

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	June 25, 2018 – June 26, 2018
Time of Incident:	11:52 PM
Location of Incident:	[REDACTED]
Date of COPA Notification:	June 26, 2018
Time of COPA Notification:	9:50 AM

On June 25, 2018, the complainant, [REDACTED] was stopped by Officers [REDACTED] and [REDACTED] for a traffic violation. Lieutenant [REDACTED] and Sergeant [REDACTED] were also present. [REDACTED] told the officers he had a gun in the car. [REDACTED] was taken to the police station and initially charged with unlawful use of a weapon. The officers ultimately decided not to charge and [REDACTED] received traffic citations. [REDACTED] alleged he was arrested without probable cause and handcuffed too tightly. After reviewing available evidence and conducting interviews, COPA recommends the allegations be Exonerated. The findings are further discussed in the Analysis portion of this report.

**II. INVOLVED PARTIES**

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2016, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1987, Male, Hispanic
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID# [REDACTED] Date of Appointment: [REDACTED] 1999, Lieutenant, [REDACTED] District, Date of Birth: [REDACTED] 1973, Male, White
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1990, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer [REDACTED]	1. Handcuffed [REDACTED] too tightly, in violation of Rule 6 and Rule 8.	Exonerated
Lieutenant [REDACTED]	1. Instructed Officer [REDACTED] Star # [REDACTED] and Officer [REDACTED] Star # [REDACTED] to arrest	Exonerated

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██████████ without probable cause, in violation of Rule 1 and Rule 3.

**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 3:** Prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
  3. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
  4. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

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General Orders

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1. **G06:01:02:** Restraining Arrestees.

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1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

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State Laws

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1. **720 ILCS 5/24-1:** Unlawful use of weapons.

## V. INVESTIGATION<sup>1</sup>

### a. Interviews

COPA interviewed the complainant, ██████████ on June 27, 2018.<sup>2</sup> On June 26, 2018 at about 12:30 AM, ██████████ was pulled over by a marked CPD SUV. Officer ██████████ approached on the driver's side and Officer ██████████ went to the passenger's side. Officer ██████████ told ██████████ they pulled him over for erratic driving and an expired license plate. ██████████ told Officer ██████████ he is a security officer and had a gun in his vehicle. Officer ██████████ asked ██████████ if he was going to or from work, why the gun was in his car, why he was wearing a holster, and if he had a concealed carry license (CCL). ██████████ told the officer he did not have a CCL and was wearing a holster because he was going to a gun range. ██████████ also told the officer his gun was unloaded in a case under the driver's seat and the magazine was in the center console. ██████████ had a valid FOID card. Officer ██████████ ordered ██████████ to exit and handcuffed him. Officer ██████████ would not tell ██████████ why he was arrested. Officer ██████████ told ██████████ handcuffs "come off as quick as they go on."<sup>3</sup> ██████████ also saw a sergeant (Sergeant ██████████) and a lieutenant (Lieutenant ██████████). Officer ██████████ asked ██████████ to relate his story to the lieutenant. The lieutenant told the officers to put ██████████ in the police car. Officer ██████████ transported ██████████ and Officer ██████████ drove ██████████ vehicle to the police station. ██████████ left handcuff got "tighter and tighter" during the transportation.<sup>4</sup> ██████████ later learned that the right side was double locked but not the left side. ██████████ told Officer ██████████ about his left cuff once they got to the station and Officer ██████████ responded he would remove the handcuffs in lockup, which he did. ██████████ was sore from the handcuff at the time of his COPA interview.

Once inside the station, ██████████ said he needed to use the restroom and was told to wait. Eventually, he was uncuffed and allowed to use the bathroom in the cell. This happened a second time and he was again not allowed to immediately use the restroom. Officer ██████████ eventually read ██████████ his Miranda Rights. ██████████ was not allowed to use his phone or contact a lawyer. Officer ██████████ told ██████████ he was charged with misdemeanor unlawful use of a weapon because the gun was accessible to ██████████ and Officer ██████████ told ██████████ his gun was "not secure."<sup>5</sup> ██████████ described Officer ██████████ as intimidating, confrontational, combative, and aggressive. ██████████ asked to speak to a sergeant and a male sergeant came to ██████████ cell. Before the sergeant arrived, Officer ██████████ told ██████████ they had him on video incriminating himself. ██████████ told the sergeant (believed to be Sergeant ██████████) he was meeting the statute because ██████████ gun was unloaded in a closed case. The sergeant agreed to research the statute. Officer ██████████ came back to the cell with traffic tickets and told ██████████ he was receiving a "huge break" because they "are not here to harass the working man."<sup>6</sup>

COPA interviewed **Officer ██████████** on September 14, 2018.<sup>7</sup> Officer ██████████ was partnered with Officer ██████████ on June 25, 2018. The officers stopped ██████████ for making an

<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> Att. 4

<sup>3</sup> Approximately 6:56 minute mark of Att. 4

<sup>4</sup> Approximately 10:07 minute mark of Att. 4.

<sup>5</sup> Approximately 13:00 minute mark of Att. 4.

<sup>6</sup> Approximately 17:37 minute mark of Att. 4

<sup>7</sup> Att. 22

illegal U-turn and learned he had an expired license plate. Further, [REDACTED] was unable to produce a valid driver's license. Officer [REDACTED] saw a loaded magazine and handcuffs in the car while Officer [REDACTED] spoke to [REDACTED] told the officers he had a gun in the car, which was found under the driver's seat, unloaded, and in a case. The officers asked [REDACTED] out of his car for a traffic bond violation, since he did not have valid license or insurance. Officer [REDACTED] handcuffed [REDACTED]. Officer [REDACTED] did not observe the handcuffing and did not hear [REDACTED] complain. Lieutenant [REDACTED] arrived on scene and told the officers to process [REDACTED] for the traffic bond violation and to do further research on the possible weapon violation. Officer [REDACTED] denied that [REDACTED] was not allowed to use the restroom but did not remember if [REDACTED] was made to wait. [REDACTED] was told he could call an attorney, but Officer [REDACTED] did not recall [REDACTED] asking to call an attorney. [REDACTED] was read his Miranda Rights because they officers were considering an unlawful use of a weapon (UW) charge. [REDACTED] was ultimately not charged with UW because the officers read the state law and learned [REDACTED] had followed the law.

Officer [REDACTED] was interviewed by COPA on September 14, 2018.<sup>8</sup> [REDACTED] was stopped for making a U-turn. [REDACTED] also had an expired license plate and no valid driver's license or insurance. [REDACTED] gun was found unloaded and in a case under the driver's seat. The officers took [REDACTED] to the station for his traffic violations, since [REDACTED] did not have a driver's license to post bond. Officer [REDACTED] denied handcuffing [REDACTED] too tightly and did not recall if the cuffs were double locked. Officer [REDACTED] did not recall [REDACTED] complaining the handcuffs were too tight. Lieutenant [REDACTED] checked on the officers and was not called to the scene. Sergeant [REDACTED] was also present. Officer [REDACTED] asserted [REDACTED] was never arrested but was detained to go to the station and post bond. Officer [REDACTED] denied that [REDACTED] was refused use of the bathroom and did not recall if [REDACTED] had to wait for the bathroom. [REDACTED] was read his Miranda Rights because the officers considered a UW charge, but the later learned [REDACTED] was properly carrying his weapon. At the police station, Officer [REDACTED] Lieutenant [REDACTED] and Sergeant [REDACTED] met to discuss [REDACTED] possible charges. Officer [REDACTED] had begun the UW case report and arrest report, "knowing that we can cancel it, if need be."<sup>9</sup> Officer [REDACTED] supervisors told him [REDACTED] was following the law and Officer [REDACTED] canceled the charges. Officer [REDACTED] denied that prior to this, anyone advised him with what to charge [REDACTED]. Since this incident, Officer [REDACTED] saw [REDACTED] car running and unattended in a McDonald's parking lot. Officer [REDACTED] approached the vehicle and [REDACTED] came and to tell the officer he had run into McDonald's.

COPA interviewed Lieutenant [REDACTED] on September 28, 2018.<sup>10</sup> Lieutenant [REDACTED] saw [REDACTED] traffic stop with Officers [REDACTED] and [REDACTED] and went to support them. Lieutenant [REDACTED] suggested the officers take [REDACTED] to the police station. Lieutenant [REDACTED] advised the officers to address the traffic violations and investigate if [REDACTED] was in violation of UW laws. Since [REDACTED] could not produce a driver's license, he could not use his driver's license as bond and had to go to the police station for an I Bond. Per Lieutenant [REDACTED] a traffic bond violation is probable cause for an arrest. Lieutenant [REDACTED] did not hear [REDACTED] state his handcuffs were too tight. Lieutenant [REDACTED] did not speak with the station supervisor about [REDACTED] charges.

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<sup>8</sup> Att. 17

<sup>9</sup> Approximate

\jly 13:08 minute mark of Att. 17.

<sup>10</sup> Att. 24

**b. Digital Evidence**

The following **Body Worn Camera (BWC)** video footage was obtained from [REDACTED] June 25-26, 2018 arrest.<sup>11</sup>

*Officer* [REDACTED]

Officer [REDACTED] BWC initiated at roughly 11:51 PM. Officer [REDACTED] exited the squad car and approached [REDACTED] on the driver's side. Officer [REDACTED] told [REDACTED] his tags were expired and he was making U-turns "all over the place." Officer [REDACTED] asked [REDACTED] if he had a firearm on him. [REDACTED] responded that he had one in the vehicle, in a case under his seat. [REDACTED] told the officers he did not have a concealed carry license but had an active FOID card. [REDACTED] also stated he did not have his driver's license on him. [REDACTED] handed Officer [REDACTED] his phone and stated it contained his SR-22 insurance information. [REDACTED] said he had a valid license but received a ticket about two months prior which he had not paid. Lieutenant [REDACTED] told Officer [REDACTED] that "If [...] the story checks out and everything, he can be released without charging [...] You should go in and check out the gun and everything [...] and let the Watch Commander make the decision." Officer [REDACTED] asked [REDACTED] to exit his car and handcuffed him. Officer [REDACTED] told him that he was not supposed to have his firearm with him. Officer [REDACTED] commented that handcuffs "come off as much as they go on," and asked [REDACTED] where the gun was. [REDACTED] responded it was in a case underneath the seat. After placing [REDACTED] in the squad car, Officer [REDACTED] spoke with Sergeant [REDACTED] and Lieutenant [REDACTED]. Lieutenant [REDACTED] related "Yeah, once you sift through it [...] if you run it past the Watch Commander, maybe the misdemeanors are appropriate or [...] as long as the gun and everything else checks out [...]."

*Officer* [REDACTED]

At approximately 11:55 PM, Officer [REDACTED] asked [REDACTED] why his magazine was out and not in a case. [REDACTED] responded he was at the range earlier. Officer [REDACTED] then asked [REDACTED] why there were handcuffs in his car and [REDACTED] related he is a security guard. At roughly 11:59 PM, Officer [REDACTED] asked [REDACTED] to exit his car. Officer [REDACTED] then removed [REDACTED] gun from under the car seat. The gun was inside of a zipped black bag. At about 12:01 AM, Lieutenant [REDACTED] told Officer [REDACTED] to put [REDACTED] in the squad car. He then told Officer [REDACTED] to "figure all the traffic [...] and this, he is carrying it the right way [...] his other stuff is pending, and he's not supposed to be carrying it [...] he doesn't have a concealed carry [...] he doesn't have his shit straight. So, he doesn't have to be charged with that, he's not supposed to have it [...] If everything else checks out, maybe he doesn't get charged with it, but you guys at least have to check out the gun and everything." Officer [REDACTED] got in the driver's seat of [REDACTED] vehicle and drove off at about 12:04 PM.

At about 12:26 AM, Officer [REDACTED] approached [REDACTED] in a cell at the police station and read him his Miranda Rights. Officer [REDACTED] told [REDACTED] he was charged with unlawful use of a weapon because [REDACTED] did not have the valid information required to carry a firearm. [REDACTED] asked if an attorney would come to the police station and Officer [REDACTED] did not know. At about 12:29 AM, [REDACTED] asked to use the bathroom and Officer [REDACTED] told him to wait "a few moments." Officer

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<sup>11</sup> Att. 15

returned to cell and summoned Officer . Officer stated he could get a sergeant to talk to again asked to use the restroom at about 12:34 AM.

### c. Physical Evidence

No relevant physical evidence was obtained pertaining to the present investigation.

### d. Documentary Evidence

A **Cancelled Original Case Incident Report** was found with RD # .<sup>12</sup> On June 25, 2018 at about 11:51 PM, a pistol was found in an unlocked case under driver's seat. Per the narrative, "this RD was obtained in error."

An **Office of Emergency Management and Communications Event Query Report** was obtained from this incident.<sup>13</sup> Officers and (Beat ) performed a traffic stop at name was searched. At about 12:04 AM on June 26, 2018, Beat went to the District with one passenger.

Four **traffic citations** issued to on June 25, 2018 were identified through the Cook County Clerk of the Circuit Court.<sup>14</sup> was charged with improper U-turn and no valid registration. bond was forfeited on August 22, 2018. A continuance was entered for both citations on September 28, 2018. The next court date is December 17, 2018. was also charged with failing to carry/display license/permit and operating an uninsured motor vehicle. On August 22, 2018, a judgement of non-suit was entered.

## VI. ANALYSIS

**Allegation 1** against Officer that he handcuffed too tightly, is **Exonerated**. stated one of the cuffs was not double-locked and that is why it got too tight. Officer could not recall whether he double-locked cuffs. Per General Order G06-01-02, "Handcuffs will be double-locked." This was a low stress situation with a compliant subject and there is no reason for Officer to not double-lock both of cuffs. As reported one cuff was double locked and one was not, it was likely unintentional. Further, stated that Officer adjusted the handcuffs once was in lockup. Additionally, did not obtain medical treatment, suggesting the pain was not significant or lasting. Since it appears that handcuff was single-locked unintentionally, was not seriously harmed, and Officer adjusted the cuff, this allegation is Exonerated.

**Allegation 1** against Lieutenant that he instructed Officer Star # and Officer Star # , to arrest without probable cause, is **Exonerated**. Based on BWC and the lieutenant's interview, the officers were trying to determine whether was in violation of UUW laws. However, while a decision to charge the UUW was determined, probable cause existed to arrest based on his traffic infractions, specifically

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<sup>12</sup> Att. 12

<sup>13</sup> Att. 14

<sup>14</sup> Att. 30

driving without a valid license. Lieutenant [REDACTED] advised the officers to determine if [REDACTED] could also be charged with unlawful use of a weapon while they processed the misdemeanor license violation.

The question is whether [REDACTED] was held for too long of a timeframe between his arrest and his release. See *Chortek v. City of Milwaukee*, 356 F.3d 740, 746 (7th Cir. 2004) (“[a]n excessive length of detention may be sufficient to violate the reasonableness requirement of the Fourth Amendment”). Here, [REDACTED] was detained for a little less than three hours. Per [REDACTED] own statement, during this time, officers were assessing whether he should also be ticketed for unlawful use of a weapon. [REDACTED] requested to speak to a sergeant and advised the sergeant to research the statute, which the sergeant did. The officers also indicated they spoke to each other during this timeframe about the charge as Officer [REDACTED] prepared the U UW case report and arrest report. Thus, during [REDACTED] approximately three-hour detention, the officers were completing valid police activities and there is no indication they held [REDACTED] as a means of punishing him. COPA finds that under these circumstances, [REDACTED] three-hour detention was not excessive or constitutionally unreasonable. See *id.* (finding that the length of the plaintiffs’ detentions were not unreasonable “in the absence of any evidence of improper purpose for the delay”). In sum, since there was probable cause for [REDACTED] arrest outside of unlawful use of a weapon and the detention was not constitutionally unreasonable, there was no misconduct and this allegation is Exonerated.

[REDACTED] also complained that at the police station, he was not allowed to: immediately use the restroom, use his cellphone, or call his lawyer. However, these complaints were determined to not be misconduct and allegations were not served. With regards to the restroom, a temporary deprivation of use of the toilet is not a violation if there was not physical harm or serious risk of contamination. [REDACTED] was eventually able use the bathroom, without harm or contamination. As far as using his cellphone, officers are under no obligation to allow an arrestee use of their cellphone. In fact, officers are required to inventory arrestee’s personal property. With regards to calling a lawyer, [REDACTED] was not subject to a custodial interrogation to which Miranda guarantees the right to counsel. [REDACTED] was released before any formal charges were issued and was never subject to a custodial interrogation.

**VII. CONCLUSION**

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

Officer	Allegation	Finding
Officer [REDACTED]	1. Handcuffed [REDACTED] too tightly, in violation of Rule 6 and Rule 8.	Exonerated
Lieutenant [REDACTED]	1. Instructed Officer [REDACTED] Star # [REDACTED] and Officer [REDACTED] Star # [REDACTED] to arrest [REDACTED] without probable cause, in violation of Rule 1 and Rule 3.	Exonerated

Approved:

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*Deputy Chief Administrator – Chief Investigator*

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Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Four
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	