

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 19, 2018
Time of Incident:	7:28pm
Location of Incident:	2700 S. Pulaski Road
Date of COPA Notification:	September 20, 2018
Time of COPA Notification:	8:52am

██████████ alleges that the accused officers conducted an unlawful pat down of her son and unlawful search of her vehicle during a traffic stop.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ star # ██████ employee# ██████ DOA ██████ 2015, PO, Unit ██████ DOB ██████ 1984, M, WWH
Involved Officer #2:	██████████ star# ██████ employee# ██████ DOA ██████████ 2012, PO, Unit ██████ DOB ██████ 1982, F, WWH
Involved Officer #3:	██████████ star# ██████ employee# ██████ DOA ██████████ 2014, PO, Unit ██████ DOB ██████ 1981, M, WWH
Involved Individual #1:	██████████ 1984, F, BLK
Involved Individual #2:	██████████ 2002, M, BLK

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer ██████	1. It is alleged that the accused conducted an unlawful protective pat down of ██████████	Exonerated
Officer ██████	1. It is alleged that the accused conducted an unlawful search of ██████████ vehicle.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance.
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Federal Laws

1. United States Constitution, Amendment IV

V. INVESTIGATION

a. Interviews

In her statement to COPA¹ on October 10, 2018, ██████████ stated that while driving on Roosevelt Road, the accused curbed her vehicle for a traffic violation. She explained that she was driving home with her three children in the car. During the stop, the accused officers conducted an unlawful pat down of her son and an unlawful search of her car. She said Officer ██████████ asked her son if he had anything on him and made him get out of the car. Officer ██████████ came to the driver's side of the car and asked her if her son was hiding something. She explained that while she spoke with Officer ██████████ Officer ██████████ searched in her son's pants and coat pockets. Officer ██████████ searched her car and made her daughter, who was sitting in the back seat, get out of the car. She said that one of the officers searched her son's book bag, which he had taken off his back and put on the floor of the car during the stop. Ms. ██████████ said that the officers were not aggressive and that she was allowed to exit the car to view the interaction between Officer ██████████ and her son.

██████████ the alleged victim, was not interviewed by COPA. Ms. ██████████ did not make him available to give a statement.

██████████ and ██████████ ██████████ the daughters of Ms. ██████████ gave a statement to COPA² on October 10, 2018 and corroborated their mother's story. ██████████ also said that Officer ██████████ searched in her sister's pockets. ██████████ added that Officer ██████████ made her get out of the car.

In his statement to COPA³ on November 15, 2018, Officer ██████████ stated that during a traffic stop of Ms. ██████████ car, and while approaching the car, he noticed a male in the rear passenger seat. He explained that the male moved up in the seat and made a reaching motion with his hands, as if he was trying to conceal something in his waistband. He thought the male could have been reaching for a weapon. He proceeded to the rear passenger door, had the male exit the car, and conducted a protective pat down for weapons. Officer ██████████ said the pat down is standard procedure when he thinks his safety may be at risk. He said that the male's movements were not the normal actions a person takes when an officer is approaching a car. He explained to the male why his movements were of concern and why he needed to conduct a pat

¹ Att. 12

² Att. 13,11

³ Att. 8

down. He said he did not reach into the male's pockets and did a pat down of his waist area and near his left hip.

In her statement to COPA⁴ on November 27, 2018, Officer ██████ stated that during a traffic stop of Ms. ██████ car, she noticed a male in the rear passenger seat. She explained that she observed the male lower a back pack and then jump to the right side of the car. This action by the male caused her to believe that he may be concealing a gun or other weapon. While Officer ██████ proceeded to talk to the male, she walked to the other side of the car and opened the back door. She asked the young girl sitting in the rear left seat to sit up so that she could make sure there were no weapons in the back seat. She then had the girl sit down, closed the door, and went around to the other side of the car. She looked around the floor board for weapons and searched the back pack for weapons.

In his statement to COPA⁵ on January 3, 2019, Officer ██████ stated that he observed an air freshener hanging from the rearview mirror of Ms. ██████ car. He explained that he made the decision to curb her vehicle for this violation. As he proceeded to the car to speak with Ms. ██████ he saw a passenger in the rear seat with a back pack. He saw the male reach into the back pack and then put it on his back. He said this caused concern because it is a sign that a person is trying to conceal a weapon. He proceeded to the driver and asked her who the male was, where she was coming from, and if she had a driver's license. He said he never engaged the male passenger in conversation and was not aware of what either Officer ██████ or Officer ██████ did during the stop. He did acknowledge that the male was asked to exit car because he might have a weapon and that this is a general practice when there is a safety issue. He explained that from his experience this was a safety concern because he believed the male could be concealing a weapon. He said he knows from experience that people who conceal weapons reach under the seat, into their coats, and in back packs. He said that depending on the situation an officer will conduct a protective pat down or if it is too dangerous, will call for back up.

b. Digital Evidence

The Body Worn Camera footage⁶ shows Officer ██████ conduct a protective pat down of ██████ Officer ██████ explains to him why his movements caused concern and tells him it is the reason he instructed him to get out of the car for the pat down. The footage captures Officer ██████ speaking with ██████ She asks her to sit up so that she can make sure there is nothing on the seat where she is sitting and asks her if her brother gave her anything. Officer ██████ did not make ██████ exit the car and did not search in her pockets. The footage also captures Officer ██████ search in the book bag. She does not search the car. The footage captures all of the officers explaining that ██████ made a type of movement that caused concern that he may have been hiding something. The footage captures Ms. ██████ asking her son what he was reaching for and he tells her he was reaching for his book bag.

c. Documentary Evidence

The Chicago Police Department Investigatory Stop Report states reasonable suspicion of weapons as the reason for the protective pat down.

⁴ Att. 9

⁵ Att.10

⁶ Att. 14

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

The officers were conducting a legal traffic stop of the vehicle when they observed a male passenger make movements that indicated he may be attempting to hide a weapon. These movements caused the officers to believe that their safety could be at issue and they needed to ensure that the male did not have any weapons on his person, and that none were in the car. Officer [REDACTED] articulated that he had a reasonable suspicion that the male passenger was attempting to either reach for a weapon or hide it. For this reason, he ordered the male out of the car and conducted a pat down of the male. Officer [REDACTED] denies reaching into his pockets and there is no body worn camera footage that captures him searching in the male's pockets. Officer [REDACTED] looked in the back area of the car and conducted a pat down of the book bag and looked inside the bag. She did not search throughout the car. All of the officers articulated that they know, from experience, that this type of movement is similar to those of a person who is attempting to hide a weapon.

Officer [REDACTED] and Officer [REDACTED] pat down and search of the male passenger, car, and book bag was within their legal authority. Therefore, the allegations that Officer [REDACTED] conducted an unlawful pat down of [REDACTED] and Officer [REDACTED] conducted an unlawful search of [REDACTED] car cannot be sustained.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that the accused conducted an unlawful protective pat down of [REDACTED]	Exonerated
Officer [REDACTED]	1. It is alleged that the accused conducted an unlawful search of [REDACTED] vehicle	Unfounded

Approved:

[REDACTED SIGNATURE]

Angela Hearts-Glass
Deputy Chief Administrator

5-29-19

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	████████
Supervising Investigator:	████████
Deputy Chief Administrator:	Angela Hearts-Glass