

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	June 1, 2018
Time of Incident:	2:56 p.m.
Location of Incident:	████████████████████
Date of COPA Notification:	June 12, 2018
Time of COPA Notification:	3:00 p.m.

Officers responded to a call of person with a gun. The description provided was that two males had guns in their waistbands. One was described as wearing a long sleeve black sweater, blue jeans and the other was described as wearing white or grey pants. When officers arrived at the location, they observed three males running together. One of the males matched the description provided by the caller and was seen discarding a gun by tossing it in the adjacent yard. The officers drew their weapons on the individuals and ordered them to the ground. Two of the individuals, ██████████ and ██████████ were juveniles and were temporarily detained during the investigation. Officers conducted a protective pat down of the two juveniles. A handgun was recovered at the location, and the third subject was arrested and taken to the district for further processing.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████ Star # ██████ Employee ID# ██████ Date of Appointment: ██████ 2017 Police Officer, Unit of Assignment: ██████ DOB: ██████ 1991, Male, White
Involved Officer #2:	██████████ Star # ██████ Employee ID# ██████ Date of Appointment: ██████ 2016 Police Officer, Unit of Assignment: ██████ DOB: ██████ 1990, Male, White
Involved Officer #3:	██████████ Star # ██████ Employee ID# ██████ Date of Appointment: ██████ 2012 Police Officer, Unit of Assignment: ██████ DOB: ██████ 1972, Female, White
Involved Individual #1:	████████████████████

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.



	<p>7. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] [REDACTED] in violation of Rules 5 and 6.</p> <p>8. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] [REDACTED] in violation of Rules 5 and 6.</p>	<p>Sustained / Violation Noted</p> <p>Sustained / Violation Noted</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>1. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully stopped [REDACTED] in violation of Rules 1 and 2.</p> <p>2. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully stopped [REDACTED] in violation of Rules 1 and 2.</p> <p>3. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p> <p>4. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p> <p>5. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p> <p>6. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p> <p>7. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED]</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained / Violation Noted</p>

	<p>█████ Officer █████ failed to complete an Investigatory Stop Report for █████ in violation of Rules 5 and 6.</p> <p>8. On June 1, 2018 at approximately 3:00 p.m., at or near the location of █████ █████ Officer █████ failed to complete an Investigatory Stop Report for █████ in violation of Rules 5 and 6.</p> <p>9. On June 1, 2018 at approximately 3:00 p.m., at or near the location of █████ █████ Officer █████ unnecessarily displayed his firearm in violation of Rule 38.</p>	<p>Sustained / Violation Noted</p> <p>Exonerated</p>
<p>Officer █████ █████</p>	<p>1. On June 1, 2018 at approximately 3:00 p.m., at or near the location of █████ █████ Officer █████ engaged in an unjustified verbal altercation with █████ in violation of Rule 9.</p>	<p>Sustained / 1-day Suspension</p>

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. Rule 1 – Violation of any law or ordinance.
2. Rule 2 – Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
3. Rule 5 – Failure to perform any duty.
4. Rule 6 – Disobedience of an order or directive, whether written or oral.
5. Rule 9 – Engaging in any unjustified verbal or physical altercation with any person, while on duty.
6. Rule 38 – Unlawful or unnecessary use or display of a weapon.

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General Orders

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1. G02-01 – Human Rights and Human Resources – Effective date: 05 October 2017
2. G02-02 – The First Amendment and Police Action – Effective date: 19 April 2012
3. G02-03 – Community Relations Strategy – Effective date: 15 September 2017

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Special Orders

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1. S04-13-09 – Investigatory Stop System – Effective date: 10 July 2017

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Federal Laws

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1. United States Constitution, Amendment IV

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State Laws

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1. 725 ILCS 5/107-2 – Arrest by Peace Officer

2. 725 ILCS 5/107-14 – Authority for conducting an Investigatory Stop

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

### a. Interviews

COPA interviewed 14-year-old ██████████ (hereafter Mr. ██████████) on June 21, 2018 at approximately 12:06 p.m. at the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>3</sup> Mr. ██████████ stated that on the day of the incident he was walking home from school<sup>4</sup> with his friend ██████████ (hereafter Mr. ██████████) when they crossed the street and saw police officers approach them. Mr. ██████████ stated that he and Mr. ██████████ were wearing their school uniform, which consists of a white polo shirt and blue slacks.

Mr. ██████████ stated the officers arrived at a high rate of speed and then slammed on the brakes. After the vehicle stopped, one of the officers approached Mr. ██████████ and Mr. ██████████. Mr. ██████████ stated the officer exited the vehicle and pointed a gun at them. The officer gave a verbal command to get on the ground twice, and the second time Mr. ██████████ complied. Mr. ██████████ described the officer's arms as "outstretched" and "out midway," while the weapon was drawn. Mr. ██████████ stated that both he and Mr. ██████████ willingly got on the ground. Mr. ██████████ described a tall, white male officer in uniform with wavy hair combed to the side as the officer responsible for drawing his weapon. Mr. ██████████ advised that after the two were on the ground the officer handcuffed both he and Mr. ██████████ "together." Mr. ██████████ stated that his left hand was handcuffed to Mr. ██████████ right hand, and the two of them remained on the ground. He stated that all the responding officers were in uniform.

Mr. ██████████ stated, "they got this other dude that was behind us."<sup>5</sup> Mr. ██████████ stated he did not know the other person who was on the ground, and that he was not walking with that individual. Mr. ██████████ stated the other person was not a student at his school and "he's like grown."<sup>6</sup> The officers placed him in a squad car.

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<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> Also appearing with ██████████ was his mother, ██████████ Plaintiff Attorney ██████████ and civilian ██████████ who was there to offer support to ██████████ and her family. ██████████ interview is incorporated as Attachment #5.

<sup>4</sup> ██████████ attended ██████████ Academy. The school is located on Commercial.

<sup>5</sup> See Attachment #5 at 9:04.

<sup>6</sup> Id. at 9:17.

Mr. ██████ stated the officer searched he and Mr. ██████ without asking for permission to search their bags, and neither of them consented to have their person or belongings searched. He stated that the officers were, “feeling in our pockets and stuff, and asking us do we have any more illegal weapons, but we didn’t have no weapons at all.”<sup>7</sup> He stated neither he nor Mr. ██████ had a weapon. Mr. ██████ stated it started out as a pat-down, but minutes later, officers searched the insides of his pockets as well as Mr. ██████ pockets and searched their bookbags. Mr. ██████ was unsure of the amount of time he was on the ground.

Mr. ██████ stated that his brother, ██████ witnessed the incident as he was walking around the corner and told his mother what was going on. Mr. ██████ stated he could hear his mother asking officers why they had him on the ground. Mr. ██████ stated that the officers were polite and gentle toward him. Mr. ██████ stated that he remembers hearing his mother ask the officers, “why do they have her baby on the ground?”<sup>8</sup> Then Mr. ██████ stated the female officer yelled to his mom, “[her] baby had a gun.” He stated the female officer yelled loud and it was “out of order.”<sup>9</sup>

Mr. ██████ stated the officers released them after everything was clear. He stated a police officer came to them and unhandcuffed himself and Mr. ██████. The officers did not offer an apology and there was no documentation provided to the two of them. Mr. ██████ stated that after his release, the officers came to Burnham Street and confronted his mother and uncle. Mr. ██████ believed that the officers were trying to find a reason to arrest the two of them. Mr. ██████ viewed the video taken by his mother.<sup>10</sup> He was able to identify himself and ██████. However, he was unable to identify the officer who pointed the gun at him.

COPA interviewed ██████ (hereafter Ms. ██████) on June 21, 2018 at approximately 12:42 p.m. at the Offices of the Civilian Office of Police Accountability located at 1615 West Chicago Avenue, Chicago, Illinois, 60622.<sup>11</sup> Ms. ██████ stated she resided at ██████ and has been there for approximately two and a half years. On June 1, 2018 her son, ██████ attended ██████ Elementary. Ms. ██████ stated that Mr. ██████ walks to and from school each day. Ms. ██████ stated Mr. ██████ never had any prior interaction with the Chicago Police Department prior to the incident.

Ms. ██████ stated on June 1, 2018, she was home bathing her newborn. Her oldest son, ██████ came in the house and told her that the police had Mr. ██████ on the ground in handcuffs near 82<sup>nd</sup> between Burnham and Muskegon. She stated she arrived at the location to find her son, Mr. ██████ and his friend, ██████ on the ground in handcuffs. Ms. ██████ asked the officer, “why do they have my baby on the ground?”<sup>12</sup> The female officer responded, “he had a gun.”<sup>13</sup> Ms. ██████ stated she asked the officer to show her the gun. However, the officer refused.

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<sup>7</sup> Id. at 9:41

<sup>8</sup> Id. at 18:17.

<sup>9</sup> Id. at 18:25

<sup>10</sup> Attachment 18

<sup>11</sup> Also appearing with ██████ was attorney ██████ and civilian ██████ who was there in her capacity as a friend, offering support, and ██████. Ms. ██████ interview is incorporated in Attachment #10

<sup>12</sup> See Attachment 10 at 06:13

<sup>13</sup> Id. at 06:17

After the officer refused to provide the weapon, Ms. ██████ stated she then began recording from her cellular phone.

Ms. ██████ stated the officer said, “your baby had a gun,”<sup>14</sup> referring to her son, Mr. ██████. Ms. ██████ stated the officer stood there and yelled the statement over and over. Ms. ██████ then stated that a male officer, who she described as being husky with dark hair asked her which child belonged to her. The male officer also asked the age of her son, and Ms. ██████ advised the officer that her son was 14 years old. Ms. ██████ stated she advised the officers that her son had just been dismissed from school and again asked why they (the officers) were holding him on the ground. The female officer continued to scream and approach Ms. ██████ repeating, “he had a gun, he had a gun.”<sup>15</sup> Ms. ██████ stated the female officer was aggressive toward her and was trying to provoke her.

Ms. ██████ believed that both of her son’s hands were handcuffed, but the female officer was blocking her view, so she was not certain. She stated she was on scene approximately 20 minutes before the officers released Mr. ██████ and she didn’t start recording until the end. Ms. ██████ stated Mr. ██████ was, “crying on the floor with his hands behind his back.”<sup>16</sup> She did not observe any officers with their weapons drawn when she arrived. However, the officers were scattered across the scene. None of the officers advised her of what was taking place, and when she asked repeatedly, they kept saying, “he had a gun.”<sup>17</sup>

Ms. ██████ was not provided any documentation or a contact card from the police regarding the contact made with her son. None of the officers apologized to her regarding the incident. However, she stated a male, white officer with blonde hair pulled around the corner while she and her brother were walking back to her home and was laughing at her. Ms. ██████ believed that the officer thought the situation was funny. She stated she told the officer to “get on, mind they business, leave me alone, quit harassing my family.”<sup>18</sup> She stated she did not complain or call for a supervisor because there was a supervisor present. Ms. ██████ stated the supervisor on scene never got out of his vehicle or spoke to her.

Ms. ██████ video was played for her. She identified her son, ██████. She also identified the officer who was yelling at her (now known as Officer ██████). Ms. ██████ believed that officer was wearing a body worn camera because she recalled seeing red. Ms. ██████ felt the officer’s actions were aggressive because the officer was moving toward her. Ms. ██████ also identified ██████ in the video.

Ms. ██████ stated she delayed reporting the incident because she did not know who to make a complaint with as it was her first time going through a situation with her son and police. Ms. ██████ advised that she has interacted with police and had seen the officers in the neighborhood before. However, she stated she had never encountered the female officer before. Ms. ██████ believed the female officer was yelling at her because she was recording the incident.

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<sup>14</sup> Id. at 07:10

<sup>15</sup> Id. at 07:56

<sup>16</sup> Id. at 09:52

<sup>17</sup> Id. at 10:19

<sup>18</sup> Id. at 11:52

COPA interviewed ██████████ on July 10, 2018 at approximately 12:42 p.m. at the Offices of the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>19</sup> Mr. ██████████ related essentially the same account of the events of June 1, 2018 as Mr. ██████████. He stated that when the officers approached them, he advised them that the two of them did not do anything wrong. The officers had their weapons drawn at him and Mr. ██████████ and were yelling. Mr. ██████████ stated that he complied with the officer's commands to get on the ground because he didn't know what they were going to do. Mr. ██████████ stated his right arm was handcuffed to Mr. ██████████ left arm. Mr. ██████████ stated the officer who handcuffed him was a male, white, approximately 6'2". Mr. ██████████ believed the officers had them on the ground for approximately 15 minutes. The police asked Mr. ██████████ if he was carrying a gun.

Mr. ██████████ advised that the man behind them was not with them, nor did he know the identity of that individual. Mr. ██████████ believed the man walking behind he and Mr. ██████████ was at least 15 feet away from them. Mr. ██████████ stated the officers asked them, "do we know the man that was behind us? Did we see him with a gun?"<sup>20</sup> He stated that while he and Mr. ██████████ were handcuffed together, he saw the officers handcuff and place the unknown male in the back of a squad car.

Mr. ██████████ stated the police searched Mr. ██████████ bag but did not search Ms. ██████████ book bag. Mr. ██████████ recalled the officers patting the outside of his pockets but did not go inside them. Neither Mr. ██████████ nor Mr. ██████████ consented to a search. The officer's weapons were no longer pointed in their direction. Mr. ██████████ stated that after the officers announced they found a gun, he asked if he and Mr. ██████████ were free to leave. The officers responded saying they still had to figure out what went on.

He stated that all other comments were directed toward Mr. ██████████ mother, ██████████. He recalled Mr. ██████████ mom stating, "they just boys, why you have them handcuffed?"<sup>21</sup> Mr. ██████████ stated the officers still believed he and Mr. ██████████ were "still involved with the gun, with having a gun."<sup>22</sup> Mr. ██████████ advised he and Mr. ██████████ were released after 15 minutes and they went straight home. The officers did not apologize to them or provide any paperwork.

Mr. ██████████ was able to view video taken by Ms. ██████████ from the day of the incident.<sup>23</sup> He identified himself from seeing the shoe he was wearing the day of the incident. Mr. ██████████ was also able to identify Mr. ██████████. Mr. ██████████ was unable to identify the officers who ordered him to the ground. He did not recall whether the officers were in uniform or wearing plain clothes.

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<sup>19</sup> ██████████ appeared with his mother, ██████████ who was present during the interview. ██████████ interview is incorporated as Attachment #23.

<sup>20</sup> See Attachment 23 at 09:30.

<sup>21</sup> Id. at 10:48

<sup>22</sup> Id. at 12:45

<sup>23</sup> Attachment 18.

COPA interviewed Officer ██████ on November 1, 2018 at approximately 3:50 p.m. at the Offices of the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>24</sup> Officer ██████ was interviewed as a witness regarding the incident. Officer ██████ stated on the date of the incident he was a PPO, and his probation ended August 2018. He was working with Officer ██████ who is not his regular partner. He was in uniform and a marked squad. Officer ██████ stated that he was assigned to routine patrol in Beat ██████. He stated there were two calls in the area, one being a person with a gun. Officer ██████ stated he responded to the location and there was nobody there, so they coded the call. After leaving the area, he and his partner conducted a traffic stop, and then another call came out in the same area. The location of both calls was ██████. Officer ██████ stated the second call regarded multiple people with a gun. He stated there was a description in the event query.<sup>25</sup> The offender was described as a “male black with a black sweater and blue jeans, waving a gun in the air, 25-30, male gangbangers in front. Offenders don’t live there.”<sup>26</sup> The description in the second call was “15-20, male blacks, selling in the street/sidewalk, caller states two have guns in waistband. 1 is black sweater, blue jeans, 2<sup>nd</sup> one is white with gray pants.”<sup>27</sup> Officer ██████ stated he took the description of “15 – 20” to mean the number of individuals present at the location. He did not believe the caller was referencing the offenders age.

Officer ██████ stated he and his partner went to 8150 S Muskegon after receiving the second call from OEMC. He stated that when they arrived at the location, he observed a male black matching the description and he stepped out of his vehicle and asked the unknown male, “hey can I talk to you?”<sup>28</sup> He stated the individual looked at him like a deer in headlights and ran around the corner from the location. Officer ██████ stated his partner advised him to get in the vehicle so that they could pursue the unknown male. Officer ██████ stated that the unknown male went around the corner and tripped over his own feet. In the same motion, Officer ██████ stated that he and his partner observed the unknown male toss, “what to me at the time. It appeared to me he threw a bag.”<sup>29</sup> He stated prior to the subject fleeing, he was able to observe that he matched the description of the call in that he was wearing a black sweatshirt and blue jeans. The subject tossed the item while on the same street as Officer ██████ and his partner.

Officer ██████ stated when the individual tossed the item, “it was kind of a cluster at that point. It was a lot of people there.”<sup>30</sup> He stated he believes his partner or one of the other officers detained the individual who threw the item, and he ran straight to the backyard to look for the item that was thrown. Officer ██████ stated Officers ██████ and ██████ responded to the location to assist. Officer ██████ stated that the incident happened so fast that he just took off and did not realize there were two students on the sidewalk at the same time. He stated his adrenaline was pumping and his focus was on the gun.

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<sup>24</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment #38

<sup>25</sup> See Attachment #12 & 17.

<sup>26</sup> See Attachment #38 at 08:06.

<sup>27</sup> Id. at 08:43.

<sup>28</sup> Id. at 10:14

<sup>29</sup> Id. at 11:14.

<sup>30</sup> Id. at 13:28.

Officer ██████ stated he was unsure if his partner was involved in the detention of the two boys. Officer ██████ stated ██████ (hereafter Mr. ██████) the subject seen throwing the item, was running “by himself.”<sup>31</sup> Officer ██████ stated he did not observe a woman on scene. Officer ██████ advised that he does not know Officer ██████. Officer ██████ stated that his partner completed the Arrest Report along with the ISR. However, he reviewed the report to check that it was complete and accurate. Officer ██████ stated that if a person is detained by police, it is a normal practice to generate an ISR pertaining to that individual. Officer ██████ advised the officers who conduct the search and detention are responsible for generating the ISR. Officer ██████ stated he is unaware if his partner knew about the two students being detained. Officer ██████ stated his partner would have completed ISRs if he was aware of the two students’ detention. Officer ██████ advised if there were multiple individuals stopped, their ISR number would appear in the “related ISR” box on the ISR pertaining to ██████.

COPA interviewed **Officer ██████** on November 2, 2018 at approximately 2:30 p.m. at the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>32</sup> Officer ██████ related essentially the same information as Officer ██████ with respect to the observations of Mr. ██████. Additionally, he recalled Officer ██████ and ██████ arriving on scene to assist in the search for the firearm. Officer ██████ stated he is unsure whether he witnessed ██████ walking with other individuals. He recalled seeing two individuals (now known as Mr. ██████ and Mr. ██████) down on the ground. However, was unsure if they were related to the incident with ██████. Based on that observation, Officer ██████ notified OEMC there were three individuals in custody. Officer ██████ was unable to provide a description of the other two individuals on the ground.

Officer ██████ stated he is unaware who detained the Mr. ██████ and Mr. ██████ but recalled that Officers ██████ and ██████ were in front of him. He stated he was unable to explain why the officers who detained the other two individuals did not complete an Investigatory Stop Receipt. Officer ██████ stated the officer who detains a subject is responsible for generating the ISR pertaining to that individual. He stated he was unaware whether the officers who detained the other individuals completed ISRs for those individuals. Officer ██████ did not recall witnessing Officer ██████ at the scene.

COPA initially interviewed **Accused Officer ██████** on November 5, 2018 at approximately 5:10 p.m. at the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>33</sup> On the date of the incident, Officer ██████ was partnered with Officer ██████ who is not his normal partner. The two of them were in uniform assigned to a marked vehicle on the day of the incident. Officers ██████ and ██████ responded to ██████ for a call of a person with a gun. Upon their arrival, they did not observe anyone in the area. However, a second call was received at that location. Officers ██████ and ██████ were in their vehicles and observed a person matching the description running

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<sup>31</sup> Id. at 17:33.

<sup>32</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment # 41 & 42.

<sup>33</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment #46.

westbound on 82<sup>nd</sup> Street from Muskegon. Officer ██████ stated he observed the man running with a firearm in hand and throw the gun into a yard.

Officer ██████ stated there were other subjects running with the individual with the gun, and he and Officer ██████ detained three subjects. Officer ██████ handcuffed the subject with the weapon after he fell. The gun was recovered in the backyard. The offender was placed into custody, and the other two individuals (now known as Mr. ██████ and Mr. ██████) were eventually released from the scene. The description of the offender was “black sweater and blue jeans.”<sup>34</sup> The event query stated there were multiple people with guns. “Two have guns in their waistband. One has a black sweater and blue jeans, #2 has white or gray pants.”<sup>35</sup>

Officer ██████ stated he advised Mr. ██████ and Mr. ██████ to get on the ground. He stated he only possessed one pair of handcuffs, and therefore, he handcuffed the two of them together. He was not aware at the time if they were offenders as well. The two individuals were “two younger male blacks, and they were in school uniforms.”<sup>36</sup> Officer ██████ stated the total distance between ██████ and the other two subjects was probably 20-25 feet. He believed Mr. ██████ and Mr. ██████ did not match the description provided by the caller. Officer ██████ did not recall searching Mr. ██████ or Mr. ██████. He stated there was no protective pat-down conducted, and Officer ██████ did not recall whether the book bags belonging to the two boys was searched.

Officer ██████ detained Mr. ██████ and Mr. ██████ for approximately 7-8 minutes before they were released, once officers determined they did not have anything to do with the weapon that was recovered. Neither Mr. ██████ and Mr. ██████ were armed. He did not generate an ISR for the two boys and was unaware if one was completed by another officer. Officer ██████ admitted that it was his responsibility to complete the ISR. However, he stated he did not complete one because he did not obtain the name of either subject, and the mother of one of Mr. ██████ and Mr. ██████ arrived on scene and was angry and hostile toward the police. Officer ██████ stated he thought the best thing to do was to release Mr. ██████ and Mr. ██████ as soon as possible. Officer ██████ described the mother as upset. He stated the mother was yelling at the officers on scene stating, there were only white officers and no black officers. The mother also mentioned the two boys had just gotten out of school. He recalled that Officer ██████ and the mother interacted with each other at the scene.

COPA interviewed **Accused Officer ██████** again on November 29, 2018 at approximately 4:30 p.m. at the Civilian Office of Police Accountability.<sup>37</sup> At this time, Officer ██████ was interviewed regarding the display of his firearm. Officer ██████ stated he responded to a call of a person with a gun, and the area is a known gang hangout. As he approached Mr. ██████ and Mr. ██████ Officer ██████ displayed his firearm in a low, ready position. The gun was removed from the holster for officer safety and returned to the holster a few seconds

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<sup>34</sup> See Attachment #46 at 08:39.

<sup>35</sup> Id. at 09:38.

<sup>36</sup> Id. at 14:21.

<sup>37</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment #61.

later. Officer ██████ stated he did not display his firearm at any other time during the incident nor did he observe Officer ██████ display a firearm.

COPA interviewed **Accused Officer ██████** on November 7, 2018 at approximately 4:15 p.m. at the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>38</sup> Officer ██████ related essentially the same information as Officer ██████. He and Officer ██████ responded to ██████ for a person with a gun. Officer ██████ recalled “a black sweater, blue jeans,”<sup>39</sup> as the description provided by the caller. The call was for more than one individual.

Upon arrival, officers observed three people running, and one man (now known as ██████) throw a gun. Officer ██████ believed the three individuals were within 2-3 feet of one another. Officer ██████ detained Mr. ██████ and Officer ██████ detained Mr. ██████ and Mr. ██████. Officer ██████ stated he did not draw his firearm because ██████ was seen tossing the weapon, and in the heat of the moment he wanted to handcuff the subject. Officer ██████ believed Officer ██████ did not draw his weapon at any other time during the incident.

Officer ██████ detained the two individuals running near ██████ face down on the sidewalk. Officer ██████ stated he conducted a protective pat down to ensure no one else had a gun. However, he did not check their pockets and does not recall searching their bookbags. Officer ██████ did not recover a weapon from the two individuals.

██████ was immediately placed in the police vehicle because officers knew he would be arrested for possession of a firearm. However, the two individuals were not released because the officers were still investigating their involvement in the incident. Officer ██████ asked the two individuals why they were running with ██████ and they advised Officer ██████ that they had just gotten out of school and did not know ██████. Officer ██████ released the two individuals.

Officer ██████ related the officers did not complete an ISR because the scene was hectic and the one of Mr. ██████ and Mr. ██████ mother arrived on scene and was upset. No identifying information was obtained from the individuals. Officer ██████ initiated the stop of the two individuals, and therefore, it was his responsibility to complete the ISR. Officer ██████ stated he and his partner should have reminded one another to complete the ISR. He recalled seeing the mother, ██████ and stated she was angry. Officer ██████ observed Ms. ██████ speaking with Officer ██████. However, he did not recall the nature of the conversation.

COPA interviewed ██████ on November 28, 2018 at approximately 10:00 a.m. at the Civilian Office of Police Accountability located at 1615 West Chicago Ave, Chicago, Illinois, 60622.<sup>40</sup> Officer ██████ was working on the TAC team, in plain clothes and an

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<sup>38</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment #55.

<sup>39</sup> See Attachment #55 at 08:30.

<sup>40</sup> Officer ██████ appeared with attorney ██████ who was present during the interview. Officer ██████ interview is incorporated as Attachment #56.

unmarked vehicle on the day of the incident. Officer ██████ stated she responded to ██████ to assist another unit. The assist was relative to a call of a man with a gun.

Officer ██████ stated, when she arrived on scene, she was not aware of two young boys being detained on the sidewalk in front of the garage. Officer ██████ stated she did not have any interaction with the two boys lying on the ground. Officer ██████ recalled having a conversation with a woman who arrived on scene upset. Ms. ██████ asked Officer ██████ why her child was in custody, and Officer ██████ admitted during the statement that she advised Ms. ██████ that “her child had a gun.”<sup>41</sup> Officer ██████ requested identification from Ms. ██████ who advised her identification was at home. Ms. ██████ then asked Officer ██████ where the police were taking her son. Officer ██████ informed Ms. ██████ her son would be taken to the police station. Officer ██████ was not aware of the name of the person arrested when she advised Ms. ██████ her son would be taken to the police station. Officer ██████ did not realize at the time, Ms. ██████ was referring to one of the two boys laying on the ground behind her. However, while speaking to Ms. ██████ Officer ██████ observed two students walk past her during the conversation with Ms. ██████

#### b. Digital Evidence

COPA obtained **In-Car Camera Video Footage**<sup>42</sup> in this case. The In-Car Camera from ██████ ██████ 3 captures most of the incident. The video depicts a squad moving and approaching the scene of the incident. There are three individuals running. One individual (now known as Mr. ██████) in a dark sweatshirt and jeans jumps and then falls to the ground on the sidewalk near the fence. It appears that something shiny flew out of Mr. ██████ right hand while he was in the air. Two other individuals (now known as Mr. ██████ and Mr. ██████) run past him and stop in front of the garage. Two officers (now known as Officers ██████ and ██████) are observed exiting a vehicle and Officer ██████ approaches Mr. ██████ while Officer ██████ stops in front of the garage. Mr. ██████ is immediately handcuffed and placed in the back of the squad car. Mr. ██████ and Mr. ██████ put their hands up and are seen lying down on ground as Officer ██████ approaches. An officer asks Mr. ██████ and Ms. ██████ if they have any weapons on them. They reply no and state they were coming from school.

Officers search for the weapon, and additional units arrive. A male, now known as ██████ approaches Officer ██████ who is standing over ██████ and ██████ who were laying on the sidewalk on the sidewalk, and states that one of the boys is his little brother. Officer ██████ advises Mr. ██████ that they are being detained because they were with someone who “pitched a gun.” Mr. ██████ asks Mr. ██████ and Mr. ██████ who they were with, and Mr. ██████ explained that there was a man walking behind them.

Officer ██████ asks Mr. ██████ and Mr. ██████ if they knew Mr. ██████ Mr. ██████ and Mr. ██████ explain to the officer that they were just dismissed from school and they were crossing the street as the man approached. One of the officers recovers the weapon from the yard adjacent to the sidewalk. Officers ██████ and ██████ discuss the release of Mr. ██████ and Mr. ██████ as they were not involved in the incident. Simultaneously, a female (now known as

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<sup>41</sup> See Attachment #56 at 13:38.

<sup>42</sup> See Attachment #29.

██████████ is heard yelling, “why yall got my baby on the floor?” Ms. ██████████ asks repeatedly, and states “he just got out of school.” There is a female officer (now known as Officer ██████████) wearing khaki pants standing in front of Ms. ██████████. Officer ██████████ removes the handcuffs from Mr. ██████████ and Mr. ██████████. Mr. ██████████ and Mr. ██████████ stand up and walk away from the scene. Ms. ██████████ and Officer ██████████ remain in front of each other.

COPA obtained **Body Worn Camera Footage** from multiple officers involved in this incident.<sup>43</sup> **BWC from PO ██████████** reveals that a woman (now known as ██████████) can be heard yelling in the background. Officer ██████████ walks in the direction of the voice and approaches Ms. ██████████ and says, “ma’am a weapon was recovered.” ██████████ and ██████████ are seen face down on the sidewalk. Officer ██████████ walks up and uncuffs Mr. ██████████ and Mr. ██████████. Mr. ██████████ and Mr. ██████████ stand and leave the area. ██████████ asks, “what district yall from?”

**BWC from Officer ██████████** depicts Officer ██████████ exiting the vehicle and three people (██████████ and ██████████) standing with their hands up. Officer ██████████ runs directly over to ██████████ and handcuffs him as he’s lying face down on the ground. Officer ██████████ asks Mr. ██████████ and Mr. ██████████ if they have anything on them or in the black book bag seen lying next to them. Mr. ██████████ and Mr. ██████████ respond saying no and they came from school. Officer ██████████ asks again if they have anything, and they continue to say no. Officer ██████████ leans in toward Mr. ██████████ and it appears that he performs a pat-down of Mr. ██████████ waist area. However, it is unclear from body worn camera.

Three male blacks walk up, and one identifies himself as the brother of one of Mr. ██████████ and Mr. ██████████ lying on the ground. Officer ██████████ explains that Mr. ██████████ and Mr. ██████████ were with someone who “pitched a gun.” He further explains that Mr. ██████████ and Mr. ██████████ are detained until officers figure out what happened. The male (now known as ██████████) explains that Mr. ██████████ and Mr. ██████████ are just kids and just got out of school. Mr. ██████████ yells at Mr. ██████████ and Mr. ██████████ asking who they were with. Mr. ██████████ explains there was a man walking behind them and that they do not know the man.

Officer ██████████ asks Mr. ██████████ and Mr. ██████████ if they know ██████████. ██████████ advises Officer ██████████ that he and ██████████ were crossing the street to go to 80<sup>th</sup> and Muskegon. Officer ██████████ walks up, and Officer ██████████ explains Mr. ██████████ and Mr. ██████████ do not know ██████████ and he believes they are good to go. A woman (now known as ██████████) can be heard in the background yelling, “why yall got my baby on the floor?” An officer yells, “cause we just found a gun, that’s why.” Ms. ██████████ then responds saying, “he just got out of school, an eighth grader.” Officer ██████████ is seen walking in the direction of the voice. Mr. ██████████ and Mr. ██████████ are released, and Officer ██████████ turns in the direction of Ms. ██████████. Officer ██████████ can be seen standing directly in front of Ms. ██████████.

**Officer ██████████ BWC** depicts a woman (now known as ██████████) yelling, “he just got out of school, an eighth grader.” Officer ██████████ replies, “go home.” Ms. ██████████ steps into the alley and yells, “why yall got my baby on the floor?” Officer ██████████ is facing Ms. ██████████ and raises her hand in a directing motion. Mr. ██████████ and Mr. ██████████ are

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<sup>43</sup> See Attachment #29.

face down on the sidewalk. Ms. [REDACTED] again yells, “he just got out of school.” Officer [REDACTED] replies, “it doesn’t mean he doesn’t have a gun though.” Officer [REDACTED] walks back toward the garage and Officer [REDACTED] is seen uncuffing Mr. [REDACTED] and Mr. [REDACTED] on the sidewalk. Officer [REDACTED] gives [REDACTED] his book bag. Officer [REDACTED] is in front of Ms. [REDACTED] who is recording the incident on her cell phone.

Officer [REDACTED] BWC depicts two boys (now known as [REDACTED] and [REDACTED]) laying on the sidewalk facedown. There is a black bookbag seen lying next to [REDACTED]. Officer [REDACTED] says to Officer [REDACTED] “I think they’re good,” referencing Mr. [REDACTED] and Mr. [REDACTED]. Officer [REDACTED] responds, “yeah just give them a second” and walks in the yard. A woman (now known as [REDACTED]) can be heard yelling “why do yall got my son on the floor?” Officer [REDACTED] exits the yard, and uncuffs the Mr. [REDACTED] and Mr. [REDACTED]. Officer [REDACTED] thanks Mr. [REDACTED] and Mr. [REDACTED] for being up front and explains the call said there were 15 people and officers did not know if Mr. [REDACTED] and Mr. [REDACTED] were with [REDACTED].

Officer [REDACTED] BWC depicts Officer [REDACTED] approaching a woman (now known as [REDACTED]) who is yelling. Ms. [REDACTED] yells, “he’s an eighth grader.” Officer [REDACTED] turns and faces Ms. [REDACTED]. Officer [REDACTED] asks Ms. [REDACTED] “what’s your relationship to him?” Ms. [REDACTED] responds, “that’s my baby. My son.” Officer [REDACTED] tells Ms. [REDACTED] “okay well your son had a gun.” Ms. [REDACTED] says, “my little baby don’t have no gun. He just got out of school.” Officer [REDACTED] advises the woman to go to the police station. Ms. [REDACTED] repeats her previous statement. Officer [REDACTED] asks Ms. [REDACTED] for an ID, and she says she doesn’t have one because she ran out of the house. Officer [REDACTED] advises Ms. [REDACTED] to go home and get her ID and come back. Ms. [REDACTED] pulls her cell phone from her pocket. Ms. [REDACTED] starts recording the incident, and Officer [REDACTED] says, “okay you can record me all day. I don’t care.” Ms. [REDACTED] steps back away from the officer and starts speaking into her cell phone. Officer [REDACTED] steps within arm’s reach of Ms. [REDACTED] and yells, “your baby had a gun.” Ms. [REDACTED] takes a step back, away from Officer [REDACTED] and continues to record her video.

COPA obtained [REDACTED] Cell Phone Video.<sup>44</sup> The video begins with a view of Officer [REDACTED] who is standing in the alley. Officer [REDACTED] can be heard saying, “I don’t care.” Ms. [REDACTED] is standing at the edge of the sidewalk near the alley. There are several officers standing opposite Ms. [REDACTED] on the other side of the alley in the parkway. Ms. [REDACTED] explains to viewers that her “baby” just got out of the school and was in police custody. Officer [REDACTED] walks toward Ms. [REDACTED] onto the sidewalk and yells, “cause your baby had a gun,” into plain view of the camera. Both Mr. [REDACTED] and Mr. [REDACTED] walk in view of the camera towards Ms. [REDACTED]. Ms. [REDACTED] further expresses her anger to viewers that there are “all white cops, no black cops,” and she is “with the movement.”

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<sup>44</sup> See Attachment #18.

### c. Documentary Evidence

The **OEMC Event Query**<sup>45</sup> details the information provided by the 9-1-1 caller. The caller stated there were 15-20 male blacks on the street and sidewalk selling. The caller mentioned two had guns in their waistbands. The caller describes one individual as wearing a black sweater and blue jeans, and the second individual as wearing white or gray pants. There was no additional information provided. There were two calls to 9-1-1, and the first-time officers responded to the location there was nothing seen. The first call was coded out.

The **Original Incident Case Report**<sup>46</sup> describes locating ██████████ in the vicinity of the call, matching the description provided by the 9-1-1 caller. The officers witnessed Mr. ██████████ throw a metal object into the backyard of the location using his right hand. The narrative fails to mention the investigatory stop of ██████████ and ██████████. The report does not mention there were three subjects stopped in relation to the incident.

The **Arrest Report**<sup>47</sup> summarized the arrest of ██████████ for Unlawful Use of a Weapon (UW) and Issuance of Warrant. The report fails to mention there were two individuals stopped along with Mr. ██████████. There is no mention of ██████████ or ██████████ being at the location of the incident.

The **Investigatory Stop Receipt**<sup>48</sup> was completed by Officers ██████████ and ██████████ in reference to ██████████ and his arrest. The narrative reads the same as the arrest report. The box labeled “related ISR No.,” which indicates whether additional persons stopped regarding the same incident, was not completed.

## VI. Applicable legal standards

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 allegation 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.

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<sup>45</sup> See Attachment #12.

<sup>46</sup> See Attachment #27.

<sup>47</sup> See Attachment #15.

<sup>48</sup> See Attachment #14.

A **preponderance of evidence** is 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 than not 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 is 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<sup>49</sup>

### a. Allegations against Officer ██████████ and Officer ██████████

This case deals primarily with allegations that the involved officers detained the involved citizens and search their person and their backpacks without justification. The Fourth Amendment to the U.S. Constitution, as well as federal and state case law along with CPD rules and orders interpreting and applying the 4<sup>th</sup> Amendment, governs CPD officers' seizures of individuals.

The Fourth Amendment of the United States Constitution and the Illinois Constitution of 1970 guarantee the right of individuals to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Police-citizen encounters are categorized into three tiers: (1) an arrest of a citizen, which must be supported by probable cause; (2) a temporary investigative seizure conducted pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107-14, which must be supported by a reasonable, articulable suspicion of criminal activity; and (3) a consensual encounter, which does not implicate any Fourth Amendment interests. *People v. McDonough*, 239 Ill. 2d 260, 268 (2010).

Based on the evidence previously listed, COPA recommends the following findings:

COPA finds **Allegations 1 & 2** against Officer ██████████ and Officer ██████████ that they unlawfully stopped ██████████ and ██████████ are **EXONERATED**. A police officer may temporarily detain an individual for an investigatory stop when "the officer's decision is based on specific, articulable facts which warrant the investigatory stop intrusion." *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing *Terry v. Ohio*, 392 U.S. 1, 21, (1968)); *People v. Stewart*, 242 Ill. App. 3d 599, 605 (1993)). "The police officer must have an 'articulable suspicion' that the person has committed or is about to commit a crime. *Moore*, 286 Ill. App. 3d at 653 (citations omitted). An officer may not detain an individual based on mere hunches or unparticularized suspicions. *Id.* (citations omitted). Officer ██████████ and Officer ██████████ operated within department policy and both federal and state laws when they stopped Mr. ██████████

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<sup>49</sup> Investigator/Attorney should legally analyze the facts in this section. Investigator/Attorney have discretion to order this section as he/she see fit. This section should reference the facts above rather than restate them.

and Mr. [REDACTED]. The law allows a police officer to arrest and/or detain a person when he has reasonable grounds to believe that the person is committing or has committed an offense. Officer [REDACTED] and Officer [REDACTED] had reason to believe that Mr. [REDACTED] and Mr. [REDACTED] were armed and dangerous due to information provided by dispatch. Additionally, Mr. [REDACTED] and Mr. [REDACTED] were running near Mr. [REDACTED] and in the area relayed by dispatch. The officers were unaware whether the two minors were involved in the incident, and thus, their stop was justified. Therefore, COPA finds Allegations 1 & 2 are Exonerated for both officers.

COPA finds **Allegations 3 & 4** against Officer [REDACTED] and Officer [REDACTED] that they unlawfully detained [REDACTED] and [REDACTED] are **EXONERATED**. The standard for analyzing the detention of the two subjects may be found in Special Order S04-13-09 regarding the Investigatory Stop System. The temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion that he person is committing, is about to commit, or has committed a criminal offense. The suspect may be detained only for the length of time necessary to confirm or dispel the suspicion of criminal activity. As previously, discussed the officers had a reasonable articulable suspicion to believe Mr. [REDACTED] and Mr. [REDACTED] may have been involved in the person with a gun call. Additionally, both Mr. [REDACTED] and Mr. [REDACTED] were released in a short period of time and after officers found them not to be involved in the incident. Officer [REDACTED] and Officer [REDACTED] operated within department policy and within the scope of the both federal and state laws. Therefore, Allegations 3 & 4 are Exonerated for both officers.

COPA recommends a finding of **NOT SUSTAINED** for **Allegations 5 & 6** against Officer [REDACTED] and Officer [REDACTED] that they unlawfully searched [REDACTED] and [REDACTED] person and backpack. According to Special Order S04-13-09, a protective pat down is a limited search during an Investigatory Stop in which the sworn member conducts a pat down of the outer clothing of a person for weapons for the protection of the sworn member or others in the area. A protective pat down is not a general exploratory search for evidence of criminal activity. Although Mr. [REDACTED] claimed that both he and Mr. [REDACTED] were subjected to a pat down, a search of their pockets and their bookbags, Mr. [REDACTED] stated that only Mr. [REDACTED] backpack was searched, and that Mr. [REDACTED] pockets were not searched. Officer [REDACTED] was unsure about whether their bags or pockets were searched. Officer [REDACTED] denied searching their pockets and did not recall searching the bags but did admit to a pat down. Although the BWC did show Officer [REDACTED] handing Mr. [REDACTED] his backpack, it does not depict whether he searched inside of the bag or merely patted down the outside, which is a key distinction. Additionally the BWC and in-car camera do not provide a clear view of whether Officer [REDACTED] and Officer [REDACTED] conducted more than a protective pat down. Therefore, there is insufficient evidence to prove or disprove the allegation by a preponderance of evidence and the allegations are Not Sustained.

COPA finds **Allegations 7 & 8** against Officer [REDACTED] and Officer [REDACTED] that they failed to complete an Investigatory Stop Report for Mr. [REDACTED] and Mr. [REDACTED] are **SUSTAINED**. “[A] Terry stop must be limited in scope and duration because it is an investigative detention, which must be temporary and last no longer than necessary to effectuate the purpose of the stop.” *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2d Dist. 2010) (citing *Florida v. Royer*, 460 U.S. 491, 500 (1983)). Accordingly, “an arrest is distinguishable from an investigatory stop

based on the length of detention and the scope of the investigation following the initial stop.” *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 60 (citing *People v. Bennett*, 376 Ill. App. 3d 554, 565 (1st. Dist. 2007)). The Chicago Police Department’s policy states in Special Order S04-13-09, that sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report. The report is to ensure that the sworn member documents the facts and circumstances of the stop, ensure the stop was appropriate, and allows supervisors to review the facts and circumstances of the investigatory stop.

In this case, Mr. [REDACTED] and Mr. [REDACTED] were subjected to a limited detention that was temporary and did not last longer than necessary for the officers to determine that they were not involved in the person with a gun call. However, Mr. [REDACTED] and Mr. [REDACTED] did not receive an Investigatory Stop Report. Both officers admitted that they did not complete an Investigatory Stop Report for either Mr. [REDACTED] or Mr. [REDACTED]. Therefore, COPA finds Allegations 7 & 8 are Sustained.

COPA finds **Allegation 9** against Officer [REDACTED] that he unnecessarily displayed his firearm in violation of Rule 38 is **EXONERATED**. Officers exercise excessive force when they unreasonably aim their gun at an individual to perform a seizure. *Baird v. Renbarger*, 576 F.3d 340, 344 (7th Cir. 2009) (analyzing plaintiffs’ Fourth Amendment excessive force claim for being held at gunpoint by police under a reasonableness test because “[p]laintiffs need not show physical injury in order to sustain an excessive force claim”). Determining the reasonableness of the force “requires an analysis of the facts and circumstances of the case” from the “perspective of a reasonable officer on the scene,” including, “[1] the severity of the crime at issue, [2] whether the suspect poses an immediate threat to the safety of the officers or others, and [3] whether he is actively resisting arrest or attempting to evade arrest by flight.” *Id.* (citing *Graham v. Connor*, 490 U.S. 386, 396 (1989)). Courts also consider “whether the citizen was under arrest or suspected of committing a crime, was armed, or was interfering or attempting to interfere with the execution of his or her duties.” *Jacobs v. City of Chicago*, 215 F.3d 758, 773 (7th Cir. 2000). In sum, the excessive force inquiry in this context “looks to whether the force used to seize the suspect was excessive in relation to the danger he posed—to the community or to the arresting officers—if left unattended.” *Id.* (quoting *Wilkins v. May*, 872 F.2d 190, 193 (7th Cir. 1989)).

The use of force was objectively reasonable and necessary under the circumstances and proportional to the threat, actions, and level of resistance offered by [REDACTED] and [REDACTED]. After the subjects complied with Officer [REDACTED] orders, the firearm was returned to its holster. Officer [REDACTED] was responding was a call of a person with a gun. The event query listed multiple subjects with a gun and for officer safety, as well as the safety of the public, it was lawful and within department policy for Officer [REDACTED] to display his weapon. Therefore, Allegation 9 against Officer [REDACTED] is Exonerated.

#### **b. Allegations against Officer [REDACTED]**

COPA finds **Allegation 1** against Officer [REDACTED] that she engaged in conduct unbecoming of an officer and had an unjustified verbal altercation with [REDACTED] in violation of Rule 9 is **SUSTAINED**. General Order G02-03 states that the department looks to “build and foster a true collaborative partnership through positive engagements and public trust

between the Department and the community.” Additionally, the department’s principles of the community relations strategy include Procedural Justice and Legitimacy in which interactions with members of the public will be conducted with the upmost respect and courtesy and be based on the concepts of Procedural Justice and Legitimacy. During each interaction, Department members will strive to attain the highest degree of ethical behavior and professional conduct. Officer [REDACTED] interactions with Ms. [REDACTED] did not support this order. Officer [REDACTED] stated words to the effect of, “your baby had a gun,” in an aggressive manner and raised tone while stepping in an arm’s length toward Ms. [REDACTED]. The BWC as well as video taken by Ms. [REDACTED] reveal that Ms. [REDACTED] stepped away from Officer [REDACTED]. Ms. [REDACTED] was not interfering with what the police were attempting to do. COPA finds that Officer [REDACTED] were not necessary to achieve any legitimate Department goal. Therefore, COPA finds Allegation 1 is Sustained.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer [REDACTED]

#### i. Complimentary and Disciplinary History

1. **Complimentary:** 11 Honorable Mentions
2. **Disciplinary:** None

#### ii. Recommended Penalty, by Allegation

1. **Allegation No. 7:** Violation Noted
2. **Allegation No. 8:** Violation Noted

Officer [REDACTED] freely acknowledged his failure to provide the minors with an ISR in this case. He also explained the chaotic nature of the scene, which may have impacted his recollection that this needed to be done. Therefore, COPA recommends a Violation Noted.

### b. Officer [REDACTED]

#### i. Complimentary and Disciplinary History

1. **Complimentary:** 2 Physical Fitness Awards, 25 Honorable Mentions
2. **Disciplinary:** None

#### ii. Recommended Penalty, by Allegation

1. **Allegation No. 7:** Violation Noted
2. **Allegation No. 8:** Violation Noted

Officer [REDACTED] freely acknowledged his failure to provide the minors with an ISR in this case. He also explained the chaotic nature of the scene, which may have impacted his recollection that this needed to be done. Therefore, COPA recommends a Violation Noted.

**c. Officer [REDACTED]**

**i. Complimentary and Disciplinary History**

1. **Complimentary:** 1 Problem Solving Award, 1 Physical Fitness Award, 1 Special Commendation, 19 Honorable Mentions, 1 Complimentary Letter, 1 Life Saving Award
2. **Disciplinary:** None

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 1: Written Reprimand**

Officer [REDACTED] failed to take responsibility for her conduct in this case. She did not acknowledge that she may have lost her temper in this instance. Her raised volume was not in accordance with the Department’s goals and policies. Therefore, COPA recommends a Written Reprimand.

**IX. CONCLUSION<sup>50</sup>**

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully stopped [REDACTED] in violation of Rules 1 and 2.	Exonerated
	2. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully stopped [REDACTED] in violation of Rules 1 and 2.	Exonerated
	3. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED]	Exonerated

<sup>50</sup> Add additional rows for additional allegations and/or involved officers.

	<p>unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p> <p>4. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p> <p>5. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p> <p>6. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p> <p>7. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] in violation of Rules 5 and 6.</p> <p>8. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] in violation of Rules 5 and 6.</p>	<p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained / Violation Noted</p> <p>Sustained / Violation Noted</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>1. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully stopped [REDACTED] in violation of Rules 1 and 2.</p> <p>2. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED]</p>	<p>Exonerated</p> <p>Exonerated</p>

<p>unlawfully stopped [REDACTED] in violation of Rules 1 and 2.</p>	
<p>3. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p>	<p>Exonerated</p>
<p>4. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully detained [REDACTED] in violation of Rules 1 and 2.</p>	<p>Exonerated</p>
<p>5. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p>	<p>Not Sustained</p>
<p>6. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] unlawfully searched [REDACTED] person and backpack in violation of Rules 1 and 2.</p>	<p>Not Sustained</p>
<p>7. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] in violation of Rules 5 and 6.</p>	<p>Sustained / Violation Noted</p>
<p>8. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] failed to complete an Investigatory Stop Report for [REDACTED] in violation of Rules 5 and 6.</p>	<p>Sustained / Violation Noted</p>
<p>9. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED]</p>	<p>Exonerated</p>

unnecessarily displayed his firearm in violation of Rule 38.

Officer [REDACTED]  
[REDACTED]

1. On June 1, 2018 at approximately 3:00 p.m., at or near the location of [REDACTED] [REDACTED] Officer [REDACTED] engaged in an unjustified verbal altercation with [REDACTED] in violation of Rule 9.

Sustained / 1 day  
Suspension

Approved:

[REDACTED]

August 29, 2019

\_\_\_\_\_  
Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Investigator:</b>	██████████
<b>Supervising Investigator:</b>	██████ ██████
<b>Deputy Chief Administrator:</b>	Andrea Kersten