he told Subject 1 he could not have a gun on him if he did not have a concealed carry license. Officer A said that Subject 1 did not say he was going to a gun range. Officer A stated a custodial search was conducted, but nothing was recovered. Officer A stated the officers charged Subject 1 with unlawful use of a weapon without possessing a concealed carry license. Officer A stated the law says if a person does not have a concealed carry license then he or she cannot carry a gun on his or her person.

Officer A stated neither he nor the other officers searched the vehicle Subject 1 exited. Officer A stated before placing Subject 1 in the squad car, Subject 1 asked about bringing his backpack with him. Officer A said the officers informed Subject 1 that the backpack would be inventoried if he brought it to the station, but Subject 1 did not mind. Officer A stated he recovered the backpack, but did not recall where it was recovered. Officer A did not know whether the backpack was opened on scene or at the district. Officer A stated the backpack contained miscellaneous property and a box of ammunition, which was inventoried. Officer A said there was no lockbox in the backpack. Officer A stated that while transporting Subject 1 to the district and after he was mirandized, he told the officers he was an unarmed security guard and he knew he was not supposed to have a gun on him but he had it for protection. Officer A did not recall any

³ Now known as Officer C.

⁴ COPA searched for Civilian 1 on the Illinois Department of Corrections website, but there were no individuals with that name currently incarnated.

⁵ Attachment 8

other conversation between him and Subject 1 or between the other officers and Subject 1. Officer A described Subject 1's demeanor as compliant. Officer A indicated that Subject 1 was confused because Officer A believed Subject 1 did not understand gun laws.⁶

COPA interviewed Officer B #XXXX ("Officer B") on May 15, 2018. While working with Officers A and C, Officer B stated that they responded to a dispatch call about a sale of narcotics in the area of XX S. Paulina Avenue. Officer B did not recall if additional information was provided. Officer B stated when they arrived in the area there were no individuals on Paulina Avenue, but they observed a parked vehicle on Arcade Place. Officer B stated Subject 1 exited that vehicle, and approximately five to ten additional civilians were present. Officer B stated the officers approached Subject 1 and other civilians to see if anyone had information related to the call, and Subject 1 was the first person the officers encountered. Officer B stated he greeted Subject 1 then either he or Officer A asked Subject 1, as a matter of safety, if Subject 1 had any weapons on him and where. Officer B stated Subject 1 told them he had a gun on the right side of his person. Officer B stated the officers asked if Subject 1 possessed a FOID card and concealed carry license to which Subject 1 informed the officers that he possessed a FOID card but not a concealed carry license. Officer B stated Officer A recovered the gun from Subject 1's waistband because he committed a crime by carrying a weapon. Officer B said the gun was not broken down, it was fully loaded, and immediately accessible to Subject 1. Officer B stated that Officer A seized Subject 1's gun because Subject 1 stated he had a weapon on him while not possessing a concealed carry license. Officer B stated Officer A placed Subject 1 into custody. Officer B stated a custodial search was conducted, but nothing was recovered. Officer B did not recall who conducted the custodial search. Officer B stated that Subject 1 did not refer to a gun range. Officer B stated the interaction with Subject 1 was consensual.

When the officers were about to place Subject 1 into the squad car, Officer B stated that Subject 1 insisted that the officers retrieve his backpack. Officer B stated he or Officer A retrieved the backpack, but did not recall from where. Officer B said the backpack was searched at the station, which contained ammunition and personal items. Officer B stated there was no lockbox in the backpack or on his person. Officer B stated neither he nor the other officers searched the vehicle because the vehicle was unconnected to Subject 1 standing outside with a gun on his person.

Officer B stated the either he or Officer A handcuffed Subject 1 after the gun was recovered. Officer B stated they arrested Subject 1 because he had a firearm while not possessing a concealed carry license, which they told Subject 1. Officer B stated the officers immediately transported Subject 1 to the XXth District. Officer B described Subject 1's demeanor as honest, talkative, and not mad. Officer B stated that after reading Subject 1 his Miranda Rights and during the transport, Subject 1 told the officers he was an unarmed security guard, he knew he did not have permission to carry a weapon, and he carried it for protection. Officer B did not recall additional conversation between he and Subject 1 or between Officer A and Subject 1. After reviewing Subject 1's arrest report⁷ and case report,⁸ Officer B stated the reports are true and accurate as to what happened on the date of Subject 1's arrest.⁹

⁶ Attachment 30

⁷ See attachment 9

⁸ See attachment 15

⁹ Attachment 35

COPA interviewed **Officer C #XXXX** (“Officer C”) on May 15, 2018. While working with Officers A and B, Officer C stated that they received a call about narcotics being sold in the area. Officer C did not recall whether an exact address was provided. Officer C stated he exited the car and spoke to two civilians on scene. When speaking to these civilians, Officer C stated his back was towards Officers A and B, so he did not see what they were doing. After finishing his conversation with the two civilians, Officer C said he approached Officers A and B, which is when he first saw Subject 1, and simultaneously, Officer A approached him. Officer C stated that Officer A told him that he recovered a gun from Subject 1’s person, specifically, Subject 1’s waistband. Officer C stated Officer A told him that Subject 1 informed Officer A of the gun on his person. Officer C stated Officer A also told him that Subject 1 had a valid FOID card, but did not have a concealed carry license. Officer C said Officer A showed him the gun and it was not broken down. Officer C stated he did not witness Officer A recover the gun from Subject 1’s person. While Officers C and A conversed, Officer C said he did not know what Officer B and Subject 1 (other than standing near the vehicle) were doing because he was focused on Officer A. Officer C stated Officers A and B placed Subject 1 into custody and placed him into handcuffs.

Officer C said he did not observe Officers A and B search the vehicle. Officer C stated Subject 1 informed the officers that he wanted his backpack because he did not want to leave it on the scene or with anybody, so Officer A recovered it. Officer C said the backpack was near the vehicle, but did not recall if the backpack was inside. Officer C indicated Officer A searched the backpack at the XXth District, where additional ammunition was found. Officer C did not recall if the officers informed Subject 1 he was under arrest. Officer C said the officers arrested Subject 1 for possessing a handgun. Officer C stated Subject 1 was immediately transported to the XXth District after placing him inside the squad car. During the transport, Officer C said his conversation with Subject 1 related to where Subject 1 lived. Officer C indicated the conversation was a “basic conversation, nothing pertaining to the case, it was just a general conversation.”¹⁰ Officer C did not recall the conversation between Subject 1 and Officers A and B. Officer C described Subject 1 as calm. At the district, Officer C said the officers processed Subject 1 and did the case report, arrest report, and inventoried Subject 1’s property. Officer C reviewed the reports, and believed they are true and accurate as to what happened on November 30, 2016.¹¹

In order to schedule a statement, COPA contacted **witness Civilian 2** numerous times; however, the attempts were met with negative results.¹²

b. Documentary Evidence

Subject 1’s **arrest report** and the Chicago Police Department **Original Case Incident Report**, RD# XXXXX, state Officers A and B arrested and charged Subject 1 for aggravated unlawful use of a weapon while not possessing a concealed carry license. The reports state that Officers A and B responded to a call about a narcotics sale when they observed and approached Subject 1 to determine whether Subject 1 had any information about the call. The reports also state that Officers A and B asked Subject 1 whether he had any weapons on him for officer safety

¹⁰ Attachment 25 at 12:45 minute mark

¹¹ Attachment 25

¹² Attachment 36

reasons, to which Subject 1 answered in the affirmative. Subject 1 told Officers A and B he possessed a FOID card but did not have a concealed carry license. Officer A recovered a firearm, and Subject 1 was placed into custody. After Subject 1 was processed at the XXth District, Subject 1 stated to Officers A and B that he was an unarmed security guard and knew he was not supposed to have the firearm on him.¹³

Officers A, C, and B **inventoried Subject 1's possession** (Inventory nos. 13812290, 13812326, and 13812293). A firearm, magazine, ammunition, backpack containing miscellaneous personal property, and a box of ammunition were inventoried.¹⁴

COPA searched for Subject 1's **Permanent Employee Registration Card** on the Illinois Department of Financial and Professional Regulation website. The results indicate his PERC is active.¹⁵

Subject 1's **prior arrest report** dated May 26, 2015, CB #XXXXXXX, states that Subject 1 was unable to provide a valid concealed carry license, but owns a valid Firearm Owners Identification card that expires on May 1, 2024.¹⁶

c. Additional Evidence

COPA received an **Appellate Court Order**, 2017 IL App. (1st) XXXXXX, related to Subject 1's criminal case, 16 CR XXXXX. The order discusses that the encounter between Subject 1 and the officers was a consensual field interview. It says that Officer B testified that he and the other officers observed Subject 1 step out of his vehicle. It further states that Officer B said he did not believe Subject 1 was involved in any drug activity; instead, the officers wanted to conduct a field interview for information regarding the call. The order also states that Officer B further testified, as a matter of officer safety and practice, he asked Subject 1 whether he had any weapons on him. The order also states that Subject 1 admitted to carrying a gun on the right side of his body. The order states that Subject 1 further admitted he did not have a concealed carry license, only a FOID card. The order also states that as such, Officer A recovered the gun from Subject 1's person. Moreover, the order states that The Appellate Court agreed with the State that a seizure did not occur until after the officers learned that Subject 1 had a gun without possessing a concealed carry license. The order discusses that neither Subject 1 nor the State disputed that the officers had probable cause to arrest Subject 1 once he admitted that he was carrying a firearm. The Appellate Court held that the circuit court erred in granting Subject 1's motion to quash his arrest and suppress the evidence against him.¹⁷

VI. ANALYSIS

a. Allegation #1: Searched Subject 1's vehicle without justification

¹³ Attachments 9, 15

¹⁴ Attachment 13

¹⁵ Attachment 19

¹⁶ Attachment 23

¹⁷ Attachment 18

COPA recommends a finding of **Unfounded** for **Allegation #1** against **Officers A and B**, that they searched Subject 1's vehicle without justification. The allegation is contradictory and inconsistent to the evidence gathered through COPA's investigation.

In his statement, Subject 1 said the officers searched the vehicle he exited from after he informed the officers that he and Civilian 2 were discussing what gun range to use. Subject 1 further said the officers retrieved his backpack from the vehicle, which contained a lockbox. And, from that lockbox the officers retrieved his broken down and unloaded gun. On the other hand, in their statements, Officers A and B said that (1) they did not search the vehicle, (2) the gun was seized from Subject 1's person after he admitted to it, (3) the gun was not broken down or unloaded, and (4) no lockbox was found within Subject 1's backpack. Reports and officer statements corroborate their statements.

COPA does not deem Subject 1 credible. As the Appellate Court discussed, it is undisputed that Subject 1 admitted to carrying a gun on his person. The record also reflects that the gun was retrieved from Subject 1's person, not from the vehicle. As such, COPA believes that Officers A and B did not search the vehicle. This allegation is not based on the facts revealed through the investigation. Therefore, COPA recommends a finding of **Unfounded** for **Allegation #1** against **Officers A and B**.

b. Allegation #2: Seized Subject 1's firearm without justification

COPA recommends a finding of **Unfounded** for **Allegation #2** against **Officer A**, that he seized Subject 1's firearm without justification. S07-01-04 states, "The Department will seize illegal firearms and illegally possessed firearms as permitted by law."¹⁸ It is undisputed that Officer A seized Subject 1's firearm from his person. In his statement, Officer A said he asked Subject 1, for officer safety reasons, whether he had any weapons on him to which Subject 1 affirmatively answered. Officer A also said Subject 1 told him that he had a valid FOID card, but did not possess a concealed carry license.¹⁹ After Subject 1 admitted to not possessing a concealed carry license, Officer A recovered and seized Subject 1's gun. Reports and additional officer statements corroborate his statement. Officer A explained he seized Subject 1's gun because Subject 1 did not possess a concealed carry license, therefore he could not carry a gun on his person.

COPA reviewed Subject 1's arrest history²⁰ and Subject 1 was previously arrested for carrying a firearm without having a valid concealed carry license. If nothing else, this prior arrest shows that Subject 1 had knowledge that it was illegal for him to possess a firearm on his person without a concealed carry license.

Since Subject 1 admitted to carrying a gun on his person while not possessing concealed carry license, Officer A had probable cause²¹ to believe that Subject 1 was committing a crime.

¹⁸ Accord 720 ILCS 5/24.

¹⁹ Subject 1 also admitted to COPA that he does not possess a concealed carry license, only a FOID card.

²⁰ Subject 1's arrest history was only used by COPA for the purposes of knowledge and did not prejudice this investigation in any way.

²¹ Probable cause exists 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.

Similarly, Officer A decided to arrest Subject 1 for this offense and seized his gun after searching Subject 1, thus, making Officer A's actions justified.²² It was lawful and proper for Officer A to seize Subject 1's firearm; therefore, COPA recommends a finding of **Unfounded** for **Allegation #2** against **Officer A**.

COPA recommends a finding of **Unfounded** for **Allegation #2** against **Officer B**, that he seized Subject 1's firearm without justification. The allegation is contradictory and inconsistent to the evidence gathered through COPA's investigation because it is undisputed that Officer A seized Subject 1's gun, not Officer B. Since the allegation is not based on the facts revealed through the investigation, COPA recommends a finding of **Unfounded** for **Allegation #2** against **Officer B**.

c. Allegation #3: Charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification

COPA recommends a finding of **Unfounded** for **Allegation #3** against **Officers A and B**, that they charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification.

Subject 1 was charged with 720 ILCS 5/24-1.6(a)(1) which states, "A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly carries on or about his or her person or in any vehicle or concealed on or about his or her person any pistol, revolver, stun gun or taser or other firearm. [And], the pistol, revolver, or handgun possessed was uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense and the person possessing the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act."²³ Likewise, S06-05-01 states "individuals carrying a handgun who have been issued a valid CCL will not be charged with 720 ILCS 5/24-1.6(a)," and S06-05-01 states, "The Firearm Concealed Carry Act allows individuals in possession of a concealed carry license in the State of Illinois to carry a loaded or unloaded concealed handgun, fully concealed or partially concealed, on or about his or her person."²⁴ It is undisputed that Subject 1 knowingly carried a gun on his person while not been issued a concealed carry license at the time of his arrest on November 30, 2016. Once Subject 1 admitted this to Officers A and B, it was proper and lawful to charge Subject 1 with unlawful use of a weapon while not possessing a concealed carry license.

Under 720 ILCS 5/24-2, an individual is authorized to carry a firearm if he or she is an armed security guard. This does not apply here. In his statement to COPA and Officers A and B, Subject 1 said he is unarmed security guard and possessed an active PERC. Subject 1 also admitted that his card does not allow him to be armed. Thus, this exemption does not apply to Subject 1, and Officers A and B were justified in charging him with unlawful use of a weapon while not possessing a concealed carry license.

²² See *Rawlings v. Kentucky*, 448 US 98 (1980); *People v. Little*, 322 Ill. App. 3d 607 (2001); *People v. Damian*, 374 Ill. App. 3d 941 (2007) (When an officer has probable cause to arrest an individual, a search may be conducted immediately before the arrest.)

²³ See also 720 ILCS 5/24.

²⁴ See also 430 ILCS 66.

For the above-mentioned reasons, it was lawful and proper for Officers A and B to charge Subject 1 with unlawful use of a weapon while not possessing a concealed carry license. Therefore, COPA recommends a finding of **Unfounded** for **Allegation #3** against **Officers A and B**.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	1. Searched Subject 1’s vehicle without justification, in violation of Rules 2, 3, 10 and 11 2. Seized Subject 1's firearm without justification, in violation of Rules 2, 3, 10 and 11 3. Charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification, in violation of Rules 2, 3, 8, 10, and 11	Unfounded Unfounded Unfounded
Officer B	1. Searched Subject 1’s vehicle without justification, in violation of Rules 2, 3, 10 and 11 2. Seized Subject 1's firearm without justification, in violation of Rules 2, 3, 10 and 11 3. Charged Subject 1 with unlawful use of a weapon while not possessing a concealed carry license without justification, in violation of Rules 2, 3, 8, 10, and 11	Unfounded Unfounded Unfounded

Approved:

Acting Deputy Chief Administrator A

 Date

Appendix A

Assigned Investigative Staff

Squad#:	XX
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Acting Deputy Chief Administrator:	Acting Deputy Chief Administrator A