

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	February 3, 2016
Time of Incident:	3:15 PM
Location of Incident:	████████████████████
Date of COPA Notification:	January 18, 2019
Time of COPA Notification:	3:39 PM

The complainant, ██████████, alleged that on February 3, 2016, he was stopped by two officers for no reason. After interviewing ██████████ and reviewing available reports and records, COPA recommends the allegations be Exonerated. COPA’s findings are further discussed in the Analysis portion of this report.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████ Star # ██████████, Employee ID # ██████████, Date of Appointment: ██████████, 2006, Police Officer, ██████████ District, Date of Birth: ██████████, 1980, Male, Black
Involved Officer #2:	██████████, Star # ██████████, Employee ID # ██████████, Date of Appointment: ██████████, 2005, Police Officer, ██████████ District, Date of Birth: ██████████, 1978, Male, White
Involved Individual #1:	██████████, Date of Birth: ██████████, 1997, Male, Hispanic

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer ██████████	1. Detained ██████████ without justification, in violation of Rule 2 and Rule 6.	Exonerated
Officer ██████████	1. Detained ██████████ without justification, in violation of Rule 2 and Rule 6.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

Rules
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1. **Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.

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#### Special Orders

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1. **S04-13-09:** Investigatory Stop System.<sup>1</sup>

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#### Federal Laws

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1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

### V. INVESTIGATION<sup>2</sup>

#### a. Interviews<sup>3</sup>

COPA interviewed the complainant, [REDACTED], on January 18, 2019.<sup>4</sup> [REDACTED] related that on an unknown date about 3 - 4 years ago, he was outside of [REDACTED] l.<sup>5</sup> It was about 3:05 PM and school was ending. Per [REDACTED], he was enrolled in the school but did not attend that day. [REDACTED] related he was on the sidewalk with his brother and friends for about ten minutes. [REDACTED] saw an unmarked police car across the street and recognized one of the officers from a previous incident in which he was arrested with marijuana inside the school.<sup>6 7</sup> [REDACTED] began walking away and the officers stopped him by an alley. An officer told [REDACTED] to come over, then grabbed [REDACTED], handcuffed him, and detained him by the police car. The officer asked [REDACTED] about his court date and why [REDACTED] was on school property. [REDACTED] was detained for about 15 minutes. Per [REDACTED], the officers stopped him for no reason and never told him why he was detained. [REDACTED] alleged that he asked the officer if he was free to leave and the officer responded, "Mother fucker, you leave when I tell you to leave."<sup>8</sup> [REDACTED] denied that he was prohibited from being on school property or suspended from school.

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<sup>1</sup> The Investigatory Stop System policy referenced in this report was effective from January 1, 2016 until March 22, 2016 (Att. 17).

<sup>2</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>3</sup> Interviews were not conducted with Officer [REDACTED] or Officer [REDACTED] as [REDACTED] complaint did not amount to misconduct.

<sup>4</sup> Att. 4

<sup>5</sup> [REDACTED] could not recall the date of this incident, and several additional details. [REDACTED] denied having any memory problems or a disability.

<sup>6</sup> Att. 12

<sup>7</sup> [REDACTED] did not know the officer's name, but related he is a black male. COPA believes [REDACTED] was referring to Officer [REDACTED].

<sup>8</sup> Approximately 14:34 minute mark of Att. 4.

**b. Digital Evidence**

Body Worn Camera (BWC) footage was unavailable as the [REDACTED] District was not assigned BWC until October 23, 2017.

**c. Physical Evidence**

No relevant physical evidence was obtained pertaining to the present investigation.

**d. Documentary Evidence**

A **Contact Card** was identified for [REDACTED] from February 3, 2016.<sup>9</sup> [REDACTED] was stopped at [REDACTED] at approximately 3:15 PM. Officer [REDACTED] and Officer [REDACTED] saw [REDACTED] “outside of [REDACTED] and noticed subject was conducting a hand to hand with several students once school was dismissed.” The officers observed [REDACTED] for “a few minutes” then approached. [REDACTED] denied having drugs and related “he just wanted to meet up with the boys.” The officers related that [REDACTED] is “a documented [REDACTED]” and they were aware [REDACTED] had a “narcotics background.” The officers told [REDACTED] “that his actions of gang hand shakes or any narcotics sales is not wanted and [he] was asked to go home.”

An **Arrest Report** was located for [REDACTED] from November 17, 2015, with **RD # [REDACTED]**.<sup>10</sup> [REDACTED] was arrested for misdemeanor cannabis possession at [REDACTED]. Officers [REDACTED] and [REDACTED] arrived and school staff related that [REDACTED] “was being disruptive and needed to be escorted to next class room” when they saw [REDACTED] toss “an orange pill bottle to the ground containing 3 plastic bags with a green leafy like substance suspect cannabis.” Officer [REDACTED] inventoried the suspect cannabis and the officers arrested [REDACTED].

An **Original Case Incident Report** for **RD # [REDACTED]** contained no additional, relevant information.<sup>11</sup>

The **docket for criminal case [REDACTED]** was obtained from the Cook County Clerk of the Circuit Court.<sup>12</sup> The case was filed on November 23, 2015 and [REDACTED] was charged with misdemeanor cannabis possession. A judgment of nolle prosequi was entered on December 16, 2015.

The following relevant **Event Query Reports** were located through the Office of Emergency Management and Communications (OEMC).

- **Event Number [REDACTED]** initiated on November 17, 2015 at approximately 2:29 PM with a call from [REDACTED].<sup>13</sup> Beat [REDACTED] (Officers [REDACTED] and [REDACTED]) was

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<sup>9</sup> Att. 9

<sup>10</sup> Att. 12

<sup>11</sup> Att. 13

<sup>12</sup> Att. 14

<sup>13</sup> Att. 15

dispatched and Beat █████ assisted.<sup>14</sup> Shortly after, Beat █████ reported going to the █████ District with one subject.

- **Event Number** █████ initiated on February 3, 2016 at about 3:15 PM.<sup>15</sup> Beat █████ (Officers █████ and █████) reported making a street stop. Shortly after, they researched the name “█████” followed by “█████.” The event closed at roughly 6:00 PM.

## 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

**Allegation 1** against Officer █████ and Officer █████, that they detained █████ without justification, is **Exonerated**. █████ felt harassed when the officers stopped him, but he also acknowledged that the officers knew him from a previous cannabis arrest at the same location. Per S04-13-09, an Investigatory Stop is “[t]he temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion that the person

<sup>14</sup> A search of the assignments to Beat █████ on November 17, 2015 yielded negative results. However, the arrest report for RD # █████ stated Officer █████ was assigned to Beat █████ and assisted with █████ arrest.

<sup>15</sup> Att. 16

is committing, is about to commit, or has committed a criminal offense.” The officers had reasonable articulable suspicion because they knew [REDACTED] had a criminal history with narcotics, they knew he was in a gang, and they saw him engaging in hand-to-hand transactions. After speaking with [REDACTED], the officers allowed him to leave. Since the officers had reasonable articulable suspicion that [REDACTED] was dealing narcotics and released [REDACTED] after a dispelling the suspicion, this detention was legal and justified. As such, this allegation is Exonerated against both officers.

While [REDACTED] also alleged that an officer used the phrase “mother fucker” during this encounter, COPA did not present an allegation related to this claim. [REDACTED] made his complainant almost four years after the incident occurred. Throughout his COPA interview, [REDACTED] struggled to recall and was unable to remember relevant details. It is questionable that [REDACTED] was able to recall a specific statement an officer made to him, but not either officer’s name or physical description, what year the incident occurred in, or even the time of year in which it occurred. As such, COPA could not bring this allegation in good faith due to [REDACTED] lack of memory.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
Officer [REDACTED]	1. Detained [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated
Officer [REDACTED]	1. Detained [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated

Approved:

[REDACTED]

July 29, 2019

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 Andrea Kersten  
 Deputy Chief Administrator – Chief Investigator

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 Date

**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	[REDACTED]
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	[REDACTED]
<b>Deputy Chief Administrator:</b>	Andrea Kersten