

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 18, 2018
Time of Incident:	22:15
Location of Incident:	11400 S. Princeton Ave
Date of COPA Notification:	December 3, 2018
Time of COPA Notification:	08:32

The complainant alleges that Officer [REDACTED] officer walked toward his vehicle with his gun pointed at him and when he reached the vehicle, pointed the weapon in his face. He alleges that he was ordered out of the car, handcuffed, and that his vehicle was searched without legal justification.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] star # [REDACTED] employee ID# [REDACTED] Date of Appointment, PO, Unit [REDACTED] DOB, M, race]
Involved Officer #2:	[REDACTED] star# [REDACTED] employee ID# [REDACTED] Date of Appointment, PO, Unit [REDACTED] DOB, M, Race
Involved Individual #1:	[REDACTED] M, BLK

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that Officer [REDACTED] illegally detained the complainant when he ordered him out of his vehicle and handcuffed the complainant.	Exonerated
	2. It is alleged that Officer [REDACTED] searched the complainant without probable cause.	Exonerated
	3. It is alleged that Officer [REDACTED] searched the complainant's vehicle without consent and legal justification.	Exonerated
	4. It is alleged that Officer [REDACTED] used excessive force when he pointed his gun at the complainant's face.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance.
 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
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General Orders

1. G03-02: Use of Force – Effective Date 16 October 2017
-

Special Orders

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

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search without warrant issued upon probable cause.

V. INVESTIGATION

a. Interviews

In his statement to COPA,¹ on December 7, 2018, ██████████ stated that he left his friend's house, entered his vehicle, and pulled out into the street on South Princeton Ave. He explained that once he pulled into the street, Officer ██████████ vehicle sped around the corner onto Princeton Ave and stopped in front of his vehicle. Mr. ██████████ explained that when he entered his vehicle, he observed an unidentified male walking down the street. He said Officer ██████████ and his partner exited their vehicle and started chasing this male. The male eluded Officer ██████████ and his partner, and they then turned and approached Mr. ██████████ car. Mr. ██████████ explained that his vehicle was in the middle of the street, and he had no exit route, because Officer ██████████ vehicle was blocking his exit. He explained that Officer ██████████ approached him with his gun pointed in his face and asked him who the unidentified male was who had exited his car. Officer ██████████ officer told Mr. ██████████ he was investigating a shots-fired call in the area and asked Mr. ██████████ to exit his vehicle. Upon exiting his vehicle, Officer ██████████ grabbed his arm and slammed his chest and face on the car. Officer ██████████ also handcuffed him and pulled his arms back. He said he told Officer ██████████ that he did not give consent for a search of his vehicle, but Officer ██████████ searched his car anyway. Mr. ██████████ said his rights were violated because his car was searched without this consent and because Officer ██████████ pointed a gun in his face. It should be noted that Mr. ██████████ declined to give information for the person he was visiting just prior to the incident, who may have been able to corroborate his claim that he was alone in his car. Mr. ██████████ said that he did not want to give this information because he feared Officer ██████████ would retaliate against this person.

¹ Att. 12

In his statement to COPA,² on January 2, 2019, Accused Officer ██████████ stated that he was in the area of South Princeton Ave, on routine patrol and because of a shots-fired call in the area of 115th and Princeton Ave. Officer ██████████ stated that this is an area of high gang conflict. He explained that he was the passenger and that his partner, Officer ██████████ was driving the SUV assigned to them. Officer ██████████ explained that as he and his partner were driving in the area they observed a vehicle, parked in the middle of the street on south Princeton and pulled up, head to head, with this vehicle to see what was going on. He said he saw an unidentified male on the sidewalk adjacent to the vehicle and that Officer ██████████ informed him that this male had just exited the vehicle and was holding his side. He said he exited the vehicle, approached the unidentified male, and announced that he was a Chicago Police officer. The male took off running and entered a house on the block. Officer ██████████ and Officer ██████████ then turned and approached the vehicle that was in the middle of the street. Officer ██████████ approached the driver and asked him where he was coming from and who was the unidentified male who had just exited his car. Officer ██████████ stated to the driver, Mr. ██████████ that he was investigating a call regarding shots being fired in the area and asked him to exit his car, because the unidentified male was seen getting out of his car. Officer ██████████ explained that he asked Mr. ██████████ to turn off the car so that he would not be able to drive away. He said Mr. ██████████ was being evasive and defensive while being questioned, so he asked him to exit the vehicle. When he exited the vehicle, Officer ██████████ handcuffed him, patted him down, and searched the vehicle to ensure there were no weapons in the car. Officer ██████████ explained that he took these actions because he thought the unidentified male may have had a weapon, since he was holding his side near his waistband, he was seen exiting the vehicle, and due to the close proximity of the shots-fired call. Officer ██████████ stated that Mr. ██████████ was detained for approximately a few minutes and that he was released when no weapons were found in his vehicle. Officer ██████████ stated that he was not certain whether or not his gun was unholstered as he approached Mr. ██████████ vehicle because he did have it unholstered while pursuing the unidentified male.

In his statement to COPA,³ on February 14, 2019, Witness Officer ██████████ explained that he and Officer ██████████ officer were on routine patrol and were aware of a shots-fired called in the area. He drove down south Princeton Ave and saw Mr. ██████████ vehicle parked in the middle of the street. He saw a male exit the vehicle, from the rear door on the driver's side. This male was holding his side and walking at a fast pace. Officer ██████████ thought that this man might have a weapon in his waistband. He and Officer ██████████ exited their vehicle to investigate further but the man ran into a house on the block. Officer ██████████ stated that Officer ██████████ knocked on the door of the house and identified himself as a police officer, but no one responded. The officers then approached Mr. ██████████ vehicle. Officer ██████████ approached on the passenger side of the vehicle and did not hear the conversation between Officer ██████████ and Mr. ██████████ because the window was not rolled down. Officer ██████████ said that Mr. ██████████ was asked to step out of the car for the officers' safety. He asked Mr. ██████████ for his identification and then walked away to verify Mr. ██████████ identity. He said he did not see Officer ██████████ search Mr. ██████████ vehicle but assumed that he searched the driver's side of the car for weapons. He did not see Officer ██████████ point his gun at Mr. ██████████ and did not recall whether Officer ██████████ gun was drawn as they approached Mr. ██████████ vehicle.

² Att. 7,8

³ Att. 9

b. Digital Evidence

Body Worn Camera footage⁴ shows Officer ██████ officer point a large flashlight at Mr. ██████ when he is speaking to him at the driver's side window of the vehicle. The officer is not pointing a gun at Mr. ██████. The footage also captures the conversation between Officer ██████ and Mr. ██████ about the unidentified male exiting his vehicle and the fact that there is a shots-fired call in the area. Mr. ██████ denies that the man exited his car. Officer ██████ officer instructs Mr. ██████ to exit the car and when he does, he handcuffs him, conducts a pat down and again questions him about the unidentified male. Officer ██████ also searches the vehicle. Officer ██████ did not slam Mr. ██████ against the vehicle or grab his arm as Mr. ██████ alleged.

c. Documentary Evidence

The Investigatory Stop Report⁵ details the reasonable articulable suspicion as proximity to a reported crime location and summarizes the incident with the unidentified male and Mr. ██████

The Office of Emergency Management and Communications Event Query Report⁶ details the traffic stop and the shots-fired events.

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.

⁴ Att. 31

⁵ Att. 14

⁶ Att. 19

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

The allegations against Officer ██████ should be exonerated. Officer ██████ had Reasonable, articulable suspicion that Mr. ██████ might be in possession of a weapon. His partner, Officer ██████ saw a man who was holding his waistband, exit Mr. ██████ car. There is also the fact that a shots-fired event had been dispatched in the vicinity near where Mr. ██████ was located. The fact that the unidentified man ran off when Officer ██████ approached him to conduct a field interview, lends credibility to this suspicion. Officer ██████ approached Mr. ██████ to continue to investigate the matter and handcuffed and searched Mr. ██████ vehicle as a safety precaution and to ensure that Mr. ██████ did not in fact have weapons in his possession. Therefore, the findings that Mr. ██████ was illegally detained, searched without probable cause, and his car was searched without his consent, should all be Exonerated. Officer ██████ actions, in detaining and searching Mr. ██████ and his car, were lawful and proper given the circumstances. The body worn camera footage refutes Mr. ██████ allegation that Officer ██████ pointed his gun in his face when Officer ██████ was standing at his car window. Officer ██████ officer admitted that he could not recall whether he holstered his gun while approaching Mr. ██████ vehicle. Officer ██████ stated that he did not see Officer ██████ point his gun at Mr. ██████ Therefore, there is insufficient evidence to prove that Officer ██████ pointed his gun toward Mr. ██████ as he approached his car. The allegation that Officer ██████ used excessive force should be Not Sustained.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████	<ol style="list-style-type: none"> 1. It is alleged that Officer ██████ illegally detained the complainant when he ordered him out of his vehicle and handcuffed the complainant. 2. It is alleged that Officer ██████ searched the complainant without probable cause. 3. It is alleged that Officer ██████ searched the complainant’s vehicle without consent and legal justification. 4. It is alleged that Officer ██████ used excessive force when he pointed his gun at the complainant’s face. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p>

Approved:



11-4-19

Angela Hearts-Glass
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	████████
Supervising Investigator:	████████████████
Deputy Chief Administrator:	Angela Hearts-Glass
*Attorney:	████████████████