

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 10, 2018
Time of Incident:	4:40 pm
Location of Incident:	1111 E. 93rd Street, Chicago, IL 60619
Date of COPA Notification:	October 5, 2018
Time of COPA Notification:	2:35 pm

Three students were shot during dismissal from Chatham Academy High School¹ (CAHS). Witnesses to the shooting informed the Chicago Police Department that the shooter was seen fleeing the scene in a grey Pontiac Grand Prix occupied by two black males wearing white and black clothing. After learning this information, Officers [REDACTED] and [REDACTED] (collectively “the Officers”) observed a grey Pontiac Grand Prix traveling away from CAHS, southbound on Cottage Grove. The Officers stopped the vehicle, learned the driver ([REDACTED] and front seat passenger ([REDACTED] had knowledge of the shooting and matched the physical description provided by witnesses. [REDACTED] and [REDACTED] were detained for a “showup”² with a witness (CAHS Security Officer). Once the witness positively identified [REDACTED] and [REDACTED] as being involved in the shooting, they were transported to [REDACTED] Detective Division [REDACTED] for additional investigation. A search of the vehicle was completed, during which Officer [REDACTED] searched the contents of a cell phone placed on the front seat.

Upon arrival at [REDACTED] was placed in an interview room and advised of his Miranda Rights. [REDACTED] elected to provide a statement, without counsel, to Detective [REDACTED]. [REDACTED] denied involvement in the shooting. Subsequently, following a photo lineup, an additional witness (a CAHS student) identified [REDACTED] as the driver of the vehicle in the shooting. Thereafter, [REDACTED] Parole Officer, [REDACTED], obtained an arrest warrant and [REDACTED] was arrested.

II. INVOLVED PARTIES

Involved Officer #1:	Officer [REDACTED] Star # [REDACTED] / Employee ID# [REDACTED] Date of Appointment: [REDACTED] 2016 Unit: [REDACTED] Date of Birth: [REDACTED] 1990 Female / White
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¹ CAHS is located at 9035 S. Langley Avenue, Chicago, IL 60619

² “Showup” means a procedure in which a suspected perpetrator is presented to the eyewitness at, or near, a crime scene to obtain an immediate identification. 725 ILCS 5/107A-0.1.

Involved Officer #2: Officer [REDACTED]
 Star # [REDACTED] / Employee ID# [REDACTED]
 Date of Appointment: [REDACTED] 2016
 Unit: [REDACTED]
 Date of Birth: [REDACTED] 1990
 Female / White

Involved Officer #3: Officer [REDACTED]
 Star # [REDACTED] / Employee ID# [REDACTED]
 Date of Appointment: [REDACTED] 2016
 Unit: [REDACTED]
 Date of Birth: [REDACTED] 1992
 Male / White

Involved Detective #1: Detective [REDACTED]
 Star# [REDACTED] / Employee ID# [REDACTED]
 Date of Appointment: [REDACTED] 1996
 Unit: [REDACTED]
 Date of Birth: [REDACTED] 1971
 Male / White

Involved Individual #1: [REDACTED]
 Date of Birth: [REDACTED] 1993
 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
Officer [REDACTED]	2. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
Officer [REDACTED]	2. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
Officer [REDACTED]	3. Searched a cell phone, without justification, in violation of Rule 1.	Sustained / Violation Noted – Additional Search Training.

Detective [REDACTED] [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
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IV. APPLICABLE RULES AND LAWS

Rules

1. Prohibits violation of any law or ordinance.

Federal Laws

1. United States Constitution: Amendment IV.

V. INVESTIGATION³

a. Interviews⁴

In a statement to COPA⁵ on October 9, 2018, Mr. [REDACTED] alleged that the Officers unreasonably detained and arrested him. [REDACTED] stated he and a friend, [REDACTED] were driving to pay a traffic citation. As they approached CAHS, he observed several students in the area. [REDACTED] recounted stopping to pick up a friend (known only as [REDACTED]). Once [REDACTED] was in the vehicle, [REDACTED] drove towards [REDACTED] house and heard at least 15 gunshots. [REDACTED] related that he then drove to his house, spoke to his mother about the shooting, and proceeded, with [REDACTED] to the traffic citation payment office. As [REDACTED] and [REDACTED] were headed to the traffic citations payment office, the Officers pulled behind him and stopped him. The Officers requested his identification. A short time later, several other CPD vehicles arrived on scene. The Officers requested [REDACTED] exit the vehicle and requested permission to search the vehicle. [REDACTED] exited and consented to a search of his vehicle.⁶ As soon as [REDACTED] and [REDACTED] exited the vehicle, they were handcuffed and patted down. After the search was completed, [REDACTED] and [REDACTED] were transported to [REDACTED].

Upon their arrival at [REDACTED] was placed in an interview room. While [REDACTED] was waiting in the interview room, an Evidence Technician entered the room and asked to see [REDACTED] hands. After approximately two hours, Det. [REDACTED] entered the room, advised [REDACTED] of his Miranda Rights, and asked if he was willing to speak about the shooting without a lawyer. [REDACTED] related that he agreed to speak and was interviewed about his involvement in the shooting. Initially, [REDACTED] recounted that he chose to speak to Det. [REDACTED] without an attorney but later indicated he was uncertain if he had requested to speak to an attorney.⁷

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ After reviewing all the evidence collected, COPA determined that the only conduct at issue was the lawfulness of Officer [REDACTED] search of the cell phone; therefore, COPA only interviewed Officer [REDACTED].

⁵ Att. 5.

⁶ Relevant portion at 09:55, 10:27, and 12:15 of Att. 5.

⁷ [REDACTED] never provided any information to indicate that he ever made a request for an attorney.

Additionally, ██████ stated that he did not inform the detectives that he wished to remain silent. After speaking to the detectives, ██████ was arrested.

In a **statement to COPA**⁸ on February 8, 2019, **Accused Officer** ██████ stated that he and his partners (Officers ██████ and ██████) were responding to a shooting, when they heard a Flash Message detailing the suspect vehicle as a grey Pontiac Grand Prix occupied by two black males. After hearing the Flash Message, the Officers observed a grey Pontiac Grand Prix traveling away from area of the shooting. The Officers stopped the vehicle and contacted the occupants (██████ and ██████). After additional units arrived, ██████ and ██████ were removed from the vehicle and handcuffed. Officer ██████ assisted in searching the vehicle. During the search Officer ██████ observed a cell phone sitting on the front passenger seat and believed that it was recording him. Officer ██████ attempted to determine if the cell phone was recording by waking/tapping on the phone and swiping through the applications. Officer ██████ could not recall what was being displayed on the phone as he swiped through the applications. Once the search was completed, ██████ and ██████ were positively identified by a witness as being involved in the shooting, and both were transported to ██████ for additional investigation.

Officer ██████ explained that it is his understanding that a cell phone can be searched when there is reasonable suspicion of evidence on the cell phone or when a search warrant is possessed. Officer ██████ was clear that his intent in waking/tapping on the cell phone was to determine if it was actively recording.

b. Digital Evidence

In-Car Camera⁹ (ICC) footage details a Flash Message that the vehicle fleeing the shooting was a grey Grand Prix occupied by two black males.¹⁰ Additional footage depicts a grey Grand Prix traveling on Cottage Grove and the Officer stopping the vehicle.¹¹ Further footage, depicts ██████ and ██████ exiting the vehicle, being handcuffed, patted down, and the search of the vehicle.¹²

Body Worn Camera¹³ (BWC) footage depicts the Officers requesting identification from the driver (██████) and front seat passenger (██████) of the grey Grand Prix depicted in the ICC footage. Further footage depicts ██████ and ██████ admitting knowledge of the shooting.¹⁴ Additionally the footage depicts, the rear driver's side seat in a forward position allowing access to the trunk.¹⁵ Additional footage depicts ██████ and ██████ being asked to exit the vehicle, being handcuffed, and patted down.¹⁶ Further footage depicts a search of the vehicle, during which

⁸ Att. 32.

⁹ CPD provided 10 files of ICC footage; however, only 3 files depict interaction with ██████ Att. 25.

¹⁰ Relevant portion at 00:05 of 404D - 1 - CR1091285 - ██████ and 01:34 to 01:36 of ██████ - 3 - CR1091285 - Bt ██████ of Att.25.

¹¹ Relevant portions from 02:14 to 03:08 of ██████ - 4 - CR1091285 - Bt ██████ of Att. 25.

¹² Relevant portions from 09:20 to 16:10 of ██████ - 4 - CR1091285 - Bt ██████ of Att. 25.

¹³ CPD provided 21 files of BWC footage; however, only 9 files depict interaction with ██████ Att. 23.

¹⁴ Relevant portions at 00:55 and 01:25 of ██████ - AXON_Body_2_Video_2018-09-10_1614 of Att. 23.

¹⁵ Relevant portion at 00:13 of ██████ - AXON_Body_2_Video_2018-09-10_1614 of Att. 23.

¹⁶ Relevant portion at 05:40 of ██████ - AXON_Body_2_Video_2018-09-10_1614; 06:10 of ██████ - AXON_Body_2_Video_2018-09-10_1614 of Att. 23.

Officer [REDACTED] searches the contents of a cell phone sitting on the driver's seat.¹⁷ Finally, the footage depicts the "show up." The CAHS Security Officer confirms [REDACTED] and [REDACTED] were involved in the shooting and Sergeant [REDACTED] orders the Officers to transport [REDACTED] and [REDACTED] to [REDACTED].¹⁸

[REDACTED] **Electronically Recorded Interview**¹⁹ (ERI) details him informing Officer [REDACTED] that he was on Parole.²⁰ Additionally, the ERI details [REDACTED] being advised of his Miranda Rights, verbally acknowledging his rights, and not requesting counsel or invoking his right to remain silence.²¹ Once advised of his rights, [REDACTED] admits knowledge of the shooting but denies participating in the shooting.²² At the end of questioning, [REDACTED] makes a request to call his lawyer. Det. [REDACTED] confirms [REDACTED] would like to speak to his attorney, and [REDACTED] responds with "no" and "I don't want a lawyer."²³

c. Documentary Evidence

Event Queries²⁴ detail the reports of three people being shot near CAHS. The queries detail the report of a grey Pontiac Grand Prix occupied by two males wearing white and black clothing and fleeing the area.²⁵ Additional, queries reveal [REDACTED] vehicle was stopped near 1111 E. 93rd St. and that the occupants of the vehicle were positively identified as being involved in the shooting.²⁶

Investigatory Stop Reports (ISRs) for [REDACTED] and [REDACTED] detail that the Officers were near the shooting when they heard a Flash Message relaying that the shooting suspects were two black males in a grey Pontiac Grand Prix. After receiving the Flash Message, the Officers observed a grey Pontiac Grand Prix traveling southbound on Cottage Grove. The vehicle was stopped, and the Officers approached the vehicle. As the Officers approached the vehicle, they observed that the rear passenger seat was down allowing access to the trunk. The driver of the vehicle was [REDACTED] and the front seat passenger was [REDACTED] was wearing a grey shirt, grey sweat pants and grey shoes. [REDACTED] was wearing a white shirt, black glasses, and grey jeans. [REDACTED] and [REDACTED] admitted knowledge of the shooting. [REDACTED] and [REDACTED] were asked to exit the vehicle and detained to allow time for a witness to the shooting to arrive to the scene. Upon

¹⁷ Relevant portion at 06:12 of [REDACTED] – AXON_Body_2_Video_2018-09-10_1614; 06:49 of [REDACTED] – AXON_Body_2_Video_2018-09-10_1614 of Att. 23.

¹⁸ Relevant portions from 12:13 to 12:20 of [REDACTED] – AXON_Body_2_Video_2018-09-10_1614 of Att. 23.

¹⁹ CPD provided 5 ERIs; however, only 1 depicts any interaction with [REDACTED] Att. 24.

²⁰ Relevant portion at 05:55 of 9-10-18 – AXON Interview - Area 02 - Interview Room 1 – Main Cam on Disc 1 of Att. 24.

²¹ Relevant portions from 46:25 to 47:40 and 05:44:00 to 06:09:34 of 9-10-18 – AXON Interview – Area 02 - Interview Room 1 – Main Cam on Disc 1 of Att. 24.

²² Relevant portions 51:07 to 54:20 of 9-10-18 – AXON Interview – Area 02 - Interview Room 1 – Main Cam on Disc 1 of Att. 24.

²³ Relevant portions from 06:08:55 to 06:09:34 of 9-10-18 – AXON Interview – Area 02 - Interview Room 1 – Main Cam Disc 1 of Att. 24.

²⁴ Atts. 12 to 14.

²⁵ Pg. 2 of Att. 12, Pg. 2 of Att. 13.

²⁶ Pgs. 1 to 3 of Att. 14.

²⁷ Att. 19.

²⁸ Att. 20.

the arrival of the witness, [REDACTED] and [REDACTED] were positively identified as being involved in the shooting. [REDACTED] and [REDACTED] were transported to [REDACTED] for further investigation.

Detective Supplemental Reports²⁹ detail essentially the same information as the ISRs. Additionally once at [REDACTED] was placed in an interview room, advised of his Miranda Rights, and elected to provide a statement without counsel.³⁰ The reports also detail that [REDACTED] was positively identified by a second witness (CAHS student) as the driver of the vehicle fleeing the scene of the shooting.³¹ Further, the reports detail that the Cook County State's Attorney's Office rejected charges against [REDACTED] and [REDACTED] because of conflicting victim and witness [REDACTED]

[REDACTED] **Arrest Report**³² details that while [REDACTED] was being detained for an investigation into his involvement in the shooting, it was learned he was on Parole. Parole Officer [REDACTED] was contacted and informed of CPD's investigation. Parole Officer [REDACTED] obtained an arrest warrant for [REDACTED]. At the end of the shooting investigation, [REDACTED] was arrested on the warrant.

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

²⁹ Atts. 7 to 11.

³⁰ Pgs. 24 to 25 of Att. 11.

³¹ Pg. 8 of Att. 9.

³² Att. 15.

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

a. Officers ██████████ and ██████████ had reasonable, articulable suspicion to stop and detain ██████████

Traffic stops are seizures under the Fourth Amendment, and thus subject to the Fourth Amendment reasonableness requirement.³³ Traffic stops are analyzed under *Terry* because “the ‘usual traffic stop’ is more analogous to a so-called *Terry* stop than to a formal arrest.”³⁴ The *Terry* test is: “(1) whether the officer’s action was justified at its inception, and (2) whether it was reasonably related in scope to the circumstances which justified the interference in the first place.”³⁵

A lawful traffic stop requires “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law.”³⁶ Articulable and reasonable suspicion means some “‘particularized and objective basis’ for thinking that the person to be stopped is or may be about to engage in unlawful activity,” amounting to more than a hunch.³⁷

In the instant case, Officers ██████████ and ██████████ clearly had reasonable, articulable suspicion to conduct a traffic stop and detain ██████████. The Officers stopped ██████████ and ██████████ approximately 12 minutes and 5 seconds after the initial report of the shooting. ██████████ and ██████████ were in a vehicle, a grey Pontiac Grand Prix, that matched the information contained in the Flash Message of a vehicle fleeing from the shooting as a grey Pontiac Grand Prix occupied by two black males. Thus, it was objectively reasonable for the Officers to stop the vehicle and investigate whether the vehicle’s occupants were involved in the shooting. Additionally, once the Officers stopped the vehicle, ██████████ and ██████████ admitted to having knowledge of the shooting and matched the physical description of the suspects provided in the Flash Message. Thus, the Officers’ decision to detain ██████████ and conduct a “showup” was objectively reasonable. The Officers’ investigatory steps were also reasonably related in scope to the circumstances which justified the traffic stop, i.e., an investigation into the shooting.³⁸

Therefore, COPA concludes that the finding for Allegation #1 against Officers ██████████ and ██████████ is **EXONERATED**.

³³ *Whren v. United States*, 517 U.S. 806, 809-10 (1996).

³⁴ *People v. Cosby*, 231 Ill. 2d 262, 274 (2008) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984)).

³⁵ *People v. Bunch*, 207 Ill. 2d 7, 14 (2003) (citing *Terry v. Ohio*, 392 U.S. 1, 19-20 (1968)).

³⁶ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

³⁷ *United States v. Miranda-Sotolongo*, 827 F.3d 663, 666 (7th Cir. 2015) (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)). An officer’s subjective motivation or rationale for the detention is not controlling.

³⁸ The detention and investigation of ██████████ was also objectively reasonable.

b. Officers ██████████ and ██████████ had probable cause to arrest and Detective ██████████'s detention of ██████████ was objectively reasonable.

An officer must have probable cause to arrest a subject.³⁹ “Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would 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.”⁴⁰ The officer’s subjective belief is not determinative; rather probable cause is an objective standard.⁴¹

The Officers had probable cause to transport ██████████ to ██████████ and continue to detain him at ██████████.⁴² The Officers had probable cause to believe ██████████ was involved in the shooting based on (1) the information they received from the Flash Message; (2) their observations of ██████████ and ██████████ during the traffic stop; and (3) the CAHS Security Officer identifying ██████████ and ██████████ as involved in the shooting during the “show up.”⁴³ Therefore, it was objectively reasonable for officers to transport ██████████ to ██████████ and for Det. ██████████ to continue to detain ██████████ to investigate further.⁴⁴

During the subsequent investigation at ██████████ a CAHS student identified ██████████ as the driver of the vehicle used during the shooting. This identification justified ██████████ continued detention because it was reasonable for Det. ██████████ to believe that ██████████ was involved in the shooting. Finally, Parole Officer ██████████ obtained an arrest warrant for ██████████ and ██████████ was subsequently arrested on that warrant. Thus, the decision to formally arrest ██████████ on the arrest warrant was lawful and proper.⁴⁵

Therefore, COPA concludes the finding for Allegation #2 against Officers ██████████ and ██████████ and Allegation #1 against Det. ██████████ are **EXONERATED**.

c. The search of the cell phone was improper.

Officers must generally secure a warrant before conducting a search of data on cell phones.⁴⁶

In the instant case, Officer ██████████ is clearly depicted searching the phone on BWC footage and admitted to swiping through the contents of a cell phone that was on the front seat of ██████████ vehicle. Based upon the evidence presented there were no exigent circumstances to justify searching the phone without a warrant. Therefore, COPA concludes the finding for Allegation #3 against Officer ██████████ is **SUSTAINED**.

³⁹ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

⁴⁰ *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517, 526 (1st Dist. 2003).

⁴¹ *People v. Chapman*, 194 Ill. 2d 186, 218-19, (2000).

⁴² The Officers were required to have probable cause to conduct a custodial interrogation of ██████████. *See, e.g., Florida v. Royer*, 460 U.S. 491 (1982) (plurality opinion).

⁴³ The Officers were also following the direct order of Sergeant ██████████

⁴⁴ It was also objectively reasonable for the Officers to transport ██████████ to ██████████

⁴⁵ The officers also had probable cause to formally arrest ██████████

⁴⁶ *See Riley v. California*, 134 S. Ct. 2473, 2485 (2014).

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. Complimentary and Disciplinary History

ii. Officer [REDACTED] has received 8 Honorable Mentions and 2 Complimentary letters. There is no discipline on record.

- 1. Complimentary:** 8 Honorable Mentions; 2 Complimentary Letters
- 2. Disciplinary:** None.

iii. Recommended Penalty, by Allegation

- 1. Allegation No. 3 – Violation Noted & Training on law and policy governing search and seizure.**

Officer [REDACTED] admitted to searching the cell phone and explained his search was to determine if the cell phone was actively recording. Officer [REDACTED] explained that he believed a search of a cell phone is permitted when there is reasonable suspicion that it contains evidence or when a search warrant has been obtained. Officer [REDACTED] was incorrect and his misconduct should be addressed through additional training.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	2. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
Officer [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	2. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	3. Searched a cell phone, without justification, in violation of Rule 1.	Sustained / Violation Noted – Additional Search Training.

Detective [REDACTED]	1. Detained Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated
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Approved:

[REDACTED]

3-22-19

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

[REDACTED]

3-22-19

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

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

