

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 8, 2018
Time of Incident:	11:01 AM
Location of Incident:	[REDACTED]
Date of COPA Notification:	October 8, 2018
Time of COPA Notification:	12:57 PM

On October 8, 2018, a car occupied by [REDACTED] and [REDACTED] was subjected to a traffic stop. During a search of the occupants, [REDACTED] got into a scuffle with the officers and was arrested. After reviewing Body Worn Camera (BWC) footage, COPA accused Officer [REDACTED] and Officer [REDACTED] of performing inappropriate pat downs and subsequent searches, as well as failing to adequately document the incident. COPA’s findings are discussed in the Analysis portion of this report.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2015, Police Officer, [REDACTED] th District, Date of Birth: [REDACTED] 1992, Male, Black
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2010, Police Officer, [REDACTED] th District, Date of Birth: [REDACTED], 1982, Male, Hispanic
Involved Individual #1:	[REDACTED], Date of Birth: [REDACTED], 1999, Male, Black
Involved Individual #2:	[REDACTED], Date of Birth: [REDACTED], 1992, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer [REDACTED]	1. Performed a protective pat down on [REDACTED] and [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated

	<p>2. Searched inside [REDACTED]'s and [REDACTED]'s pockets and underneath garments during a protective pat down, in violation of Rule 6.</p> <p>3. Failed to comply with Special Order S04-13-09 in accurately completing Investigatory Stop Report (ISR) No. [REDACTED], in violation of Rule 2 and Rule 6.</p>	<p>Unfounded</p> <p>Sustained</p>
<p>Officer [REDACTED]</p>	<p>1. Performed a protective pat down on [REDACTED] and [REDACTED] without justification, in violation of Rule 2 and Rule 6.</p> <p>2. Searched inside [REDACTED]'s and [REDACTED]'s pockets and underneath garments during a protective pat down, in violation of Rule 6.</p> <p>3. Failed to comply with Special Order S04-13-09 in accurately completing Investigatory Stop Report (ISR) No. [REDACTED], in violation of Rule 2 and Rule 6.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

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

Special Orders

- S04-13-09:** Investigatory Stop System.

Federal Laws

- Fourth Amendment to the United States Constitution:** “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

V. INVESTIGATION¹

a. Interviews

Attempts to locate ██████████ and ██████████ and conduct interviews were met with negative results.²³

COPA interviewed **Officer ██████████** on February 28, 2019.⁴ On October 8, 2018, Officer ██████████ was partnered with Officer ██████████ when they pulled over the vehicle occupied by ██████████ and ██████████ for failing to stop at a stop sign. When Officer ██████████ approached the car, he smelled cannabis. Officer ██████████ asked ██████████ for his driver's license, but ██████████ only provided an ID. The officers asked ██████████ and ██████████ to exit the vehicle due to the smell of cannabis and because ██████████ did not have a driver's license. When asked about ██████████'s furtive movements referenced in ██████████'s arrest report, Officer ██████████ explained that the vehicle did not immediately come to a stop when the officers engaged their emergency equipment. The officers saw ██████████ moving his shoulders, bending down, and reaching, which Officer ██████████ stated was consistent with "someone trying to conceal something."⁵ Officer ██████████ related that when they first saw ██████████'s vehicle, "it was stopped in front of a well-known narcotics house."⁶

Officer ██████████ also recognized ██████████'s vehicle from a previous incident in which an officer was hit and a gun was recovered. Officer ██████████ elaborated that he performed a pat down on ██████████ because, "three days prior [...] [Officer ██████████]' was involved in a chase," in which ██████████'s vehicle struck Officer ██████████ and fled from a traffic stop.⁷ On this previous occasion, Officer ██████████ pursued the vehicle until a passenger, ██████████, exited with a gun and was arrested. Once ██████████ exited, Officer ██████████ did not see the car again until the October 8, 2018 incident. Officer ██████████ did not see the driver of the previous incident, nor did he get a good view of the vehicle's occupants. Officer ██████████ also did not see ██████████ or ██████████ on October 5, 2018.

On October 8, 2018, ██████████ and ██████████ were ordered out of the car. Officer ██████████ performed a protective pat down and the men were detained. Officer ██████████ did not recall what the suspicious bulge detailed on ██████████'s Investigatory Stop Report (ISR) was. He also did not recall when ██████████ gave consent to a pat down. Officer ██████████ did not believe he searched in either man's pockets.

Officer ██████████ then got into a struggle with ██████████ and ██████████ tried to flee. When asked why Officer ██████████' Tactical Response Report (TRR) stated ██████████ posed an imminent threat of battery with a weapon, Officer ██████████ related that was an error and he meant to state "without" a

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. 37

³ This case was initiated by the department and the report is discussed later in the report.

⁴ Att. 18

⁵ Approximately 7:16 minute mark of Att. 18.

⁶ Approximately 12:25 minute mark of Att. 18.

⁷ Approximately 7:45 minute mark of Att. 18.

weapon. Suspect PCP was recovered from [REDACTED]. Officer [REDACTED] clarified that he did not smell PCP, but Officer [REDACTED] did when approaching on the passenger's side.

COPA held a follow-up interview with **Officer [REDACTED]** on March 26, 2019.⁸ Officer [REDACTED] stated he recognized [REDACTED]'s vehicle on October 8, 2018 because it was the same color, make, and model (a black Honda Civic) and in the same area from an incident that occurred on October 5, 2018. Officer [REDACTED] stated that the make and model is uncommon in that area. On October 5, 2018, the vehicle struck Officer [REDACTED]' partner before [REDACTED] exited the car and Officer [REDACTED] followed [REDACTED] on foot. Officer [REDACTED] arrested [REDACTED] and recovered a gun. Officer [REDACTED] did not ask [REDACTED] or [REDACTED] if they knew [REDACTED]. However, Officer [REDACTED] stated that he believed [REDACTED], [REDACTED], and [REDACTED] are in the same gang.

On March 13, 2019, COPA interviewed **Officer [REDACTED]**.⁹ On October 8, 2018, Officer [REDACTED] and Officer [REDACTED] stopped a car driven by [REDACTED] with [REDACTED]s the front seat passenger. Officer [REDACTED] related to Officer [REDACTED] that a few days prior, [REDACTED]'s vehicle was parked in front of a known narcotics house and struck (or almost struck) an officer before fleeing. Officer [REDACTED] believed Officer [REDACTED] recognized the vehicle on October 8, 2018 by color and make. On October 8, 2018, [REDACTED] failed to stop at a stop sign and the officers curbed the vehicle. [REDACTED] was seen making "furtive movements" and "bending down" before the car finally stopped.¹⁰ When Officer [REDACTED] approached on the passenger's side, he smelled PCP. Officer [REDACTED] asked the driver for license and insurance. When [REDACTED] could not provide it, the men were asked out of the car. Officer [REDACTED] performed a pat down on [REDACTED] because [REDACTED] stated he had cannabis and Officer [REDACTED] smelled PCP. Officer [REDACTED] believed Officer [REDACTED] performed a pat down on [REDACTED]. Officer [REDACTED] believed the men may have been armed or posed a threat because he did not know "what they have on them," "what's in the car," and "what the other guy has."¹¹ When asked if [REDACTED] consented to a pat down, Officer [REDACTED] stated [REDACTED] did not object. Officer [REDACTED] stated he went into [REDACTED]'s pockets to recover cannabis and PCP. When asked what the suspicious bulge referenced in [REDACTED]'s ISR was, Officer [REDACTED] related [REDACTED] had on tight jeans with a bulge near his right ankle. Officer [REDACTED] was not aware of a suspicious bulge on [REDACTED]. After Officer [REDACTED] felt the bulge near [REDACTED]'s ankle and grabbed it, [REDACTED] pulled away, a scuffle ensued, and [REDACTED] tried to flee.

b. Digital Evidence

Body Worn Camera (BWC) and In Car Camera (ICC) footage was obtained from Department members involved in [REDACTED]'s **October 8, 2018** arrest.¹²

Officer [REDACTED]

Officer [REDACTED] began recording at about 10:56 AM. At approximately 10:56 AM, [REDACTED] told Officer [REDACTED] he had been smoking but was out of marijuana. [REDACTED] and [REDACTED] were both

⁸ Atts. 34, 35

⁹ Att. 27

¹⁰ Approximately 6:55 minute mark of Att. 27.

¹¹ Approximately 11:22 minute mark of Att. 27.

¹² Att. 16

asked out of the car and stood near the trunk. At about 10:57 AM, Officer [REDACTED] was seen searching inside of [REDACTED]'s pockets. At about 10:58 AM, Officer [REDACTED] apparently found something [REDACTED] tried to grab. Officer [REDACTED] proceeded to perform an emergency takedown on [REDACTED]. [REDACTED] continued resisting and trying to flee. At approximately 10:59 AM, [REDACTED] was in handcuffs and additional units began arriving. Officer [REDACTED] turned off his BWC at roughly 11:01 AM as [REDACTED] asked him "why you [inaudible] me in my shit bro," and Officer [REDACTED] responded, "Shut the fuck up."¹³

Officer [REDACTED]

Officer [REDACTED]'s BWC initiated at about 10:56 AM. Officer [REDACTED] approached the vehicle on the passenger's side. [REDACTED] gave the officer his name and date of birth. Officer [REDACTED] then asked [REDACTED] out of the car and [REDACTED] complied. The driver also exited at the same approximate time. Officer [REDACTED] began a pat down on [REDACTED]. Officer [REDACTED] was seen searching inside [REDACTED]'s pockets (see photos below). At roughly 10:57 AM, Officer [REDACTED] apparently found something near [REDACTED]'s left shoe and a scuffle ensued between [REDACTED] and Officer [REDACTED]. However, it is unclear exactly what occurred as Officer [REDACTED]'s BWC was blocked, presumably by [REDACTED]'s body. At about 10:59 AM, [REDACTED] was on the ground and Officer [REDACTED] appeared to be on top of [REDACTED]. The camera was then again blocked momentarily. Next, BWC showed Officer [REDACTED] on top of [REDACTED] with his right hand on [REDACTED]'s neck area. At about 10:59 AM, [REDACTED] was handcuffed, and additional units arrived. Officer [REDACTED] then picked up several individually wrapped, palm-sized items from the ground. At about 11:02 AM, Officer [REDACTED] filmed injuries on his own arm, apparently caused by [REDACTED]. Officer [REDACTED] terminated his BWC at roughly 11:03 AM.



BWC and In Car Camera (ICC) was also obtained from [REDACTED]'s arrest on **October 5, 2018**.¹⁴ No relevant content pertaining to the present allegations was captured by BWC or ICC from this date.

¹³ COPA ultimately did not bring an allegation against Officer [REDACTED] for telling [REDACTED] to "shut the fuck up" because Officer [REDACTED] had just been in a tense situation. Additionally, Officer [REDACTED] appeared to say this under his breath. However, COPA advises Officer [REDACTED] to be more respectful towards civilians and use language more becoming of a Chicago Police Officer.

¹⁴ Att. 32

Evidence Technician photos were obtained of █████, Officer █████, and Officer █████ following █████'s October 8, 2018 arrest.¹⁵ Cuts and/or scratches were seen on █████'s left temple, behind his left ear, on his right hand, and his left elbow. Officer █████ had scratches on his left knee. Officer █████ had abrasions on his left knee, right knuckles, right wrist, right elbow, left hand, and right forehead.

c. Physical Evidence

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

d. Documentary Evidence

█████'s **Arrest Report** was located from October 8, 2018 with **RD #** █████.¹⁶ █████ was charged with three felonies: possession of a controlled substance and two counts of aggravated battery to a peace officer, and two misdemeanor charges: resisting/obstructing a peace officer. Officer █████ and Officer █████ saw a vehicle "fail to come to a complete stop" and performed a traffic stop. The vehicle "hesitated to stop" but "eventually pulled over after driving an additional block." The officers saw █████ "making furtive movements in the vehicle while the vehicle was in motion. █████ was observed leaning in a forward position [...] consistent with attempting to conceal items." The officers approached the car and the driver provided his documentation. The officers smelled cannabis and PCP and both men admitted to having marijuana. Both men were asked to exit the vehicle and the officers "observed a large bulge protruding at the ankle of █████." █████ fought when the officers and was then arrested and taken to the █████th District. █████ went to the hospital before entering lockup. The tin foil packets were identified as containing "a dark leaf like substance suspect PCP." █████'s Black Honda Civic with Illinois license plate █████ was impounded.

An **Original Incident Case Report** was also obtained for **RD #** █████.¹⁷ Per this report, Officer █████ and Officer █████ sustained abrasions and blunt trauma from █████. Officer █████ was treated at a hospital after the incident.

Officer █████ completed a **Tactical Response Report (TRR)** following █████'s arrest.¹⁸ █████ reportedly did not follow verbal direction, stiffened, pulled away, posed an imminent threat of battery without a weapon, attacked Officer █████, pushed the officer, grabbed the officer, and wrestled. Officer █████ responded with member presence, verbal direction, tactical positioning, calling additional units, escort holds, armbar, and a takedown. The narrative states that during a traffic stop, the officers smelled cannabis and PCP. █████ was asked out of the car and the officers "attempted to retrieve a PCP laced material that was emitting from the left pants leg of offender." █████ pushed Officer █████ and tried "to flee on foot." Officer █████ told █████ to stop and performed an emergency takedown. Once on the ground, █████ stiffened, struck Officer █████ with his elbows, kicked his feet, then tried to flee on foot. Officer █████ again performed an emergency takedown and █████ "began wrestling and stiffening his

¹⁵ Att. 9

¹⁶ Att. 4

¹⁷ Att. 5

¹⁸ Att. 6

weight once again refusing all verbal direction and refusing to be placed into handcuffs.” Officer ██████ assisted, ██████ was handcuffed, and additional units also assisted.

Officer ██████ also completed a TRR.¹⁹ Officer ██████ reported that ██████ did not follow verbal direction, stiffened, pulled away, and posed an imminent threat of battery with a weapon.²⁰ Officer ██████ responded with member presence, verbal direction, movement to avoid attack, tactical positioning, requesting additional units, a wristlock, emergency handcuffing, a takedown, and knee strikes. In addition to details provided in the narrative of Officer ██████’s TRR, this report states once ██████ was on the ground, ██████ struck Officer ██████ with his elbows and kicked Officer ██████ in the left leg. Officer ██████ performed a wristlock and an emergency cuffing to one arm before ██████ got to his feet and Officer ██████ performed a takedown. ██████ wrestled with the officers and resisted the handcuffing, at which point he hit Officer ██████’ leg. Officer ██████ responded with a knee strike and ██████ was handcuffed.

Detective Supplementary Reports were also identified for RD #██████.²¹ The reporting detective, Detective ██████, spoke with Officer ██████ who related he and Officer ██████ saw a black sedan fail to make a full stop at a stop sign and performed a traffic stop. Officer ██████ smelled cannabis and PCP and both occupants were asked out of the car. Both men admitted to possessing cannabis and ██████ gave Officer ██████ a small container of suspect cannabis. While Officer ██████ “conducted a protective pat-down of ██████ he felt a large item located in the lower left pant leg of ██████. ██████ stated as he was attempting to remove the item [...] he was pushed in the chest by ██████ who attempted to flee.” Officer ██████ grabbed ██████ and performed an emergency takedown. While on the ground, “██████ tensed up, placed his arms under his person and refused to comply with verbal direction.” Officer ██████ assisted and got a cuff on ██████’s left wrist. ██████ then “became combative and struck ██████ about the right upper torso with his elbow several times.” ██████ stood up and tried to break free while Officer ██████ held the cuff on ██████’s wrist. Officer ██████ then performed another takedown. Per Officer ██████, “██████ pushed him about his right shoulder in an attempt to gain distance and get back on his feet.” Both officers then placed ██████ into custody “after ██████ became tired.” Officer ██████ told the detective while struggling with ██████, Officer ██████ “was kicked about the left inside leg area by ██████.” Officer ██████ got a cuff on ██████’s left wrist, but ██████ got to his feet and tried to “break free” as Officer ██████ maintained a grip on the handcuffs. Officer ██████ took ██████ to the ground, ██████ became tired, and the officers put him in custody.

An **Investigatory Stop Report (ISR)** was located for ██████.^{22 23} Per this report, the reasonable articulable suspicion for the stop was “other.” However, the narrative states ██████ failed to stop at a stop sign. A protective pat down was performed due to a suspicious bulge/object and ██████ provided consent. The report states that no search was done beyond a protective pat down. ██████ was not issued any citations.

¹⁹ Att. 15

²⁰ During his COPA interview, Officer ██████ related he intended to report that ██████ posed an imminent threat of battery *without* a weapon but had a typographical error on the TRR.

²¹ Atts. 11, 12, 13

²² Att. 17

²³ COPA notes that the ISR has ██████’s first named spelled “██████,” but it is spelled “██████” on the TRRs.

Lieutenant ██████ authored an **Initiation Report** on October 8, 2018.²⁴ ██████ told Lieutenant ██████, not verbatim, “That officer was wrong. He had no right to knee me in the head. That officer scratched my face [...]. That officer was wrong and excessive.” Lieutenant ██████ observed abrasions on the right side of ██████’s head, his left temple, his left elbow, and behind ██████’s left ear. ██████ was then taken to ██████’s Hospital. About 25.5 grams of a PCP laced substance was inventoried.

Office of Emergency Management and Communication (OEMC) Event Number ██████ initiated at approximately 10:56 AM with Beat ██████ (Officers ██████ and ██████) performing a traffic stop.²⁵ Several additional units assisted. At approximately 11:02 AM, Beat ██████ (Officers ██████ and ██████) reported going to the ██████th District with one subject. At roughly 12:38 PM, Beat ██████ reported they were transporting one subject to ██████ Hospital.

The following relevant **criminal dockets** were obtained from the Cook County Clerk of the Circuit Court.

- **Case Number** ██████ was filed against ██████ on October 9, 2018.²⁶ ██████ was charged with felony possession of a controlled substance, two counts of felony aggravated battery to a peace officer, and two misdemeanor counts of resisting/obstructing a peace officer. On November 6, 2018, the case was superseded by direct indictment and transferred to the criminal division as Case Number ██████. ██████ was released on an I-bond with a special condition to report to The Institute of Nonviolence.²⁷
- **Case Number** ██████ was filed on November 8, 2018.²⁸ ██████ received six felony charges of aggravated battery to a peace officer. ██████ pleaded not guilty on November 16, 2018. As the writing of this report, this case is ongoing.

█████ ██████’s **Arrest Report** was obtained from October 5, 2018.²⁹ ██████ was arrested by Officer ██████ and Officer ██████ for aggravated unlawful use of a weapon, criminal damage to property, and possessing illegal ammunition. **The Original Case Incident Report** stated that ██████ was inside of a black vehicle when another male threw a gun to ██████ before “the black vehicle fled from the scene.”³⁰ Officer ██████ followed the vehicle in his car and it eventually stopped. ██████ got out of the car and fled on foot before throwing the firearm and being apprehended by officers. Neither report stated that Officer ██████ was struck by the black vehicle. A **Detective Supplementary Report** from

²⁴ Att. 3

²⁵ Att. 7

²⁶ Att. 10

²⁷ The Institute of Nonviolence was identified as an organization with a mission to “replace the cycle of violence using the principles, practices and teachings of nonviolence.” Source: <http://www.nonviolencechicago.org>.

²⁸ Att. 39

²⁹ Att. 23

³⁰ Att. 24

██████████'s arrest provided no additional, relevant details.³¹ Lastly, an **Event Query Report** from this October 5, 2018 incident related that a foot pursuit began at about 7:57 PM.³² At approximately 8:28 PM and 8:42 PM, officers researched Illinois license plates ██████████ and ██████████, respectively. At roughly 11:44 PM, officers looked up Illinois license plate ██████████.

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 performed a protective pat down on ██████████ and ██████████ without justification, is **Exonerated**. According to S04-13-09, for an officer to conduct a pat down during a stop, he/she must have "Reasonable Articulate Suspicion that the subject is armed and dangerous or reasonably suspects that the person presents a danger of attack to the officer or another [...]."³³ Officers ██████████' and

³¹ Att. 25

³² Att. 26

³³ See also, *Terry v. Ohio*, 392 U.S. 1 (1968)

█████'s belief that █████ and █████ were armed was based on multiple independent considerations: (1) their suspicion that the vehicle driven by █████ on October 8, 2018 was involved in a gun arrest from October 5, 2018. Officers based this on the vehicle's color, make, model, and location matching that of the suspected vehicle from three days prior.³⁴ (2) Officers observed █████ making furtive movements before the vehicle stopped. (3) █████'s car was seen in front of a home known for drugs sales. In sum, Officer █████ had reasonable articulable suspicion based upon the totality of the circumstances to suspect that █████ or █████ may be armed. Additionally, and regardless of whether there was a lawful pat down, an officer is not limited to a protective frisk for weapons when he has probable cause. Officers █████ and █████ smelled the odor of cannabis, which was corroborated by █████'s admission to having recently smoked. The odor of cannabis alone provides probable cause to search a driver, passenger, or vehicle, and therefore any search of █████ and █████ was justified.³⁵ Accordingly, Allegation 1 is **Exonerated**.

Allegation 2 against Officer █████ that he searched inside █████'s and █████'s pockets and underneath garments during a protective pat down, is **Unfounded**. Based on Officer █████' statements to COPA and BWC footage, he did not search inside █████ or █████'s pockets during the pat down. Since Officer █████ did not engage in the alleged conduct, this allegation is Unfounded. Furthermore, Officer █████ would have been exonerated of this allegation had he done so pursuant to our analysis from Allegation 1.

Allegation 2 against Officer █████ that he searched inside █████'s and █████'s pockets and underneath garments during a protective pat down, is **Exonerated**. S04-13-09 states that, "During a Protective Pat Down of the outer clothing of the subject, the officer may not go into the pockets of the subject or reach underneath the outer surface of the garments." BWC clearly showed Officer █████ searching inside █████'s pockets, and Officer █████ acknowledged to COPA that this occurred. However, Officer █████ stated that he went inside █████'s pockets to recover the cannabis █████ said he had and the PCP that Officer █████ smelled.³⁶ At the point Officer █████ searched in █████'s pockets, he had probable cause to perform a search based upon the odor of drugs, as previously discussed in Allegation 1.

Allegation 3 against Officer █████ and Officer █████, that they failed to comply with Special Order S04-13-09 in accurately completing an Investigatory Stop Report (ISR) No. █████, is **Sustained**. Special Order S04-13-09 states that that ISR is to include "All the factors that support Reasonable Articulate Suspicion in order to temporarily detain an individual

³⁴ Officer █████ admits that he did not have a match as to the vehicle's license plate or driver identification

³⁵ "It is well established that the distinctive odor of cannabis can be persuasive evidence of criminal activity. See *People v. Stout*, 106 Ill. 2d 77, 87. In *Stout*, our supreme court held that when an officer detects an odor of a controlled substance, the officer has probable cause to conduct a search of a vehicle . . . *Id.* Since then, Illinois courts have repeatedly recognized that the smell of burnt cannabis emanating from a vehicle will provide officers . . . with probable cause to search a vehicle. See *id.*; *People v. Weaver*, 2013 IL App (3d) 130054, ¶ 32.. This principle has been extended to include searches of the driver and any passengers. *People v. Zayed*, 2016 IL App (3d) 140780, ¶ 22.; *People v. Williams*, 2013 IL App (4th) 110857, ¶ 34.; *People v. Strong*, 215 Ill. App. 3d 484, 489-90, 574." *People v. Rice*, 2019 IL App (3d) 170134.

³⁶ The arrest report states that both men admitted to having cannabis although BWC reveals that █████ stated to Officer █████ he had used it all and the BWC does not show █████ stating he had cannabis or offering any contraband to Officer █████ prior to the search.

for investigation, Probable Cause when a stop is made and no other document captures the reason for the detention, and if applicable, all of the factors that support reasonable articulable suspicion in order to perform a Protective Pat Down [...]” ██████’s ISR stated that officers had reasonable articulable suspicion to perform the stop. Officer ██████ told COPA that part of that Reasonable Articulable Suspicion included his belief that ██████’s car was involved in a previous incident in which a gun was recovered. However, ██████’s ISR fails to document or reference ██████’s October 5, 2018 arrest, or that Officer ██████ recognized ██████’s vehicle. Additionally, the narrative portion of ██████’s ISR almost exclusively discussed ██████ and ██████’s actions, not ██████. Specifically, the ISR states that ██████ had a suspicious bulge, which lead to ██████’s pat down. However, the narrative portion only mentioned a bulge on ██████. Neither officer was able to provide COPA with an explanation of what the bulge on ██████ was or confirm if there was one. Lastly, ██████’s ISR also stated ██████ gave consent to the pat down, which is not supported by BWC. Since this document did not include “all of the factors that support Reasonable Articulable Suspicion” and the ISR has seemingly erroneous details, this allegation is Sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer ██████

i. Complimentary and Disciplinary History

Officer ██████ complimentary history includes fifty (50) honorable mentions, one (1) department commendations. Officer ██████ has one prior reprimand for a preventable accident.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 3:** Failed to comply with Special Order S04-13-09 in accurately completing Investigatory Stop Report (ISR) No. ██████.

The documentation of citizen-police interactions is a fundamental. Not only is the practice of proper documentation critical to the overall professionalism of an officer, but it is crucial for any subsequent court or administrative proceedings. Moreover, the documentation of citizen-police interactions is necessary if the department takes seriously the stated mission to repair public trust. While the specific violation by the officer did not cause injury or violate anyone’s rights, COPA finds that the officers were not thorough and provided detail not supported by available evidence. As such, COPA recommends a one day suspension.

b. Officer ██████

i. Complimentary and Disciplinary History

Officer ██████’ complimentary history includes one hundred and thirteen (113) honorable mentions, seven (7) department commendations, three (3) complimentary letters, one (1) honorable mention ribbon award, one (1) police blue shield award, one (1) life saving award, one (1) top gun award. Officer ██████ has no prior disciplinary history.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 3:** Failed to comply with Special Order S04-13-09 in accurately completing Investigatory Stop Report (ISR) No. [REDACTED].

As articulated above, the practice of accurate report writing is critical to almost every goal of policing and the department. Based on Officer [REDACTED]' extensive complimentary history, COPA recommends a penalty of a reprimand.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<ol style="list-style-type: none"> 1. Performed a protective pat down on [REDACTED] and [REDACTED] without justification, in violation of Rule 2 and Rule 6. 2. Searched inside [REDACTED]'s and [REDACTED]'s pockets and underneath garments during a protective pat down, in violation of Rule 6. 3. Failed to comply with Special Order S04-13-09 in properly completing Investigatory Stop Report (ISR) No. [REDACTED], in violation of Rule 2 and Rule 6. 	<p>Exonerated</p> <p>Unfounded</p> <p>Sustained</p>
Officer [REDACTED]	<ol style="list-style-type: none"> 1. Performed a protective pat down on [REDACTED] and [REDACTED] without justification, in violation of Rule 2 and Rule 6. 2. Searched inside [REDACTED]'s and [REDACTED]'s pockets and underneath garments during a protective pat down, in violation of Rule 6. 3. Failed to comply with Special Order S04-13-09 in properly completing Investigatory Stop Report (ISR) No. [REDACTED], in violation of Rule 2 and Rule 6. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained</p>

Approved:



July 31, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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