

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 13, 2018
Time of Incident:	8:15 p.m.
Location of Incident:	1530 W 111 th St.
Date of COPA Notification:	June 15, 2018
Time of COPA Notification:	3:38 p.m.

On June 13, 2018, Officers [REDACTED] and [REDACTED] were on patrol when they observed a parked vehicle at a gas station and conducted a LEADS inquiry on the car’s license plate. The inquiry revealed the vehicle to be stolen. The officers approached the vehicle from behind and walked to either side of the vehicle with their weapons drawn. The officers placed both [REDACTED] and [REDACTED] under arrest and placed them in handcuffs. Officer [REDACTED] searched the allegedly stolen vehicle before it was impounded at the district. Ms. [REDACTED] and Mr. [REDACTED] were transported to the [REDACTED] District. Both were released without charging. On June 15, 2018, Ms. [REDACTED] filed a complaint against Officers [REDACTED] and [REDACTED] with COPA.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Date of Appointment: [REDACTED] 2014, Chicago Police Officer, Date of Birth: [REDACTED] 1992, White, Hispanic Male
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee # [REDACTED] Date of Appointment: [REDACTED] 2015 Chicago Police Officer, Date of Birth: [REDACTED] 1994, White, Male
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1989, Black, Female

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111 th St., Officer [REDACTED] illegally detained Ms. [REDACTED]	Exonerated

	<p>2. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally arrested Ms. [REDACTED]</p> <p>3. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] person</p> <p>4. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] vehicle.</p> <p>5. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] improperly displayed his firearm by pointing the gun at Ms. [REDACTED]</p>	<p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>1. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally detained Ms. [REDACTED]</p> <p>2. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally arrested Ms. [REDACTED]</p> <p>3. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] person.</p> <p>4. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] vehicle.</p> <p>5. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] improperly displayed his firearm by pointing the gun at Ms. [REDACTED]</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Disobedience of an order or directive, whether written or oral
2. Rule 38: Unlawful or unnecessary use or display of a weapon

General Orders

1. General Order G07-03 Vehicle Towing and Relocation Operations
 2. General Order G06-01-01 Field Arrest Procedures
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Federal Law

1. U.S. Constitution: Fourth Amendment

V. INVESTIGATION¹**a. Interviews**

In an interview with COPA on June 15, 2018, **complainant**, ██████████ stated that she left her home at approximately 6:00 p.m., on June 13, 2018, and went to a neighborhood alley to talk to family members. Fifteen to twenty minutes later a neighborhood friend, known as ██████ asked to go to the store and to drive her vehicle, a 2010 BMW. ██████ now known as ██████████ drove her car down 111th Street with Ms. ██████████ in the passenger's seat and pulled into a gas station. Ms. ██████████ stated Mr. ██████ went inside to pay for gas, came back outside, and entered the vehicle again. As Ms. ██████████ was instructing Mr. ██████ how to drive the car, two police officers approached her vehicle on both the right and left side with their guns drawn. Ms. ██████████ described both officers as mixed race, perhaps Hispanic, males, both in uniform.

Once Mr. ██████ saw the officers approach the car, he placed his hands up through the sunroof. Ms. ██████████ sat still and looked over to see the lights, that were attached to the guns of both officers, pointed at her face. Ms. ██████████ stated the officer that approached her side asked her to exit the vehicle, and she complied. Eventually, a woman wearing a white shirt approached her and asked her a series of questions pertaining to her possession of the vehicle. Ms. ██████████ informed the sergeant, now known to as Sergeant ██████████ that she bought the car with cash and had documents in the glove compartment to prove her statement. Ms. ██████████ stated she agreed to have her car searched and that Sergeant ██████████ never touched her glove compartment. When Sergeant ██████████ came back to where Ms. ██████████ and Mr. ██████ were standing, she handcuffed them and escorted Ms. ██████████ to the back of her vehicle. Sergeant ██████████ then transported ██████████ to the police station.

Ms. ██████████ stated she saw her vehicle at the police station when she arrived. Ms. ██████████ stated she was chained to the wall in a detention room and became loud and irate because she believed they were putting together a story about why they took her car. Ms. ██████████ then used her watch to make phone calls. Officer ██████████ entered the room and asked her for her watch, but she refused to give it to him. Two more officers then asked her to hand over her watch, and she eventually agreed. ██████████ stated she was detained for over two hours waiting for a report to be finished before she was released. ██████████ stated that when she was released, she was not given her

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 Attachment 5

keys and was told she could get her car back with a piece of paper that was given to her. Ms. ██████ stated she has a “drone,” a computer chip, in her car and can track the vehicle’s location at all times. When Ms. ██████ went to get her car, she was told she needed to pay \$308.18 to get a city sticker in order to get her car out of the impound. Ms. ██████ would not agree to pay this and left without her car.

In a statement to COPA on December 17, 2018, **Accused Officer ██████** stated that on June 13, 2018, he and his partner, Officer ██████ were driving westbound on 111th Street when they saw a parked vehicle at a gas station. They ran the plates through LEADS and discovered it was reported stolen. After the vehicle came back stolen, they went around the block and came out on Ashland going northbound to enter the gas station. Officer ██████ stated that they approached the vehicle from behind once they activated their emergency lights. While Officer ██████ approached the driver’s side, Officer ██████ approached the passenger’s side. Officer ██████ stated he had his gun drawn while approaching the vehicle because based on his experience of stolen vehicles, he knows them to often be associated with shootings and people carrying weapons.

Once ██████ approached the driver’s side, he saw a young male and asked him to exit the vehicle. When the male, ██████ exited the vehicle, Officer ██████ placed him into custody while Officer ██████ placed the passenger, now known as ██████ into custody. Both officers let the individuals know the vehicle was stolen. Officer ██████ related that Ms. ██████ stated she did not know the vehicle was stolen and that she bought it for \$3,500 from a friend of her husband. Officer ██████ did not recall searching the vehicle at the scene but assumed it would have been searched at the station. Officer ██████ stated both individuals were transported to the police station and were detained but were released without charges. Officer ██████ stated Ms. ██████ and Mr. ██████ were only detained for approximately 20 minutes and were released as soon as they discovered Ms. ██████ did not steal the vehicle.

In a statement to COPA on April 2, 2019, **Accused Officer ██████** stated that on June 13, 2018, he and his partner, Officer ██████ were on patrol when they saw a vehicle parked at a gas station. They conducted a LEADS inquiry of the license plate that revealed the vehicle to be stolen. Officer ██████ stated that he cannot recall who ran the plate or why they ran the plate. Officer ██████ stated emergency lights were activated, and he approached the passenger’s side, while Officer ██████ approached the driver’s side. Officer ██████ stated he did not have his gun drawn initially but drew it when it appeared as if the vehicle was pulling away. Officer ██████ stated that he believed the vehicle may pull away because the vehicle’s brake lights came on when Officer ██████ came closer to the vehicle. Officer ██████ stated he could not see exactly what was going on inside the vehicle because of the tinted windows but could see movement inside of the vehicle. Officer ██████ asked the passenger, now known as ██████ to exit the vehicle. Officer ██████ moved Ms. ██████ to the back of the vehicle and she was placed in handcuffs for possession of a stolen vehicle.

Officer ██████ stated that before he took the individuals to the station, he searched the vehicle incident to arrest. Officer ██████ stated that Sergeant ██████ arrived on scene after the

³ Attachment 20

⁴ Attachment 22

initial stop and performed a protective pat-down search on Ms. [REDACTED] before she was placed in Sergeant [REDACTED] car for transportation to the police station. Officer [REDACTED] transported the driver, [REDACTED] in his vehicle to the police station. Officer [REDACTED] stated that once the individuals arrived at the station, they were searched and put in different rooms. Officer [REDACTED] and [REDACTED] then started the paperwork. The desk sergeant ordered that both Ms. [REDACTED] and Mr. [REDACTED] be released without charging.

b. Digital Evidence

Body Worn Camera (BWC)⁵ video worn by Officers [REDACTED] and [REDACTED] on June 13, 2018, at approximately 8:15 p.m., was obtained. In the videos, Officer [REDACTED] is shown to raise his weapon towards the vehicle while the brake lights of the vehicle came on. Officer [REDACTED] asks the passenger, [REDACTED] to step out of the vehicle. Once [REDACTED] exits the vehicle, Officer [REDACTED] holsters his weapon. The videos do not have a visual of Officer [REDACTED] approaching the vehicle, but it does show him handcuffing the driver, [REDACTED]. The videos also show Officer [REDACTED] asking [REDACTED] to step towards the back of the vehicle and placing her in handcuffs. Officer [REDACTED] explains to them that the car is reported stolen. [REDACTED] responds and says the vehicle is not stolen, and she has paperwork in her car. Officer [REDACTED] takes her information and goes back to his vehicle to run the information in his computer. Officer [REDACTED] is seen talking to [REDACTED] and asking her questions pertaining to the vehicle. Sergeant [REDACTED] tells the individuals they are going to need to be taken to the station and does a pat-down search of [REDACTED]. Officer [REDACTED] then moves [REDACTED] next to his vehicle and searches him. Officer [REDACTED] places [REDACTED] in his vehicle to transport him to the police station while Officer [REDACTED] transports the vehicle in question back to the police station.

c. Documentary Evidence

The **Original Incident Case Report**⁶ and **Arrest Report**⁷ for RD # [REDACTED] document that on June 13, 2018, at approximately 8:15 p.m., at 1530 W 111th Street, Officers [REDACTED] and [REDACTED] were in uniform driving a marked police vehicle, when they ran a LEADS inquiry on the license plate of a vehicle. The vehicle was revealed to be stolen. The subjects in the vehicle were asked to exit and were placed into custody without incident. The subjects were transported to the [REDACTED] District for further processing. [REDACTED] the passenger of the vehicle, was read Miranda rights at 8:57 p.m. at which time she stated her child's father, [REDACTED] put her in contact with an unknown male whom she met with at [REDACTED] and [REDACTED] at the individual's house, to purchase her vehicle for \$3,500. [REDACTED] stated that the unknown individual told her, not verbatim, that he needed to sell the car fast. [REDACTED] stated she has owned the vehicle for a year, has registration to the vehicle, and had no knowledge of it being stolen.

⁵ Attachment 25

⁶ Attachment 7

⁷ Attachment 6

PDT Messages Report⁸ and OEMC Event Query⁹ the readout from the in-car PDT for Unit █████ show that at 20:01:07 Hours the unit ran a LEADS inquiry on the plates of a 2010 BMW. That inquiry showed that the vehicle had been stolen from a dealership in Ann Arbor, Michigan.

PAR Report for Sgt. █████¹⁰ PAR report for Sgt. █████ dated July 16, 2018 documents that Sgt. █████ retired on that date from the Chicago Police Department and is therefore ineligible for administrative discipline.

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

COPA finds that **Allegations 1 and 2** against Officers █████ and █████ that they illegally detained and arrested Ms. █████ are **Exonerated**.

⁸ Attachment 16

⁹ Attachment 9

¹⁰ Attachment 17

The first issue is whether the detention of Ms. ██████ was legal. The standard set forth in *Terry v. Ohio*, 392 U.S. 1, is that an officer must have a reasonable articulable suspicion that a crime has or will be committed by the person in order to detain that individual. In this case, when Officers ██████ and ██████ ran a LEADS inquiry on Ms. ██████ license plate, the car came back as stolen. In this case, it is reasonable to suspect the driver and passenger of a stolen vehicle were the individuals who stole that vehicle. Both Officer ██████ and Officer ██████ articulated that suspicion in their statement. The officers' suspicions were reasonable and therefore they were within their rights to detain Ms. ██████. Therefore, COPA finds that Allegation 1 that Ms. ██████ was illegally detained is **Exonerated** for both Officer ██████ and Officer ██████.

The second issue is whether the arrest of Ms. ██████ was legal. In order to conduct a field arrest, the officer must have probable cause to arrest. In *Brinegar v. United States*, the U.S. Supreme Court defines probable cause as "where the facts and circumstances within the officers' knowledge, and of which they have reasonably trustworthy information, are sufficient in themselves to warrant a belief by a man of reasonable caution that a crime is being committed." In this case, as stated above, at the time of the arrest the officers ran a LEADS inquiry that returned a result that the car was stolen. LEADS is an investigative tool officers rely on every day to provide them with reliable information. After learning from LEADS that the car was stolen, it was reasonable to believe those in possession of the car committed a crime. Therefore, the officers had probable cause to arrest Ms. ██████. Therefore, COPA finds that Allegation 2 that Ms. ██████ was illegally arrested is **Exonerated** for both Officer ██████ and Officer ██████.

COPA finds that **Allegations 3** against Officers ██████ and ██████ that they illegally searched Ms. ██████ person is **Unfounded**. According to General Order G06-01-01, it is Chicago Police Department policy that female arrestees are searched by female officers. According to the body-worn camera footage and Officer ██████ statement, in this case it was Sergeant ██████ who searched and transported Ms. ██████ to the 22nd District. There is no indication that Officer ██████ or Officer ██████ conducted physical searches of Ms. ██████ themselves. Therefore, COPA finds that Allegation 3 that Ms. ██████ was illegally searched by Officer ██████ and/or Officer ██████ is **Unfounded** for both Officer ██████ and Officer ██████.¹¹

COPA finds that **Allegation 4** against Officers ██████ and ██████ that they illegally searched Ms. ██████ car is **Exonerated**. The body worn camera footage shows that Officer ██████ searched the driver's and passenger's sides of the car. He did not open the trunk. According to Officer ██████ statement, this was a search incident to arrest. The criteria for search incident to arrest are given in *Arizona v. Gant* 556 US 332 (2009). According to *Arizona v. Gant*, search incident to arrest requires a lawful arrest, must be limited to the passenger compartment, and cannot occur once the arrestee is handcuffed and placed within a police vehicle. Based on the body worn camera footage, when Officer ██████ searched the car, Ms. ██████ was under arrest, was handcuffed, but had not been placed in a police vehicle yet. As Officer ██████ restricted his search to the passenger compartment of the car, he complied with the standard set forth in *Arizona v. Gant*. Officer ██████ actions qualify as a valid search incident to arrest.

¹¹ COPA notes that Sgt. ██████ search of Ms. ██████ person was not an illegal search as it was a search incident to arrest and COPA has found that the arrest was not illegal, as previously discussed.

Therefore, COPA finds that Allegation 4 that Officer [REDACTED] illegally searched Ms. [REDACTED] car is **Exonerated**.

According to the statements of both officers and the body worn camera, Officer [REDACTED] did not search Ms. [REDACTED] car, initially. It was, however, Officer [REDACTED] who transported the car to the district station for impound. An officer physically trespasses into a vehicle by entering without permission and therefore the entry itself was a search. *United States v. Jones* 565 U.S. 400. When Officer [REDACTED] took possession of the vehicle, he conducted a de facto search. Ms. [REDACTED] and Mr. [REDACTED] were both handcuffed and secured in police vehicles during this time, so Officer [REDACTED] search was not incident to arrest. Police may conduct an inventory search of any vehicle to be impounded if the inventory is supported by a policy that directs the officer to conduct an inventory. *South Dakota v. Opperman* 428 U.S. 364 (1976). In this case, General Order G07-03 states that an officer shall inventory all personal property within the vehicle prior to impounding. Officer [REDACTED] de facto search of the vehicle would fall under this policy. Therefore, COPA finds that Allegation 4 that Officer [REDACTED] illegally searched Ms. [REDACTED] car is **Exonerated**.

COPA finds that **Allegation 5** against Officers [REDACTED] and [REDACTED] that they improperly displayed their firearms by pointing their guns at Ms. [REDACTED] is **Exonerated**. The fifth allegation against both officers is for a violation of Rule 38, which states an officer shall be penalized for “unlawful or unnecessary use or display of a weapon.” Therefore, the questions are in what way did Officers [REDACTED] and [REDACTED] use their weapons and were they necessary and lawful. Based on the body worn camera footage and the officers’ statements, both officers initially approached the vehicle with their guns drawn and pointed toward the vehicle. Once both Ms. [REDACTED] and Mr. [REDACTED] exited the vehicle and were in full view of the officers, they both holstered their weapons. In this case, both officers were entering a situation with limited information. They knew the vehicle was reported stolen. Both stated that, in their experience, often stolen vehicles are used to commit other crimes, so for all the officers knew, they were interrupting a crime in progress, possibly with armed suspects. In that case, having their firearms unholstered and ready was a reasonable course of action. Once the situation was under control, they both holstered their weapons in a timely manner. Therefore, COPA finds that Allegation 5 that they improperly displayed their firearms by pointing their guns at Ms. [REDACTED] is **Exonerated** for both Officer [REDACTED] and Officer [REDACTED]

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	1. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111 th St., Officer [REDACTED] illegally detained Ms. [REDACTED]	Exonerated

	<p>2. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally arrested Ms. [REDACTED]</p> <p>3. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] person</p> <p>4. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] vehicle.</p> <p>5. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] improperly displayed his firearm by pointing the gun at Ms. [REDACTED]</p>	<p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>1. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally detained Ms. [REDACTED]</p> <p>2. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally arrested Ms. [REDACTED]</p> <p>3. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] person.</p> <p>4. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] illegally searched Ms. [REDACTED] vehicle.</p> <p>5. On or about June 13, 2018 at approximately 8:15 PM at or near 1530 W. 111th St., Officer [REDACTED] improperly displayed his firearm by pointing the gun at Ms. [REDACTED]</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Exonerated</p>

Approved:

[REDACTED]

July 30, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	██████████
Supervising Investigator:	██████████████████
Deputy Chief Administrator:	Andrea Kersten