

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

| | |
|---------------------------|-----------------------------------|
| Date/ of Incident: | October 1, 2018 |
| Time of Incident: | Approximately 10:30 a.m. |
| Location of Incident | ██████████ St., Chicago, Illinois |
| Date of COPA Notification | October 1, 2018 |
| Time of COPA Notification | Approximately 2:05 p.m. |

██████████ (██████████) contends that Chicago Police Department (“CPD”) Officers ██████████ (“Officer ██████████” and ██████████ (“Officer ██████████”) detained ██████████ for a traffic stop, and that they then drove him about as they pressured ██████████ to provide the officers with information in exchange for letting him go. The officers released ██████████ only after ██████████ provided the officers with false information concerning the locations of guns.

The officers deny any misconduct. Both officers acknowledged the traffic stop (which they documented), but both officers contend that the ██████████ was free to go following the traffic stop, and that ██████████ prolonged the interaction by inquiring about becoming a paid police informant. According to the officers, they informed ██████████ that he would first have to supply the officers with information to prove he was reliable. ██████████ then voluntarily led the officers to locations where the officers could find hidden guns. The officers dropped the ██████████ off nearby at his request.

Following an investigation, COPA has determined there is insufficient evidence to determine whether ██████████ post-traffic-stop interaction with the officers was voluntary, as the officers described, or involuntary and coercive, as ██████████ described

II. INVOLVED PARTIES

| | |
|----------------------|--|
| Involved Officer #1: | ██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████, 1994; Rank: Police Officer; Unit of Assignment: ██████████ Date of Birth: ██████████, 1970; M/W |
| Involved Officer #2: | ██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████, 2006; Rank: Police Officer; Unit of Assignment: ██████████ Date of Birth: ██████████, 1983; M/W |

Involved Individual #1: [REDACTED] Date of Birth: [REDACTED] 1989; M/B

III. ALLEGATIONS

| Officer | Allegation | Finding |
|--------------------|--|---------------|
| Officer [REDACTED] | On October 1, 2018, starting at approximately 10:30 a.m. and ending at approximately 11:30 a.m., the accused used improper or unlawful threats, express or implied, in order to compel the Complainant to act against his will. | NOT SUSTAINED |
| Officer [REDACTED] | 1. On October 1, 2018, starting at approximately 10:30 a.m. and ending at approximately 11:30 a.m., the accused used improper or unlawful threats, express or implied, in order to compel the Complainant to act against his will. | NOT SUSTAINED |

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 8: CPD Rules of Conduct (prohibiting maltreatment of any person)

Federal Laws

- 1. U.S. Constitution, Fourth Amendment

V. INVESTIGATION¹

a. Interviews

[REDACTED]²

[REDACTED] gave an audio recorded interview on October 2, 2018. The following is a summary of the material things stated by [REDACTED] during that interview.

On October 1, 2018, at approximately 10:30 a.m., [REDACTED] drove a vehicle to and parked in front of a residence at [REDACTED] St., Chicago, Illinois. An acquaintance, [REDACTED] was in the passenger seat. [REDACTED] driver’s license was suspended at the time. Two officers in civilian clothing then drove up. (COPA subsequently determined that they were Officers [REDACTED] and [REDACTED]. The officers ordered [REDACTED] and [REDACTED] to get out of their car. [REDACTED] and [REDACTED] complied. The officers then handcuffed them. The officers then sought and obtained

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

² Attachment 6.

██████████ and ██████████ consent to search them and the car. The officers then searched them and the car, and they found nothing of consequence.

██████████ and the officers were at the ██████████ Street location for approximately forty-five minutes. While there, the officers took an ID card from ██████████ which they returned. The officers then drove ██████████ to a police facility located on ██████████ Street,³ where they parked. Assisting officers drove ██████████ car to the same facility and parked it there. While in the officers' parked vehicle, ██████████ and the officers had a conversation, during which the officers pressured ██████████ to provide them with information concerning the location of guns. The officers told ██████████ that "all this can go away," that they did not have time to write ticket or paperwork about license violations, that they were "not the kind of police" that impounds cars, and that they were trying to find guns. They stated that they knew ██████████ was a convicted felon on parole and in a gang, and that if they did write him a ticket, he would have a high bond. The officers told ██████████ that they'd pay him money to be an informant, and that he could make thirty-four thousand per year working with them.

The officers then drove with ██████████ in the back of their vehicle towards the intersection of West ██████████ and South ██████████ Streets, while asking ██████████ if he knew the locations of any hidden guns. ██████████ denied directing the officers to drive to that location. When ██████████ told the officers that he did not have any such information, they directed him to make phone calls in order to obtain it. ██████████ then decided to be "slick," and to try to trick the officers. Sometime between 11:00 a.m. and 11:30 a.m., ██████████ called his brother, ██████████ who lived nearby. ██████████ put on his "panic voice" to cue his brother, and he told his brother to obtain a gun and to place it in a garbage can at a specific location near the intersection of West ██████████ and South ██████████ Streets. ██████████ called back and told ██████████ that he had done so. ██████████ then asked the officers if he could go and they said yes. He then exchanged phone numbers with the officers, they connected by phone, and the officers told ██████████ to stay on the phone with them until they recovered the weapon. The officers then returned ██████████ car keys to him and ██████████ then ran away, staying on the phone with the officers as he did so. The officers subsequently informed ██████████ that they had found a bookbag with toys in it, but not a gun. ██████████ mother video recorded them as they searched. ██████████ then subsequently discontinued the conversation. Altogether, ██████████ was in police custody for about two hours. Later that day, the officers tried to reach ██████████ by phone, but ██████████ did not answer. ██████████ sister subsequently recovered his car where the officers had parked it.

██████████ has a number of family members who reside on or near the ██████████ Block of South ██████████ Street and who are familiar with the officers. Those family members know that the officers are active on the block and that "they do corrupt things."

██████████ mother, ██████████ (██████████ gave an audio recorded interview on October 2, 2018.⁴ In summary and in pertinent part, ██████████ stated that on the incident date a relative telephoned her and informed her that ██████████ had been arrested for driving on a

³COPA subsequently determined that the facility was the CPD's ██████████ District Station, located at ██████████ W. ██████████ Street.

⁴Attachment 10 is an audio recording of that interview.

suspended license. [REDACTED] further stated that she then received a telephone call from [REDACTED] brother, who then informed her that the police were pressuring [REDACTED] to provide them information concerning the location of a gun. According to [REDACTED] she then told [REDACTED] brother to place a bag of toys under a dumpster at a location near [REDACTED] and [REDACTED] and she told [REDACTED] brother that she would go to that location and videotape the officers retrieving the bag. [REDACTED] said that she then went to that location to wait for the police, and that she videotaped them searching for the bag when they arrived. [REDACTED] stated that she then called 911 to ask for a CPD sergeant to come to the scene. She stated that a sergeant did in fact arrive and that she then complained to him about the police's treatment of her son. She also stated that she spoke to one of the involved officers (later determined to be Officer [REDACTED]) while an acquaintance videotaped that conversation with the officer's permission.

Officer [REDACTED]

Officer [REDACTED] gave an audio recorded statement on January 15, 2019.⁵ In summary, Officer [REDACTED] told investigators that he was assigned to the [REDACTED] at the time of the incident under investigation. Officer [REDACTED] had been conducting a long-term investigation on the [REDACTED] Block of South [REDACTED] Street at the time. He had made numerous arrests on the block; he knew which people on the block dealt drugs, which were lookouts, and which were drug couriers. On the date in question, Officer [REDACTED] observed [REDACTED] and [REDACTED] parked on the west side of the street in that block, in a spot often utilized by drug couriers. Officer [REDACTED] had never seen either of [REDACTED] or [REDACTED] before. Officers [REDACTED] and [REDACTED] then pulled their vehicle next to [REDACTED] and [REDACTED] and engaged them in casual conversation. [REDACTED] then appeared to become nervous; he was shaking and stuttering. [REDACTED] then appeared to reach with his left hand behind his back, which caused Officers [REDACTED] and [REDACTED] to exit their vehicle and approach [REDACTED] and [REDACTED] ordering each to show their hands. Officers [REDACTED] and [REDACTED] then escorted [REDACTED] and [REDACTED] out of the car, they patted [REDACTED] and [REDACTED] down, and they placed [REDACTED] and [REDACTED] in the backseat of their vehicle, handcuffed. Officer [REDACTED] asked for permission to search their car, and [REDACTED] and [REDACTED] granted permission. Officer [REDACTED] then searched the car, and finding nothing of consequence, he returned to his own vehicle.

Officers [REDACTED] and [REDACTED] then asked [REDACTED] and [REDACTED] questions. They determined that [REDACTED] was there only because he was acquainted with [REDACTED] and they therefore released [REDACTED]. Officers [REDACTED] and [REDACTED] then name-checked [REDACTED] determined that he had a suspended driver's license, and so informed [REDACTED] then stated that he knew that Officers [REDACTED] and [REDACTED] were not the type of officers who wrote tickets and that he knew that Officers [REDACTED] and [REDACTED] were interested in finding drugs and guns. [REDACTED] then suggested that he knew information that could be useful to Officers [REDACTED] and [REDACTED]. Officers [REDACTED] and [REDACTED] then called for assisting officers, who drove [REDACTED] car to the [REDACTED] District Station in order to make it look like they were arresting [REDACTED]. Officers [REDACTED] and [REDACTED] then drove [REDACTED] to the [REDACTED] District Station, parked across the street from that facility, and unhandcuffed [REDACTED]. Assisting officers parked [REDACTED] car nearby. Officer [REDACTED] then returned [REDACTED] car keys to him.

⁵Attachments 31 and 32 comprise an audio recording of that statement.

Officers ██████ and ██████ then explained to ██████ the process for becoming a confidential informant. The officers informed the ██████ that he would first have to supply them with information to show that he was reliable. ██████ stated that he knew of locations to the south that he could point out as gun hiding places, but that he did not know the addresses. ██████ asked if he could make phone calls, which Officers ██████ and ██████ permitted. ██████ directed Officers ██████ and ██████ to locations near ██████ where ██████ pointed out sites purporting to be gun hiding places. Officer ██████ then asked ██████ if he wanted a ride back north. ██████ refused, and instead stated that he would prefer to get out there, which he did. The officers then went to investigate the sites pointed out by ██████ none of which contained drugs or guns. At the last of the sites, they encountered a woman (determined by COPA to be ██████ speaking with a uniformed CPD sergeant. Officer ██████ learned from the sergeant that ██████ claimed to be ██████ mother. Officer ██████ then approached ██████ who was with a man who was video recording. ██████ then accused Officer ██████ of pressuring ██████ to provide information about guns, which Officer ██████ denied.

Officer ██████

Officer ██████ also gave an audio recorded statement on January 15, 2019.⁶ In summary, Officer ██████ told investigators that neither Officer ██████ nor himself was equipped with body-worn cameras at the time of the incident under investigation. Officers ██████ and ██████ were then very familiar with the ██████ Block of South ██████ Street, having made a number of arrests there over the course of about a year prior to the date of the incident. They approached the car occupied by ██████ and ██████ because they did not recognize either. ██████ thought that it was unusual for two persons not known to him to be sitting in a parked car at the site which was across the street from a house known by him to have been active in narcotics trade. Officers ██████ and ██████ directed ██████ and ██████ to show their hands and to exit the vehicle after Officers ██████ and ██████ observed ██████ move his left hand behind his back, which the officers perceived to suggest that ██████ may have been hiding a weapon.

Officer ██████ handcuffed ██████ for purposes of Officer ██████ safety, based on Officer ██████ knowledge that the block was dangerous. Officer ██████ ran ██████ name and subsequently released him after determining that he was not wanted. ██████ was not placed in the officers' vehicle. Officer ██████ placed ██████ in the officers' car and ran his name, determining that ██████ driver's license was suspended. ██████ then stated that he knew that Officers ██████ and ██████ didn't really care about ██████ license, that what they really cared about were drugs and guns. Officers ██████ and ██████ then asked ██████ what he knew about that subject, to which ██████ stated that he didn't want to talk about the subject at that location. Officers ██████ and ██████ then arranged for ██████ car to be driven to the ██████ District Station by assisting officers, and Officers ██████ and ██████ then drove with ██████ to the ██████ District Station, where they parked.

The officers then uncuffed ██████ then told the officers that he knew information about where guns might be hidden, but that he didn't know addresses. ██████ then made telephone calls and the three of them proceeded to locations within the ██████ District. As

⁶Attachment 33 is an audio recording of that statement.

they drove, the officers explained the process for ██████ to become a paid informant. After ██████ pointed out locations, the officers asked ██████ if he wanted to go back to his car at the ██████ District Station. ██████ stated that he wanted to go immediately so that he would not be seen being released. The officers then followed up on the information that ██████ provided them, none of which proved to be good. At one of the locations, the officers observed a woman speaking to a uniformed CPD sergeant. They approached the sergeant who asked them if they had picked someone up in the ██████ Block of South ██████ Street, which they confirmed. The sergeant told them that the woman was the subject's mother, who was concerned that the officers were holding him. The officers then approached the woman, who spoke to them and recorded the conversation with a phone. Officer ██████ explained the situation to the woman. The officers then returned to their own station.

B. Video Evidence

██████ Video

██████ provided COPA with videos that appear to show the involved officers searching for a gun in and around a dumpster. She also provided a video depicting a conversation between Officer ██████ and her in which the officer informed ██████ that he had been trying to develop ██████ as an informant and that ██████ had willingly cooperated with him.⁷

C. Documentary Evidence

Investigatory Stop Report ("ISR")

Officer ██████ prepared an ISR (No. ██████⁸ dated October 1, 2018, in which he wrote, in summary, that he had been conducting a narcotics investigation near the incident site when he observed ██████ and ██████ seated in a vehicle. Officer ██████ wrote that he and his partner then engaged the two in a car-to-car conversation, and that he then became suspicious that ██████ might be armed because, among other things, ██████ appeared to be hiding something behind his back. Officer ██████ wrote that he removed ██████ from his car, patted him down and handcuffed him. Officer ██████ further wrote that he then released ██████ and that he then spoke to ██████ about becoming an informant. According to Officer ██████ ██████ then told them that he knew where handguns were being hidden, and that, accordingly, he, his partner and ██████ then drove to one of those locations, ██████ where the officers then dropped off ██████ at his request after exchanging phone numbers with him. Officer ██████ wrote that he and his partner then drove to one of the locations given to them by ██████ where they observed a uniformed CPD sergeant speaking with two persons believed to be ██████ parents. According to Officer ██████ he explained his actions to the sergeant, and he then spoke with those persons, who were upset and appeared to be recording with a cell phone.

⁷Attachment 18 is a diskette containing copies of those videos.

⁸Attachment 30 is a copy. Attachment 29 is a copy of an Investigatory Stop Report prepared by Officer ██████ describing the officers' interaction with ██████ That information set forth in that report is substantially similar to the information set out in Attachment 29.

GPS

A PMIS GPS 001 Report⁹ shows the location of the involved officers' assigned vehicle from 10:00 a.m. to 1:00 p.m. on the date of the incident. In pertinent part, the report shows that the vehicle was stopped in the [REDACTED] Block of South [REDACTED] Street from approximately 10:09 a.m. to approximately 10:24 a.m. The report also shows that the vehicle then relocated to the 1400 Block of West [REDACTED] Street (the site of the [REDACTED] District Station), where it was stopped from approximately 10:30 a.m. to approximately 10:44 a.m. It also shows that the vehicle then relocated to sites near the intersection of West [REDACTED] and South [REDACTED] Streets, where it was stopped from approximately 11:00 a.m. to 11:29 a.m. It further shows that the vehicle then relocated to sites near the intersection of West [REDACTED] and [REDACTED] Streets, where it was stopped from approximately 11:35 a.m. to approximately 12:02 p.m. The report shows that the vehicle then relocated to the intersection of West [REDACTED] Street and South [REDACTED] Avenue (the site of the CPD's Gangs South HQ, where the officers are assigned), arriving there at 12:15 p.m., where it remained until at least 1:00 p.m.

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.

⁹Attachment 34 is a copy.

VII. ANALYSIS

The incident's participants have related versions which are factually similar in many respects. [REDACTED] version is substantially similar to the version recounted by the officers in their statements and described by them in their reports. GPS data has permitted COPA to pinpoint with precision certain information relating to the incident concerning its times and places. Nevertheless, the participants' versions and the GPS data leave unresolved the question of whether the officers committed misconduct. Determining the answer to that question requires COPA to ascertain whether [REDACTED] post-traffic-stop participation in the encounter was voluntary, as the officers contend, or whether, instead, [REDACTED] participation was an involuntary and coercive detention conducted by the officers in violation of the Fourth Amendment's proscription against unreasonable seizures and in violation of Rule 8 of the CPD's Rules of Conduct, which proscribes maltreatment.

Though much of [REDACTED] version is substantiated by the officers' reports and their statements, there are nevertheless reasons to doubt [REDACTED] contention that his participation in his encounter with the officers was involuntary. [REDACTED] and [REDACTED] have both admitted that they gave the officers false information. What's more, their versions of how they did so do not line up: [REDACTED] stated that he was trying to trick the officers when he called his brother, [REDACTED] whereas [REDACTED] stated that she was the one who formed the idea to trick the officers after she had received a call from [REDACTED] informing her that the officers were pressuring [REDACTED]. That [REDACTED] and [REDACTED] have both admitted to deception raises questions about their credibility in general. That they have given inconsistent statements concerning how they determined that they would set up a sting further suggests prevarication on their part. Furthermore, their actions in quickly arranging for a surreptitious videotaping of the officers' resulting search suggests the possibility that [REDACTED] and [REDACTED] may have staged the entire post-traffic-stop encounter in bad faith. [REDACTED] has admitted that his family members were familiar with the officers and that his family knew the officers to be active in investigating alleged criminal activity in the [REDACTED] Block of South [REDACTED] Street, where many [REDACTED] family members resided. Those facts would provide [REDACTED] and [REDACTED] with motive to take action to discredit the officers or to discourage their continued investigative activity.

Though [REDACTED] version of the events is suspect, the evidence nevertheless does not permit COPA to conclude that the officers' actions were at all times proper. The officers have admitted that they told [REDACTED] that they knew his driver's license to be suspended during their conversation with [REDACTED]. That fact raises doubt concerning whether [REDACTED] subsequent participation in the encounter was in fact voluntary and not coerced. Significantly, the officers do not contend that they informed [REDACTED] that he was under no obligation to provide them with information or that they ever informed [REDACTED] that they had no intention of arresting him, even though they had observed him to be in control of a motor vehicle while having a suspended driver's license.

Due to the above, COPA has determined that there is insufficient evidence permitting a conclusion supported by clear and convincing evidence concerning whether [REDACTED] post-traffic-stop participation in the encounter was entirely voluntary, as the officers contend, or whether, instead, [REDACTED] participation resulted from a coercive detention. In other words,

COPA has determined there is insufficient evidence to prove or to disprove that the officers committed misconduct. COPA therefore finds that [REDACTED] allegations are **NOT SUSTAINED**.

VIII. CONCLUSION

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

| Officer | Allegation | Finding |
|--------------------|--|---------------|
| Officer [REDACTED] | 1. On October 1, 2018, starting at approximately 10:30 a.m. and ending at approximately 11:30 a.m., the accused used improper or unlawful threats, express or implied, in order to compel the Complainant to act against his will, in violation of Rule 8 of the CPD Rules of Conduct. | NOT SUSTAINED |
| Officer [REDACTED] | 1. On October 1, 2018, starting at approximately 10:30 a.m. and ending at approximately 11:30 a.m., the accused used improper or unlawful threats, express or implied, in order to compel the Complainant to act against his will, in violation of Rule 8 of the CPD Rules of Conduct. | NOT SUSTAINED |

Approved:

[REDACTED]

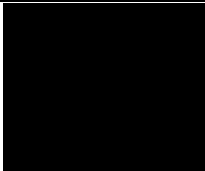
January 28, 2020

 Andrea Kersten
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

| | |
|------------------------------------|--|
| Squad#: |  |
| Investigator: | |
| Supervising Investigator: | |
| Deputy Chief Administrator: | |
| | Kersten |