

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 10, 2018
Time of Incident:	4:30 PM
Location of Incident:	[REDACTED] and [REDACTED]
Date of COPA Notification:	May 24, 2018
Time of COPA Notification:	3:30 PM

On May 10, 2018, near [REDACTED] at approximately 2:28 PM, Officer [REDACTED], (“Officer [REDACTED]”) and Officer [REDACTED] (“Officer [REDACTED]”) stopped complainant [REDACTED] ([REDACTED]) for a narcotics investigation. [REDACTED] alleges that Officer [REDACTED] and Officer [REDACTED] illegally stopped and searched him without justification. Additionally, on May 10, 2018, at approximately 4:23 PM, [REDACTED] alleges he dialed 911 to request a CPD supervisor come to his residence at [REDACTED] to initiate a complaint against Officer [REDACTED] and Officer [REDACTED]. [REDACTED] alleges that the responding CPD supervisor, Sergeant [REDACTED] (“Sgt. [REDACTED]”) refused to initiate the complaint requested by complainant [REDACTED].

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star [REDACTED], Employee ID [REDACTED], Date of Appointment: [REDACTED], Rank: Sergeant, Unit of Assignment: [REDACTED] District, DOB: [REDACTED] Male, White
Involved Officer #2:	[REDACTED], Star [REDACTED], Employee ID [REDACTED], Date of Appointment: [REDACTED], Rank: Police Officer, Unit of Assignment: [REDACTED] District, DOB: [REDACTED], Male, White
Involved Officer #3:	[REDACTED] Star [REDACTED], Employee ID [REDACTED] Date of Appointment: [REDACTED], Rank: Police Officer, Unit of Assignment: [REDACTED] District, DOB: [REDACTED], Male, White Hispanic
Involved Individual #1:	[REDACTED], [REDACTED], White Hispanic, Male

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	<p>1. It is alleged that on or about May 10, 2018, at [REDACTED], at approximately 4:23 PM, Sgt. [REDACTED] failed to initiate a complaint alleging police misconduct involving P.O. [REDACTED] Star [REDACTED] and P.O. [REDACTED] Star [REDACTED] in violation of Rules 5 and 10.</p>	Exonerated
Officer [REDACTED]	<p>1. It is alleged that on or about May 10, 2018, on the sidewalk in front of [REDACTED] at approximately 2:38 PM, Officer [REDACTED] improperly detained [REDACTED], in violation of Rules 2 and 8.</p> <p>2. It is alleged that on or about May 10, 2018, on the sidewalk in front of [REDACTED], at approximately 2:38 PM, Officer [REDACTED] conducted an improper search of [REDACTED], in violation of Rules 2 and 8.</p>	<p>Exonerated</p> <p>Unfounded</p>
Officer [REDACTED]	<p>1. It is alleged that on or about May 10, 2018, on the sidewalk in front of [REDACTED] at approximately 2:38 PM, Officer [REDACTED] improperly detained [REDACTED] in violation of Rules 2 and 8.</p> <p>2. It is alleged that on or about May 10, 2018, on the sidewalk in front of [REDACTED], at approximately 2:38 PM, Officer [REDACTED] conducted an improper search of [REDACTED] in violation of Rules 2 and 8.</p>	<p>Exonerated</p> <p>Exonerated</p>

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 5:** Failure to perform any duty.
3. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
4. **Rule 10:** Inattention to duty.

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##### General Orders

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1. **G08-01-02:** Specific Responsibilities Regarding Allegations of Misconduct

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##### Special Orders

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1. **S04-13-9:** Investigatory Stop System

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##### Federal Laws

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1. **4<sup>th</sup> Amendment,** U.S. Constitution
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#### V. INVESTIGATION<sup>1</sup>

##### a. Interviews

On May 24, 2018, **complainant** [REDACTED] ([REDACTED]), gave COPA an audio recorded interview. [REDACTED] stated that at approximately 4:00 P.M., on or about April 30, 2018<sup>2</sup> he was around the area of [REDACTED] and [REDACTED], visiting a female acquaintance. [REDACTED] stated after spending the night with his female acquaintance, he left her residence and proceeded to walk northbound towards [REDACTED]. [REDACTED] stated he then observed fifteen to twenty males on the street having a dispute. [REDACTED] stated he walked in the middle of the street westbound on [REDACTED] to avoid the group. [REDACTED] stated that the police, "must have gotten wind of it [the dispute],"<sup>3</sup> because as he was leaving, plainclothes police officers drove up to the location in an unmarked vehicle.

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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> Further investigation revealed [REDACTED] interacted with the accused officers on May 10, 2018.

<sup>3</sup> Attachment 8 at 40:00

█████ stated instead of investigating the on-going dispute with the group, the officers, later identified as Officer █████ and Officer █████ stopped and began investigating him. █████ stated the officers had been on █████, observing what was happening with the group of males. █████ stated one of the officers grabbed him and put him up against the police vehicle. █████ stated he told the officers to leave him alone. █████ stated that Officer █████ began searching his left pocket but did not retrieve anything. █████ stated Officer █████ obviously knew he was doing something wrong because he did not perform a thorough search. █████ stated Officers █████ and █████ profiled him because he is an Hispanic male. █████ stated he told the officers, “I do not consent to any illegal searches or seizures.”<sup>4</sup>

█████ stated Officer █████ said, “you don’t run the show here, I do.”<sup>5</sup> █████ stated initially that he thanked Officers █████ and █████ for stopping him, telling the officers “I’m glad you guys are here because in a way you probably saved me from an ass whipping.”<sup>6</sup> █████ stated while being stopped, Officers █████ and █████ began to illegally search him and then illegally ran his name. █████ stated the officers questioned what he was doing in the area. █████ stated he told the officers that was none of their business. █████ stated the officers told him, “we know what you’re doing.”<sup>7</sup> █████ stated the officers told him they observed him exiting a building known for drug activity. █████ stated he told the officers he had not purchased any drugs. █████ admitted that he was verbally hostile towards the officers.

█████ stated Officer █████ stood behind him while Officer █████ retrieved a bag from the ground. █████ admitted the location of the stop was a high narcotics area. █████ stated the narcotics bag Officer █████ retrieved hardly contained anything. █████ stated that after the officer examined the narcotics bag, he knew from the expressions between Officer █████ and Officer █████ they knew it was not worth pursuing. █████ stated Officer █████ asked for his identification. █████ stated he told Officer █████ that he did not have to present identification. █████ stated he asked Officer █████ what crime he had committed. █████ stated Officer █████ replied he was being detained. █████ stated he asked Officer █████ if he was conducting a *Terry* stop. █████ stated he told Officer █████ if he was conducting a *Terry* stop, he only had a certain amount of time to do it. █████ stated since he had not done anything wrong, the officers let him go. █████ stated he was not provided any documentation from the officers regarding his stop and investigation.

█████ stated initially he did not know where to make a complaint against Officers █████ and █████. █████ stated that he first went to the █████ District to make the complaint but was told by CPD personnel to go home, dial 911, and a supervisor would come to his home. █████ stated he went home and called 911 requesting a supervisor to come to his residence to make the complaint. █████ stated a supervisor, identified as Sergeant █████ (“Sgt. █████”) arrived at his residence to take the complaint. █████ stated he started to file the complaint, but then felt he was getting ultimatums from Sgt. █████. █████ stated he told

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<sup>4</sup> Id at 45:22

<sup>5</sup> Id at 45:25

<sup>6</sup> Id at 42:23

<sup>7</sup> Id at 43:50

Sgt. ██████ that he only wanted to file a complaint because an officer had illegally searched and seized him. ██████ stated he told Sgt. ██████ that he did not want to answer any questions. ██████ stated Sgt. ██████ said, "It doesn't work like that Mr. ██████."<sup>8</sup>

██████ stated Sgt. ██████ said that he would need to give a statement recorded on body worn camera and sign an affidavit. ██████ further stated Sgt. ██████ said he was following procedure. ██████ stated he told Sgt. ██████ what he was requesting him to do was not procedure. ██████ stated he then told Sgt. ██████ he could ask questions, but that ██████ would invoke his Fifth Amendment right to not answer questions he did not like. ██████ stated Sgt. ██████ told him if he was going to be hostile then "have a good day."<sup>9</sup> ██████ stated Sgt. ██████ left but returned five minutes later to take the complaint. ██████ stated he refused to do the interview. ██████ stated he told Sgt. ██████ that he would call someone else to take his complaint, and that Sgt. ██████ would be included with the other officers in that complaint.<sup>10</sup>

On October 22, 2018, **accused Police Officer ██████**, ("**Officer ██████**"), gave COPA an audio recorded interview. Officer ██████ stated on May 10, 2018, he and his partner, Officer ██████, were in plainclothes and driving an unmarked CPD vehicle. Officer ██████ stated between 2:15 PM and 2:45 PM, he and Officer ██████ were near ██████. Officer ██████ stated the area is a known narcotics location and he and Officer ██████ have made numerous narcotics arrests for heroin in that area.

Officer ██████ stated he and Officer ██████ were conducting narcotics surveillance. Officer ██████ stated they observed an individual, identified as complainant ██████ meet and tender U.S. currency to an unknown male. Officer ██████ stated ██████ then stuck out his palm face up with the unknown male placing a small Ziploc baggie, consistent with narcotics packaging, into his palm. Officer ██████ stated ██████ then began walking northbound. Officer ██████ stated as he and Officer ██████ approached in their unmarked vehicle, ██████ saw them. Officer ██████ stated upon ██████ observing the unmarked vehicle, he brought the baggie from his palm to his nose, began snorting the suspect heroin, and discarded the baggie in a throwing motion with his right hand to a grassy area.

Officer ██████ stated upon approaching ██████, he exited the passenger side of the unmarked vehicle. Officer ██████ stated he saw ██████ with his hand in his right pocket and asked him to remove it. Officer ██████ stated ██████ became aggressive towards the officers, refusing to obey their directives. Officer ██████ stated because of ██████ behavior, he was handcuffed and detained. Officer ██████ stated he believed ██████ was concealing additional narcotics in his right pocket, so he searched it but found nothing. Officer ██████ stated Officer ██████ went to the area where ██████ discarded the small Ziploc baggie but left the baggie, so he went to retrieve it.

Officer ██████ stated heroin residue was still inside the bag, but he did not place ██████ under arrest.<sup>11</sup> Officer ██████ stated he conducted a Law Enforcement Agencies Data

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<sup>8</sup> Id at 50:10

<sup>9</sup> Id at 51:45

<sup>10</sup> Attachment 8

<sup>11</sup> Officer ██████ stated because the heroin residue was a Class A misdemeanor, and not a felony, he used his discretion to release ██████.

Systems (LEADS) name check on [REDACTED], which was negative, and released him at the scene. Officer [REDACTED] stated an Investigatory Stop Report (“ISR”) was completed on the incident. Officer [REDACTED] stated a CPD supervisor did not respond to their location. Officer [REDACTED] also stated he had no contact with [REDACTED] prior to this incident.<sup>12</sup>

On November 8, 2018, **accused Police Officer [REDACTED]**, (“Officer [REDACTED]”) provided an interview to COPA. Officer [REDACTED] stated while on surveillance, on the date, time and location of this incident, he and Officer [REDACTED] observed what looked like a hand-to-hand transaction between an individual, identified as complainant [REDACTED], and an unknown male. Officer [REDACTED] stated that after the observed transaction, [REDACTED] walked northbound and then westbound. Officer [REDACTED] stated he and Officer [REDACTED] approached [REDACTED] in their unmarked vehicle, called out to him, and stopped him for an investigation. Officer [REDACTED] stated [REDACTED] became combative and excited, so they handcuffed him for safety reasons. Officer [REDACTED] stated while [REDACTED] was detained with Officer [REDACTED], he walked to the location where [REDACTED] was observed discarding the small Ziploc bag of suspected narcotics. Officer [REDACTED] stated he located the baggie and had it in his hand, but because of the small amount of suspected heroin residue it contained, he decided to leave it on the ground. Officer [REDACTED] stated he returned to where Officer [REDACTED] was detaining [REDACTED].

Officer [REDACTED] stated Officer [REDACTED] then went to retrieve the suspected narcotics packaging discarded by [REDACTED]. Officer [REDACTED] stated [REDACTED] said to him that, “You can’t stop me because I don’t have anything. I bought it [the suspect heroin] and did it already.”<sup>13</sup> Officer [REDACTED] stated that based upon his experience, [REDACTED] statement meant that he had inhaled the suspected heroin prior to being stopped by the officers. Officer [REDACTED] stated while he did not search or pat down [REDACTED], that Officer [REDACTED] may have gone through [REDACTED] pockets to ascertain the existence of additional narcotics. Officer [REDACTED] stated he and Officer [REDACTED] used their discretion and did not arrest [REDACTED]. Officer [REDACTED] stated an ISR was completed regarding the investigatory stop of [REDACTED]. Officer [REDACTED] stated a CPD supervisor did not respond to the location of the investigation nor did [REDACTED] make a request for one. Officer [REDACTED] also stated he had no contact with [REDACTED] prior to this incident.<sup>14</sup>

On November 18, 2018, **Sergeant [REDACTED]**, (“Sgt. [REDACTED]”), gave COPA an audio recorded interview. Sgt. [REDACTED] stated on May 10, 2018, at approximately 4:23 PM, he received a request for a supervisor call for service at [REDACTED]. Upon his arrival, Sgt. [REDACTED] stated he was met at the front gate by the complainant [REDACTED]. Sgt. [REDACTED] stated no other CPD officers responded to the location. Sgt. [REDACTED] stated [REDACTED] said he want to file a complaint of police misconduct involving an illegal stop and search by CPD members, later identified as Officers [REDACTED] and [REDACTED], near [REDACTED]. Sgt. [REDACTED] stated he explained the complaint process, and the necessity of signing an affidavit, to [REDACTED]. Sgt. [REDACTED] stated he needed all the facts from [REDACTED] involving what occurred to complete the initiation report. Sgt. [REDACTED] stated [REDACTED] refused to sign an affidavit and would only reply to questions he wanted to and invoked the Fifth Amendment for questions he refused to answer. Sgt. [REDACTED] stated he left the location and spoke with another supervisor about what occurred. Sgt. [REDACTED] stated at

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<sup>12</sup> Attachment 21

<sup>13</sup> Attachment 31 at 13:35

<sup>14</sup> Attachment 31

that time he had only been a supervisor for four months. Sgt. ██████ stated once informed of the correct procedure for initiating a complaint by the other supervisor, he returned to speak with ██████ Sgt. ██████ stated he apologized to ██████ and said he made a mistake. Sgt. ██████ stated he asked ██████ whether he wanted to still file a complaint. Sgt. ██████ stated ██████ became very belligerent, telling him, “go fuck yourself, you had your chance.”<sup>15</sup>

**b. Digital Evidence**

The **Body Worn Camera (“BWC”)** video of Officer ██████ shows his interaction with ██████ during the investigation. ██████ is heard yelling to unknown persons, “Ya’ll record this man, ya’ll record this man.”<sup>16</sup>

The BWC video of Officer ██████ shows his interaction with ██████ during the investigation. ██████ is yelling obscenities. Officer ██████ tells ██████, “We’re watching a dope spot. You were seen coming out of a dope spot.”<sup>17</sup> ██████ is yelling at Officer ██████ saying, “This is illegal what you’re doing man, point blank and simple.”<sup>18</sup> ██████ states he was stopped by the officers because he is Hispanic in a black neighborhood. ██████ states the officers should be investigating the black males fighting across the street instead of him. ██████ begins using racial epithets to describe the behavior of the black males he said were fighting.<sup>19</sup> ██████ stated to Officer ██████ he did not have any narcotics on his person, and that he “snorted it”<sup>20</sup> before he was stopped.<sup>21</sup>

**Sgt. ██████ BWC videos** show his interactions with ██████. The first video shows ██████ telling Sgt. ██████ his reason for making a complaint against Officers ██████ and ██████. Sgt. ██████ goes to his marked CPD vehicle to retrieve information from his portable data terminal (“PDT”) regarding the stop and investigation of ██████ by Officers ██████ and ██████. Sgt. ██████ returns and asks ██████ whether he told the officers he had snorted the suspected narcotics before they stopped him and whether they recovered suspected narcotics packaging with residual contents he discarded as he was stopped. ██████ states, “I didn’t tell them nothing.”<sup>22</sup> Sgt. ██████ asks ██████ whether he is willing to sign an affidavit affirming he is telling the truth. ██████ states to Sgt. ██████ that he wants to file a complaint.

Sgt. ██████ second video shows him returning to speak with ██████. Sgt. ██████ tells ██████ that he made a mistake. Sgt. ██████ says to ██████ that if he wants to do the complaint Sgt. ██████ has no problem taking it. ██████ says, “Do you hear what I said, or do I speak a different language?”<sup>23</sup> Sgt. ██████ twice asks ██████ if he wants him to leave. ██████ does not reply. Sgt. ██████ twice asks ██████ again if he wants him to take the complaint. ██████ replies to Sgt. ██████ with a racial epithet describing himself.<sup>24</sup> Sgt. ██████ again asks ██████

<sup>15</sup> Attachment 29

<sup>16</sup> Attachment 14 at 1:00

<sup>17</sup> Attachment 15 at 3:35

<sup>18</sup> Id at 3:50

<sup>19</sup> Id at 5:00

<sup>20</sup> Id at 5:31

<sup>21</sup> Attachment 15

<sup>22</sup> Id at 8:44

<sup>23</sup> Attachment 25, BWC #2 video at 00:47

<sup>24</sup> Id at 1:28

twice if he wants to make a complaint. ██████ replies to Sgt. ██████, “You had the opportunity. Now you’re going to be on the complaint too, don’t worry about it.”<sup>25</sup> Sgt. ██████ tells ██████ to have a good day and leaves the scene.<sup>26</sup>

**c. Documentary Evidence**

**The CPD Investigatory Stop Report (ISR) No. ██████** states on May 10, 2018, at approximately 2:28 PM, that a ██████, later correctly identified as complainant ██████<sup>27</sup>, was observed by Officer ██████ and Officer ██████ on the sidewalk near ██████. The report states the officers observed ██████ engage in a hand-to-hand narcotics transaction with an unknown black male. The report further states that ██████, upon observing the officers’ unmarked police vehicle, reached into his right shorts pocket and removed a blue zip-lock bag and threw it to the ground. The report states ██████ was detained and, upon becoming irritated, was placed in handcuffs. A search of ██████’s right pocket was conducted. The report states that ██████ freely related, “I bought a bag and snorted it already,” with the officers knowing the term bag to be the street term for narcotics. Officer ██████ located the area where ██████ was observed throwing the blue zip-lock bag with white powder residue of suspected heroin. A name check was conducted of ██████ and he was sent on his way.<sup>28</sup>

**Office of Emergency Management and Communications (OEMC), Event Query No. ██████**, shows on May 10, 2018, at approximately 4:23 PM a request for a supervisor call was dispatched to Sgt. ██████, Beat no. ██████, of the ██████ District. The report shows Sgt. ██████ arrived at the residence of complainant ██████ at approximately 4:37 PM. At approximately 5:15 PM, the report shows Sgt. ██████ tells dispatch he will contact the zone. At approximately 5:44 PM, the report shows Sgt. ██████ contacted and informed dispatch that ██████ refused service.<sup>29</sup>

**VI. ANALYSIS**

**a. Officer ██████ and Officer ██████ had legal justification to stop and detain ██████**

The Chicago Police Department delineates criteria for its members to conduct an investigatory stop.<sup>30</sup> Specifically, for investigatory stops, CPD members must possess reasonable articulable suspicion based upon specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is committing, is about to commit, or has committed a criminal offense.<sup>31</sup> Furthermore, “[p]robable cause to arrest exists when the totality of the facts and circumstances known to a police officer would

<sup>25</sup> Id at 1:37

<sup>26</sup> Attachment 25, BWC#2 video

<sup>27</sup> During his COPA interview, Officer ██████ stated ██████ first name was erroneously listed as ██████, and not his correct first name of ██████.

<sup>28</sup> Attachment 11

<sup>29</sup> Attachment 20

<sup>30</sup> Special Order S04-13-09, *Investigatory Stop System*, Chicago Police Department

<sup>31</sup> *Id.*

lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest.”<sup>32</sup>

A preponderance of evidence demonstrates that Officers [REDACTED] and [REDACTED] provided a materially accurate account of the encounter and had legal justification to stop and detain [REDACTED].<sup>33</sup> Officers [REDACTED] and [REDACTED] were conducting surveillance, in an unmarked CPD vehicle, of a known narcotics location in a high crime area. While at that location, Officers [REDACTED] and [REDACTED] observed the complainant, [REDACTED], and an unknown male conduct a hand-to-hand sale of suspected narcotics. Specifically, they observed [REDACTED] hand the unknown individual United States currency and observed the unknown individual hand [REDACTED] a small Ziploc baggie, consistent with narcotics packaging. Officer [REDACTED] then observed [REDACTED] look at the officers’ unmarked vehicle, bring the baggie from his palm to his nose, snort a substance that they suspected was heroin, and then discard the baggie by throwing into a grassy area with his right hand.

Based upon their collective knowledge, prior experiences of conducting narcotics arrests at or near that location and the totality of the circumstances, Officers [REDACTED] and [REDACTED] possessed probable cause to arrest, a higher standard than reasonable articulable suspicion, that a crime had been committed, thereby providing them a lawful basis to stop and detain [REDACTED].<sup>34</sup> Officers [REDACTED] and [REDACTED] were also justified in handcuffing [REDACTED] for officers’ safety based upon his aggressive and confrontational behavior. Thus, the actions of Officers [REDACTED] and [REDACTED] to stop and detain [REDACTED] for further investigation were in adherence to CPD policy and the United States Constitution.

For these reasons, COPA recommends a finding of **Exonerated** for **Allegation #1** against Officers [REDACTED] and [REDACTED].

**b. Officer [REDACTED] had legal justification to search [REDACTED] and Officer [REDACTED] did not search [REDACTED]**

A preponderance of the evidence demonstrates that Officer [REDACTED] had legal justification to search [REDACTED] right pocket.

The Fourth Amendment to the United States Constitution guarantees the individual the right to be free from unreasonable searches and seizures. The fundamental inquiry is whether the search or seizure was reasonable under all of the circumstances.<sup>35</sup>

Generally, during an investigatory stop, officers may “pat down of the outer clothing of a person for weapons” if they reasonably believe that the person is armed and dangerous.<sup>36</sup> “A

<sup>32</sup> *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517, 526 (1st Dist. 2003).

<sup>33</sup> [REDACTED] version of the events materially differed from Officer [REDACTED] and Officer [REDACTED] of the events. However, Officer [REDACTED] body worn footage captured [REDACTED] admitting to snorting heroin.

<sup>34</sup> Officer [REDACTED] and [REDACTED] were not required to effectuate [REDACTED] arrest simply because they possessed probable cause to arrest.

<sup>35</sup> *People v. Tyler*, 210 Ill. App. 3d 833, 836 (1991).

<sup>36</sup> Special Order S04-13-09; *see also People v. Sorenson*, 196 Ill. 2d 425, 433 (2001).

Protective Pat Down is not a general exploratory search for evidence of criminal activity.”<sup>37</sup> Officer ██████ exceeded the scope of a protective pat down by searching ██████ right pocket.

However, a warrantless search may be justified when exigent circumstances excuse the absence of a warrant.<sup>38</sup> Exigent circumstances justified the limited search of ██████ right pocket. As explained above, Officer ██████ had probable cause to arrest to ██████ at the time of the initial detention and the limited search of ██████ right pocket was objectively reasonable under the totality of the circumstances.<sup>39</sup> Officer ██████ observed ██████ put his hand in his right pocket immediately after he observed ██████ snorting the contents of baggie which Officer ██████ suspected was heroin and throw the baggie to the ground. Under the circumstances it was objectively reasonable for Officer ██████ to believe that there were additional narcotics in ██████ right pocket and to believe that ██████ would conceal or destroy any additional narcotics he possessed if he was not searched.

Therefore, COPA recommends a finding a finding of **Exonerated** for **Allegation #2** against Officer ██████.

Officer ██████ did not search ██████ at all. Therefore, COPA recommends a finding of **Unfounded** for **Allegation #2** against Officer ██████.

**c. Sgt. ██████ Materially Complied with CPD Policy**

When an allegation of misconduct is received by supervisory or command personnel, they are responsible for initiating a complete and comprehensive investigation.<sup>40</sup> Sgt. ██████ BWC footage captured his interactions with ██████.

Sgt. ██████ went to the ██████ residence to take his complaint and complete an initiation report. Sgt. ██████ initially, incorrectly, told ██████ that he was required to sign an affidavit at the same time as completing the complaint for the initiation report. A disagreement ensued between ██████ and Sgt. ██████ regarding the complaint process and ██████ refused to answer some questions resulting in Sgt. ██████ leaving the scene.<sup>41</sup>

Approximately five minutes later, Sgt. ██████, after conferring with another supervisor and realizing he had made a mistake in telling ██████ he was required to sign an affidavit, returned to ██████ residence. Sgt. ██████ recognized his mistake and sought to rectify the

<sup>37</sup> Special Order S04-13-09.

<sup>38</sup> See *People v. Pierini*, 278 Ill. App. 3d 974, 978 (1st Dist. 1996).

<sup>39</sup> Arresting officers, in order to prevent the arrestee from obtaining a weapon or destroying evidence, may search both “the person arrested” and “the area within his immediate control.” *Chimel v. California*, 395 U.S. 752, 754 (1969). However, Officer ██████ did not place ██████ under arrest, either before or after the search, and therefore the search incident to arrest exception to the warrant requirement is inapplicable. See *People v. Tyler*, 210 Ill. App. 3d 833, 840 (1991) (a search did not constitute a lawful search incident to arrest when the defendant was not arrested on the date of the search).

<sup>40</sup> General Order G08-01-02, *Specific Responsibilities Regarding Allegations of Misconduct*, Chicago Police Department.

<sup>41</sup> Attachment 24, BWC video #1

situation. Sgt. ██████ repeatedly asked ██████ if he wanted to still file a complaint. ██████ refused to let Sgt. ██████ remedy the situation, stating he was now adding Sgt. ██████ to his complaint against Officers ██████ and ██████.<sup>42</sup> ██████ specifically told Sgt. ██████ that he did not want him to move forward with his complaint and that he intended to separately file a complaint against Officers ██████ and ██████ and Sgt. ██████. Arguably, Sgt. ██████ should have nonetheless prepared an initiation report and notified COPA of ██████ allegations based on the preliminary information he had already obtained.<sup>43</sup> However, General Order 08-01-02<sup>44</sup> does not directly address a supervisor filing a complaint against him or herself or how to proceed if the complainant refuses to cooperate,<sup>45</sup> and ██████ indicated through his words and actions that he did not want Sgt. ██████ to move forward with his complaint.

A preponderance of the evidence demonstrates that Sgt. ██████ was acting in good-faith and was not improperly attempting to dissuade ██████ from moving forward with his complaint or cover-up the alleged misconduct.

For these reasons, COPA recommends a finding of **Exonerated**.

**VII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Sgt. ██████	1. It is alleged that on or about May 10, 2018, at ██████, at approximately 4:23 PM, Sgt. ██████ failed to initiate a complaint alleging police misconduct involving P.O. ██████, Star ██████, and P.O. ██████, Star ██████ in violation of Rules 5 and 10.	Exonerated
Officer ██████	1. It is alleged that on or about May 10, 2018, on the sidewalk in front of ██████ at approximately 2:38 PM, Officer ██████ improperly detained ██████, in violation of Rules 2 and 8.  2. It is alleged that on or about May 10, 2018, on the sidewalk in front of ██████, at approximately 2:38 PM, Officer ██████ conducted an improper search of ██████, in violation of	Exonerated  Unfounded

<sup>42</sup> Attachment 24, BWC video #2

<sup>43</sup> See General Order 08-01-02(II)(B)(3).

<sup>44</sup> COPA has not located any other applicable directive.

<sup>45</sup> Arguably, Sgt. ██████ should have nonetheless prepared an initiation report and notified COPA of ██████ allegations based on the preliminary information he had obtained. See General Order 08-01-02(II)(B)(3).



Appendix A

Assigned Investigative Staff

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