

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 26, 2018
Time of Incident:	2:38pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	September 12, 2018
Time of COPA Notification:	12:02pm

[REDACTED] alleged that Officers [REDACTED] and [REDACTED] searched his vehicle without his consent or legal justification.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], star # [REDACTED] employee ID# [REDACTED] Date of Appointment [REDACTED] 2016, PO, Unit [REDACTED] DOB [REDACTED] 1993, M, Wh
Involved Officer #2:	[REDACTED], star # [REDACTED] employee ID# [REDACTED] Date of Appointment [REDACTED] 2016, PO, Unit [REDACTED] DOB [REDACTED] 1994, M, Wh
Involved Individual #1:	[REDACTED], DOB [REDACTED] 1991, M, Blk

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that the accused officer searched [REDACTED] vehicle without his consent and without legal justification.	Exonerated
Officer [REDACTED]	1. It is alleged that the accused officer searched [REDACTED] vehicle without his consent and without legal justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

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

Federal Laws

1. United States Constitution, Amendment IV

V. INVESTIGATION

a. Interviews

In his statement to COPA¹ on September 14, 2018, ██████████ stated that the accused officers conducted a traffic stop of his vehicle. Mr. ██████████ explained that while he searched for his insurance card, the accused officers asked him if he had any weapons in the car. He responded that he potentially had weapons in the car. He said the accused officers asked him to step out of his car and he refused. He told the officers he did not consent to a search of his vehicle. After continuing to sit in his car for a while, Mr. ██████████ exited the vehicle and the officer placed him in handcuffs. He stated again that he did not consent to a search of his vehicle, but the officers returned to the vehicle and searched it.

In his statement to COPA² on January 16, 2019, Accused Officer ██████████ stated that he curbed Mr. ██████████ vehicle for failure to stop at a stop sign. He explained that he smelled the odor of cannabis inside the car and asked Mr. ██████████ if he had any marijuana, weapons, or illegal items in the vehicle. Mr. ██████████ responded that potentially weapons may be in the car. Officer ██████████ explained that initially he was going to ask Mr. ██████████ to step out of the car due to the cannabis odor but after he said weapons might be in the car, this became the more serious issue for having Mr. ██████████ exit the vehicle. He said he was now concerned about the officers' safety being at risk. Officer ██████████ then informed Mr. ██████████ that he was being recorded by body worn camera and asked again if he had weapons in the car and Mr. ██████████ responded the same. He thought that Mr. ██████████ could be dangerous because he seemed aggressive and nervous and refused to comply with his commands. He asked Mr. ██████████ to place his hands on the steering wheel as a matter of precaution. He said Mr. ██████████ complied and then reached his hand out of the car and attempted to grab his vest. Officer ██████████ directed Mr. ██████████ to put his hands back on the steering wheel. He asked Mr. ██████████ again whether he had any weapons and Mr. ██████████ responded that he potentially had weapons in the car. Officer ██████████ explained that he directed Mr. ██████████ to get out of the car because he needed to search the car for weapons. Mr. ██████████ refused and said that he did not give consent to search his car. Eventually Mr. ██████████ exited the car and Officer ██████████ patted him down and handcuffed him. Officer ██████████ asked him if he had either a Firearm Owner's Identification Card (FOID) or a Conceal Carry License (CCL). Mr. ██████████ refused to answer these questions and Officer ██████████ proceeded to search the vehicle.

In his statement to COPA³ on January 23, 2019, Accused Officer ██████████ gave the same account of the incident as Officer ██████████ with the exception that he explained that he searched the vehicle and did not recall if Officer ██████████ asked Mr. ██████████ about a FOID and CCL.

¹ Att. 4

² Att. 7

³ Att. 8

b. Digital Evidence

The Body Worn Camera footage⁴ captures the interaction between the accused officers and Mr. [REDACTED] and the conversation regarding weapons in Mr. [REDACTED] vehicle. Officer [REDACTED] asks Mr. [REDACTED] if he has any weapons in the car and Mr. [REDACTED] says that potentially weapons may be in the car. Officer [REDACTED] asks Mr. [REDACTED] whether he has any guns, knives, batons, or other weapons in the car. Mr. [REDACTED] does not respond to this question.

c. Documentary Evidence

The Chicago Police Department Investigatory Stop Report⁵ details the traffic stop and includes information that the accused officers questioned Mr. [REDACTED] about weapons and drugs in his vehicle and his response. It reports that the vehicle was searched for the safety of the officers.

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.

⁴ Att. 9

⁵ Att. 5

VII. ANALYSIS

The Body Worn Camera footage captured the interaction between Mr. [REDACTED] and the accused officers. Officer [REDACTED] asked Mr. [REDACTED] several times if weapons were in his vehicle and each time Mr. [REDACTED] responded that he potentially had weapons in his car. Officer [REDACTED] directed Mr. [REDACTED] to step out of the car and he refused. Officer [REDACTED] explained to Mr. [REDACTED] that he was concerned about the officers' safety and needed to search the car for weapons. Officer [REDACTED] explained why he had authority to search the car without Mr. [REDACTED] consent. Mr. [REDACTED] continued to refuse to exit the car. Officer [REDACTED] asked Mr. [REDACTED] if he had specific types of dangerous weapons in the vehicle to clarify the type of weapons of which they were referring. Mr. [REDACTED] did not answer this question. Mr. [REDACTED] did not comply when Officer [REDACTED] directed him to get out of the car. He was either evasive when answering or did not answer at all when the officers questioned him. The accused officers stated that Mr. [REDACTED] was aggressive and nervous. At one point, Mr. [REDACTED] tried to grab Officer [REDACTED] vest after he had been directed to keep his hands on the steering wheel of the car. Officer [REDACTED] asked him if he had a FOID or CCL and Mr. [REDACTED] refused to answer this question. It was reasonable for the officers to believe that Mr. [REDACTED] had weapons in his car and may have been dangerous. Mr. [REDACTED] actions and statements were enough to give the officers reason to believe weapons were in the car and authority to search his vehicle without his consent. Therefore, it was a lawful search. For these reasons, the allegation 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 officer searched [REDACTED] vehicle without his consent and without legal justification.	Exonerated
Officer [REDACTED]	1. It is alleged that the accused officer searched [REDACTED] vehicle without his consent and without legal justification.	Exonerated

Approved:

[REDACTED Signature]

Angela Hearts-Glass
Deputy Chief Administrator

6-19-19
Date

Appendix A

Assigned Investigative Staff

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