

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 26, 2018
Time of Incident:	2:00 am
Location of Incident:	[REDACTED]
Date of COPA Notification:	September 26, 2018
Time of COPA Notification:	9:19 am

On September 26, 2018, Police Officers [REDACTED] and [REDACTED] conducted a traffic stop at [REDACTED] Street because the driver allegedly failed to have a functional rear license plate lamp and had an expired registration. The POs ordered all occupants (driver [REDACTED], rear driver’s side passenger [REDACTED], and front passenger [REDACTED]) to exit the vehicle. Police Officers [REDACTED] and [REDACTED] arrived and assisted. The POs handcuffed Mr. [REDACTED] and [REDACTED], while they instructed [REDACTED] to sit on the steps of the building next to the vehicle because he had an injury that prevented him from standing. PO [REDACTED] searched the vehicle as PO [REDACTED] ran the occupants’ names. The POs eventually arrested [REDACTED] [REDACTED] for failure to register as a gun offender and issued citations to Mr. [REDACTED].

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment [REDACTED], 2012, Police Officer, [REDACTED] District, DOB [REDACTED], 1985, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment [REDACTED], 2013, Police Officer, [REDACTED] District, DOB [REDACTED] 1987, Male, White
Involved Officer #3:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment [REDACTED], 2014, Police Officer, [REDACTED] District, DOB [REDACTED], 1988, Male, Black
Involved Officer #4:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment [REDACTED], 2016, Police Officer, [REDACTED] District, DOB [REDACTED], 1990, Male, White
Involved Individual #1:	[REDACTED], DOB [REDACTED], 1992, Male, Black
Involved Individual #2:	[REDACTED], DOB [REDACTED] 1994, Male, Black

Involved Individual #3: [REDACTED], DOB [REDACTED], 1993, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	1. Detained [REDACTED] without justification in violation of Rule 6. 2. Failed to document the statistical information for a traffic stop in violation of Rule 6. 3. Failed to complete an Investigatory Stop Report in violation of Rule 6.	Exonerated Sustained / 1 Day Sustained / Reprimand
Officer [REDACTED] [REDACTED]	1. Failed to document the statistical information for a traffic stop in violation of Rule 6. 2. Failed to complete an Investigatory Stop Report in violation of Rule 6.	Sustained / 1 Day Sustained / Reprimand
Officer [REDACTED] [REDACTED]	1. Detained [REDACTED] without justification in violation of Rule 6.	Exonerated
Officer [REDACTED] [REDACTED]	1. Searched [REDACTED]'s vehicle without justification in violation of Rule 6. 2. Removed [REDACTED]'s property from his vehicle during a vehicle search and did not return it in violation of Rule 10.	Exonerated Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Disobedience of an order or directive, whether written or oral.
2. Rule 10: Inattention to duty.

General Orders

1. General Order G06-01-02 Restraining Arrestees

2. General Order G06-01-01 Field Arrest Procedures

Special Orders

1. Special Order S04-13-09 Investigatory Stop System

2. Special Order S04-14-09 Illinois Traffic and Pedestrian Stop Statistical Study

Federal Laws

1. United States Constitution, Amendment IV

State Laws

1. 625 ILCS 5/11-212 Traffic and Pedestrian Stop Statistical Study (TPSSS).

V. INVESTIGATION¹

a. Interviews

On September 26, 2018, **complainant** ██████████² provided a statement to COPA. Mr. ██████████ said that on September 26, 2018, at approximately 2:00 am, at or near ██████████ Street, he was on his way from work when a police officer pulled him over for expired registration. Mr. ██████████ said the officer, now known to be PO ██████████, asked him for permission to search the vehicle. When Mr. ██████████ said no, PO ██████████ asked him to exit the vehicle. PO ██████████ opened his door and removed him from the vehicle. PO ██████████'s partner, PO ██████████, handcuffed Mr. ██████████ behind the vehicle. PO ██████████ again asked for permission to search the vehicle and Mr. ██████████ again said no. The POs also asked Mr. ██████████'s passengers to step out of the vehicle. Because ██████████ (the front passenger) recently had surgery on his leg, the POs allowed him to sit on the stairs next to the vehicle while the traffic stop was conducted.³ The driver's side rear passenger was also asked to step out and was handcuffed by PO ██████████. PO ██████████ handcuffed the driver's side rear passenger next to the vehicle.⁴ PO ██████████ then conducted a search of the vehicle while PO ██████████ ran the names of the vehicle's occupants. The vehicle search did not include the trunk of the vehicle but included the glovebox. ██████████ was found to have failed to register as a gun offender and was placed under arrest. Mr. ██████████ said the POs then threw his driver's license and insurance on the top of the vehicle and released him and ██████████. Mr. ██████████ received two tickets, one for an expired registration and one for an expired city sticker. He felt that these tickets were given to him as

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 18.

³ Attempts to contact ██████████ for an interview were unsuccessful. (Att. 19, 23, 47)

⁴ Mr. ██████████ did not know this individual's name but knew he was ██████████'s relative. COPA identified him as ██████████.

retaliation because he did not cooperate with the vehicle search. He said there were items missing from his vehicle after the search, including his debit card and a cell phone.

On March 1, 2019, **Police Officer** ██████████⁵ provided a statement to COPA. PO ██████████ said on September 28, 2018, he and his partner, PO ██████████, curbed a vehicle for expired registration and no plate lamp. The POs handcuffed the occupants for officer safety, which PO ██████████ further explained by pointing out the time of night, the vehicle's tinted windows, the number of occupants, and the facts that Mr. ██████████ initially hesitated to get out of the vehicle and then placed his hands in his pocket when he stepped out. PO ██████████ asked ██████████ for his ID because he wasn't wearing his safety belt. PO ██████████ also noted that he is permitted to ask passengers to provide their ID. The front passenger, ██████████, was taken into custody because he was in violation of a gun offender registration. PO ██████████ searched the vehicle. PO ██████████ did not complete a statistical information card or an Investigatory Stop Report because that it was PO ██████████'s responsibility due to PO ██████████ completing the citations. According to PO ██████████, he also believed that the two tickets and the case report were enough documentation for the stop.

On March 1, 2019, **Police Officer** ██████████⁶ provided a statement to COPA. PO ██████████ said on September 28, 2019, he and his partner PO ██████████ curbed a vehicle for no plate light and no valid registration. PO ██████████ approached the passenger side of the vehicle and asked the passenger, ██████████, for his ID. ██████████ did not have an ID but provided PO ██████████ his name. The name check came back with a failure to register as a gun offender and ██████████ was taken in to custody. PO ██████████'s partner, PO ██████████, asked the driver to step out of the vehicle. PO ██████████ heard the driver being uncooperative with PO ██████████ but PO ██████████ could not hear what was said. PO ██████████ reported that he did not see the vehicle being searched. He thought he completed the statistical information study but could not explain why there was no such information in the system. PO ██████████ added that neither the statistical information nor an investigatory stop report was required for this incident. PO ██████████ completed an arrest report and a case incident report for this stop and those reports, in combination with the citations issued to the driver, were enough to document the stop.

On February 28, 2019, **Police Officer** ██████████⁷ provided a statement to COPA. PO ██████████ said he and his partner, PO ██████████, assisted POs ██████████ and ██████████ in the ██████████ traffic stop. PO ██████████ said when he approached the vehicle, he smelled cannabis. He could also hear PO ██████████ talking to Mr. ██████████ about smelling cannabis.⁸ He then conducted a narcotics search⁹ of the vehicle. He does not remember if he had consent to search the vehicle from the driver and he did not ask for consent. The search was not a very thorough narcotic search because it wasn't his stop. He did not remove anything from the vehicle and did not complete any paperwork for the search.

⁵ Att. 39, 45.

⁶ Att. 33, 44.

⁷ Att. 35, 43.

⁸ The other involved POs, ██████████, ██████████, and ██████████, did not mention any cannabis odor. The paperwork for this stop does not mention cannabis odor as probable cause of the vehicle search. When ██████████ ██████████ asked involved officers why he was searched, none of the officers mentions cannabis odor.

⁹ PO ██████████ defined a narcotics search of the vehicle as, "if an officer suspects cannabis emitting from the car, he can search the vehicle for narcotics." He further explained that this search can include the glove box. Att. 43, pg. 10.

On February 28, 2019, **Police Officer** [REDACTED]¹⁰ provided a statement to COPA. PO [REDACTED] said he and his partner PO [REDACTED] assisted in the [REDACTED] traffic stop being conducted by POs [REDACTED] and [REDACTED]. He observed Mr. [REDACTED] getting out of the vehicle and displaying aggressive and argumentative behavior. To mitigate the circumstances, he placed the backseat passenger, [REDACTED], in handcuffs. When asked why he handcuffed [REDACTED] who was not displaying any aggressive behavior, he said that he handcuffed [REDACTED] based on the actions of Mr. [REDACTED] and because he did not know what was in the car. PO [REDACTED] did not prepare any reports related to this incident because POs [REDACTED] and [REDACTED] were the ones who conducted the stop.

b. Digital Evidence

The **body worn camera footage**¹¹ of PO [REDACTED] shows the full interaction between PO [REDACTED] and Mr. [REDACTED]. PO [REDACTED] approached vehicle and asked for Mr. [REDACTED]'s license and registration. After Mr. [REDACTED] provided PO [REDACTED] with his driver's license and registration, PO [REDACTED] asked to search the car. After Mr. [REDACTED] said no, PO [REDACTED] immediately asked him to step out of the car. PO [REDACTED] and Mr. [REDACTED] argued about whether PO [REDACTED] can legally ask Mr. [REDACTED] to step out. Mr. [REDACTED] stepped out and was handcuffed by PO [REDACTED]. PO [REDACTED] then handcuffed [REDACTED]. PO [REDACTED] again asked Mr. [REDACTED] if they can search the car to which he responded, "he's in my car already."¹² PO [REDACTED] also said that he can smell cannabis in the car.¹³ PO [REDACTED] then searched the vehicle. During the search, [REDACTED] asked for his pain medication.¹⁴ PO [REDACTED] ran their names and learned that [REDACTED] had failed to register as a gun offender. The POs took him into custody and released Mr. [REDACTED] and [REDACTED]. At the end of the video, PO [REDACTED] is seen in the car writing the tickets. He handed one to PO [REDACTED], who attempted to hand it to Mr. [REDACTED]. When Mr. [REDACTED] would not accept the ticket, PO [REDACTED] affixed it to the rear window of Mr. [REDACTED]'s car.

PO [REDACTED]'s video shows the same traffic stop. At the end of the video, PO [REDACTED] can be heard saying he is going to write another ticket for the plate light, but PO [REDACTED] deactivated his body camera before writing the second ticket.

PO [REDACTED]'s footage shows him search the vehicle with his flashlight, which primarily consists of searching the main passenger compartment. PO [REDACTED] also moved some items in the driver's side and passengers side door panels and looked for [REDACTED]'s medication¹⁵ in the glove compartment and a backpack that was in the back seat.

PO [REDACTED]'s video captures the same incident as in the other videos.

¹⁰ Att. 37, 46.

¹¹ Att. 21.

¹² Video at 2:55.

¹³ Att. 21, PO [REDACTED] video at 3:07.

¹⁴ Att. 21, PO [REDACTED] video at 7:55.

¹⁵ Att. 21 video at 6:58. PO [REDACTED] says, "I didn't go through it yet, he wants his pain pills, I don't know where they're at."

c. Documentary Evidence

The City of Chicago payment portal¹⁶ shows **tickets**¹⁷ issued to [REDACTED]. On September 26, 2018, [REDACTED] was given two citations, one for expired registration and one for not having his rear plate lit.

[REDACTED]'s **Arrest Report**¹⁸ shows he was arrested on September 26, 2018, for failing to register as a gun offender. The narrative of the report says that [REDACTED] was the passenger of a vehicle that was curbed for expired registration and not having rear plate lamp illuminated. PO [REDACTED] asked [REDACTED] for his ID and he did not have one but provided PO [REDACTED] with his name. The name check indicated that he was a registered gun offender and is required to register annually and his last registration was in July 2017.

The **Incident Report**¹⁹ reiterates the information reported in the arrest report.

COPA conducted a search of the Traffic Stop Statistical Study database in CLEAR but was unable to find any information related to this stop.²⁰

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.

¹⁶ Att. 22.

¹⁷ During his statement to COPA, [REDACTED] provided a copy of only one ticket, expired registration (Att. 8).

¹⁸ Att. 16.

¹⁹ Att. 15.

²⁰ Att. 47. This search was conducted on January 30, 2019, within the six-month retention period for such reports.

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

A. Allegations against Officer [REDACTED]

1. Detained [REDACTED] without justification

PO [REDACTED] reported that he detained [REDACTED] for officer safety because it was nighttime, the vehicle had dark tinted windows, Mr. [REDACTED] was hesitant to come out of the vehicle when ordered out, and Mr. [REDACTED] placed his hands in his pockets when stepping out of the vehicle. COPA reviewed the body camera footage and the above-referenced issues are all true. Based on PO [REDACTED]'s reasonable explanation about the need for officer's safety, this allegation is **Exonerated**.

2. Failed to document the statistical information for a traffic stop

Special Order S04-14-09 Illinois Traffic and Pedestrian Stop Statistical Study (V)(C) requires that Department members who initiate a traffic stop that results in the issuance of a citation record certain information about the stop, including the member's subjective determination of the driver's race, whether a search was conducted, and whether any contraband that was recovered. PO [REDACTED] said it was the responsibility of PO [REDACTED] to complete the paperwork because PO [REDACTED] wrote the citations. PO [REDACTED] also stated that the two tickets and the case report were enough documentation for the stop. All of the information required in S04-14-09 was not included on the tickets and case report, so the excuse PO [REDACTED] provided is insufficient to absolve his responsibility. Additionally, although PO [REDACTED] and PO [REDACTED] divided the paperwork between them, the responsibility to collect the statistical information falls on both of them. Therefore, this allegation is **Sustained**.

3. Failed to complete an Investigatory Stop Report

Special Order S04-13-09 Investigatory Stop System (VIII)(A)(1) requires that an Investigatory Stop Report (ISR) be completed for all such stops that includes the reasonable articulable suspicion the officer used to temporarily detain the subjects and the reason for any search that takes place. Section (VIII)(A)(4) of the same order provides several examples of when an ISR is and is not required, including (VIII)(A)(4)(b), which references a traffic stop that, like this incident, leads to a search. In that case, even if a citation is issued, the members should complete an ISR explaining the justification for the search. According to PO [REDACTED], [REDACTED]'s arrest report, the related case report, and the two tickets were sufficient documentation for the encounter. None of these reports, however, documented the search that PO [REDACTED] conducted of the vehicle. Additionally, [REDACTED] was the subject of the stop. Because the vehicle was searched, Mr. [REDACTED] was entitled to a receipt for this search. It should further be noted

that per Special Order S04-13-09 Investigatory Stop System (VIII)(A)(5) “If an arrest is made based on an Investigatory Stop, an Investigatory Stop Report will be completed in addition to the Arrest Report. Members will indicate in the Investigatory Stop Report that an arrest is related to the Investigatory Stop by checking the appropriate box.” Two tickets were not enough documentation for the stop because this stop included a vehicle search. Therefore, this allegation is **Sustained**.

B. Allegations against **Officer [REDACTED]**

1. Failed to document the statistical information for a traffic stop

According to PO [REDACTED], he did not complete the statistical information study because they were not required. As noted above for Allegation 2 against PO [REDACTED] COPA finds that the citations issued in this case were insufficient documentation to satisfy the statistical information requirement. Therefore, this allegation is **Sustained**.

2. Failed to complete an Investigatory Stop Report

PO [REDACTED], like PO [REDACTED], said that the Investigatory Stop Report was not required for this stop, however, this stop included a vehicle search and therefore required an Investigatory Stop Report be completed. For the reasons outlined in Allegation 3 against PO [REDACTED], this allegation is **Sustained**

C. Regarding the allegation against **Officer [REDACTED]**

1. Detained [REDACTED] without justification

PO [REDACTED] said he observed Mr. [REDACTED] getting out of the vehicle and displaying aggressive behavior. To mitigate the circumstances and prevent problems, PO [REDACTED] placed the backseat passenger, [REDACTED], in handcuffs. He described the Mr. [REDACTED]'s behavior as very argumentative. When asked why he handcuffed [REDACTED] who was not displaying any aggressive behavior, he said that he handcuffed [REDACTED] based on the actions of Mr. [REDACTED] and not knowing what was in the car. For officer safety reasons, this allegation is **Exonerated**.

D. Regarding the allegations against **Officer [REDACTED]**

1. Searched [REDACTED]'s vehicle without justification

PO [REDACTED] said he performed a narcotics search of the vehicle because he smelled cannabis. PO [REDACTED] can be heard on the bodyworn camera discussing with Mr. [REDACTED] the fact that he smelled cannabis. The smell off cannabis gives probable cause for a narcotics search of the vehicle. PO [REDACTED] limited his search to the main passenger compartment until [REDACTED]

█████ asked the POs to find his pain medication, at which point he looked inside the glove compartment and a backpack. Therefore, this allegation is **Exonerated**.²¹

2. Removed █████'s property from his vehicle during a vehicle search and did not return it

█████ reported there were items missing from his vehicle after the search, including his H&R Block debit card and a black iPhone 7 cell phone. PO █████ reported he did not take any items from the vehicle. COPA is unable to determine if anything was taken from the vehicle. Therefore, this allegation is **Not Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer █████, #█████

i. Complimentary and Disciplinary History

PO █████ has been a member of the Chicago Police Department since October 31, 2012. In that time, he has received 46 Honorable Mentions, 4 Department Commendations, 3 Complimentary Letters, 1 Life Saving Award, and 1 Traffic Stop of the Month Award. In the last seven years, he has received two SPARs: a preventable accident with no disciplinary action in December 2018 and a court appearance violation with a reprimand in October 2018.

ii. Recommended Penalty, by Allegation

For Allegation #2 against PO █████, that he failed to document the statistical information for this traffic stop, COPA recommends a Suspension of 1 day. PO █████ and PO █████ shared responsibility for making sure this was done and neither did so.

For Allegation #3 against PO █████ that he failed to complete an Investigatory Stop Report, COPA recommends a Reprimand. While it was PO █████ and PO █████'s shared responsibility to make sure that all paperwork related to this stop was complete, they were not the officer who searched Mr. █████'s vehicle.

a. Officer █████, #█████

i. Complimentary and Disciplinary History

PO █████ has been a member of the Chicago Police Department since February 19, 2013. In that time, he has received 50 Honorable Mentions, 3 Department Commendations, 2 Life Saving

²¹ It is unknown why the cannabis smell was not documented in the arrest report or incident report. PO █████ did not complete any paperwork for this search because it wasn't his stop, he was assisting PO's █████ and █████. If POs █████ and █████ had completed an Investigatory Stop Report to document this search due to the cannabis smell and provided Mr. █████ with an Investigatory Stop Receipt, the reasons for this search would have been clear and COPA likely would not have served this allegation.

Awards, and 1 Traffic Stop of the Month Award. In the last seven years, he has not received any discipline.

ii. Recommended Penalty, by Allegation

For Allegation #1 against PO [REDACTED], that he failed to document the statistical information for this traffic stop, COPA recommends a Suspension of 1 day. PO [REDACTED] and PO [REDACTED] shared responsibility for making sure this was done and neither did so.

For Allegation #2 against PO [REDACTED], that he failed to complete an Investigatory Stop Report, COPA recommends a Reprimand. While it was PO [REDACTED] and PO [REDACTED]'s shared responsibility to make sure that all paperwork related to this stop was complete, they were not the officer who searched Mr. [REDACTED]'s vehicle.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Detained [REDACTED] without justification in violation of Rule 6. 2. Failed to document the statistical information for a traffic stop in violation of Rule 6. 3. Failed to complete an Investigatory Stop Report in violation of Rule 6.	Exonerated Sustained / 1 Day Sustained / Reprimand
Officer [REDACTED]	1. Failed to document the statistical information for a traffic stop in violation of Rule 6. 2. Failed to complete an Investigatory Stop Report in violation of Rule 6.	Sustained / 1 Day Sustained / Reprimand
Officer [REDACTED]	1. Detained [REDACTED] without justification in violation of Rule 6.	Exonerated
Officer [REDACTED]	1. Searched [REDACTED]'s vehicle without justification in violation of Rule 6.	Exonerated

2. Removed [REDACTED]'s property from his vehicle during a vehicle search and did not return it in violation of Rule 10.

Not Sustained

Approved:

[REDACTED]

July 23, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Major Case Specialist:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	Andrea Kersten