

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 16, 2018/January 25, 2019
Time of Incident:	4:38 PM/1:09 AM
Location of Incident:	5500 S. Lake Shore Drive/2200 S. Western Ave./6 th District, 7808 S. Halsted St.
Date of COPA Notification:	January 28, 2019
Time of COPA Notification:	2:54 PM

On January 25, 2019, [REDACTED] ([REDACTED]) was stopped by Chicago Police Department (“CPD”) officers with their guns drawn – [REDACTED] was driving a vehicle which had been reported as stolen. The officers determined [REDACTED] was the legal owner of the vehicle and allowed her to leave without providing her with any documentation. According to [REDACTED] her vehicle was stolen on December 4, 2018 and recovered on December 16, 2018, but once recovered, [REDACTED] vehicle was not removed from CPD’s stolen-vehicle list. Additionally, [REDACTED] alleges that after the January 25, 2019 stop, [REDACTED] went to the police station to make a complaint, but Officer [REDACTED] (“Officer [REDACTED]”) refused to assist her.

Following an investigation, The Civilian Office of Police Accountability (“COPA”) finds that Officers [REDACTED] (“Officer [REDACTED]”) and [REDACTED] (“Officer [REDACTED]”) failed to complete the required Investigatory Stop Report (“ISR”) documenting their stop of [REDACTED]. The allegation against Officer [REDACTED] is suspended pending her return from military leave. Finally, the remaining allegations against all involved officers are exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2012, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1984, Male, Black
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2004, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1983, Male, Hispanic
Involved Officer #3:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2011, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1978, Male, White

Involved Officer #4: [REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2005, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1977, Male, Hispanic

Involved Officer #5: [REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2013, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1975, Male, Hispanic

Involved Officer #6: [REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2017, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1984, Female, Black, Date of Military Leave: [REDACTED] 2019¹

Involved Individual #1: [REDACTED] Date of Birth: [REDACTED] 1970, Female, Black

III. ALLEGATIONS²

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	It is alleged that on December 16, 2018 at approximately 4:38 PM, at or near 5500 S. Lake Shore Drive NB, you: <ol style="list-style-type: none"> Failed to ensure [REDACTED] vehicle was “cleared,” per CPD Special Order S04-03-10. 	Exonerated
Officer [REDACTED]	It is alleged that on December 16, 2018 at approximately 4:38 PM, at or near 5500 S. Lake Shore Drive NB, you: <ol style="list-style-type: none"> Failed to ensure [REDACTED] vehicle was “cleared,” per CPD Special Order S04-03-10. 	Exonerated
Officer [REDACTED]	It is alleged that on January 25, 2019 at approximately 1:10 AM, at or near 2200 S. Western you: <ol style="list-style-type: none"> Failed to complete an Investigatory Stop Report (ISR) following [REDACTED] Stop. 	Sustained / Violation Noted

¹ As of July 18, 2019, Officer [REDACTED] military leave was projected to end in April 2020, per CPD records (Att. 41).

² Formal allegations have not been served on Officer [REDACTED]

<p>Officer [REDACTED]</p>	<p>It is alleged that on January 25, 2019 at approximately 1:10 AM, at or near 2200 S. Western you:</p> <ol style="list-style-type: none"> 1. Pointed Your firearm at [REDACTED] without justification 2. Failed to complete an Investigatory Stop Report (ISR) following [REDACTED] Stop. 	<p>Exonerated</p> <p>Sustained / Violation Noted</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on January 19, 2019 at approximately 1:10 AM, at or near 2200 S. Western, you:</p> <ol style="list-style-type: none"> 1. Pointed your firearm at [REDACTED] without justification. 	<p>Exonerated</p>
<p>Officer [REDACTED]</p>		<p>Close/Hold</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
3. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.
4. **Rule 38:** Unlawful or unnecessary use or display of a weapon.

Special Orders

1. **S04-03-10:** Vehicle Theft and Wanted Vehicle Procedures.³
2. **S04-13-09:** Investigatory Stop System.⁴

³ Effective February 23, 2012.

⁴ Effective July 10, 2017.

V. INVESTIGATION⁵**a. Interviews⁶**

██████████

██████████ was interviewed by COPA investigators on February 4, 2019. ██████████ told investigators that she reported her car stolen on December 4, 2018 and that the police recovered it on December 16, 2018. When ██████████ retrieved her vehicle, CPD told her the vehicle was “cleared.”

On January 25, 2019, at about 1:00 AM, ██████████ drove home from work when she noticed an unmarked police SUV behind her. A second police vehicle then emerged, cut off ██████████ and ██████████ stopped her vehicle. An officer approached with a gun drawn and told ██████████ to put her hands up. Another officer approached on the passenger’s side. ██████████ complied with officer commands and followed their instruction to exit the car. An officer told ██████████ that the vehicle was reported as stolen. ██████████ advised the officer that the vehicle was not stolen, and that she had taken care of that issue. An officer performed a pat down on ██████████ before she was detained with handcuffs and placed into the rear of a police vehicle. An officer asked ██████████ for her driver’s license and she related it was in her purse. The officer began unzipping ██████████ purse when ██████████ postal worker ID became visible. The officer then told ██████████ that he may have made a mistake. Per ██████████ 8 – 10 police cars were present at this point. After approximately 10 minutes, the officers uncuffed ██████████ and released her without any documentation.

Afterwards, ██████████ attempted to file a complaint with CPD at the district office located at 78th and Halsted, but Officer ██████████ refused to help ██████████ indicating that it was not possible to file a complaint.

Officer ██████████ ██████████

On August 26, 2019, COPA investigators interviewed Officer ██████████ (“Officer ██████████ Officer ██████████ told investigators that on December 16, 2018, ██████████ vehicle, which had previously been reported stolen, was recovered. On that same day, Officer ██████████ spoke with ██████████ over the phone and related that officers recovered her vehicle. ██████████ told the officers she would come to the police station to retrieve it.

When asked about ██████████ Arrest Report⁹ stating the vehicle was, “cleared from AD desk at 1817 hrs by ██████████ Officer ██████████ related that the AD desk is who officers “notify to clear from files.”^{10 11} Officer ██████████ elaborated that the AD desk is located in the OEMC building and is similar to LEADS. Officer ██████████ could not remember who had called the AD desk. Officer

⁵ The following is a summary of the material evidence gathered and relied upon in COPA’s analysis.

⁶ Officer ██████████ was not interviewed at this time, as she is currently on military leave in Iraq (Att. 41).

⁷ Att. 3

⁸ Att. 47

⁹ ██████████ was in possession of ██████████ vehicle when it was recovered on December 16, 2018 (Att. 31).

¹⁰ Approximately 4:30 and 4:43 minute marks of Att. 47.

¹¹ See Att. 31 for ██████████ Arrest Report from December 16, 2018.

█████ explained that when officers recover a stolen vehicle, they first alert OEMC and provide information. Officers then contact the AD desk via PAX and provide information to “clear” the car from hot files. Officer █████ asserted he, or another officer, completed these tasks. Officer █████ stated that in addition to the arrest, they complete a supplemental report about the recovered car and a tow report, if applicable.¹² When asked why █████ vehicle was never cleared as stolen, Officer █████ did not know, but related it is not uncommon.

Officer █████ █████

COPA interviewed Officer █████ (“Officer █████ on August 26, 2019. Officer █████ told investigators that on December 16, 2018 he assisted in the recovery of █████ vehicle. Officer █████ believed either himself or Officer █████ spoke with █████ that day. When asked about █████ Arrest Report stating the vehicle was, “cleared from AD desk at 1817hrs by █████ Officer █████ related that the AD desk is who officers contact related to vehicle recovery.^{14 15} Officer █████ related that either himself or Officer █████ contacted the AD desk and had █████ license plates cleared from the hot file. Officer █████ believed he and his partner also notified OEMC.

Officer █████ █████

COPA interviewed Officer █████ on September 13, 2019. Officer █████ told investigators that on January 25, 2019, he was on patrol with Officer █████ when their vehicle’s license plate reader reported █████ plate as stolen. The officers stopped █████ Officer █████ approached █████ with his gun in a low ready position, because car thefts often involve weapons and vehicles can also be used as a weapon. █████ told the officers her name and provided identification. The officers determined █████ was the registered owner of the vehicle. Finally, Officer █████ explained that the officers did not complete an ISR because they had probable cause to stop █████ since her car was reported as stolen. He also asserted the stop and detention were documented in a recovery case report.

Officer █████ █████

Officer █████ was interviewed by COPA on September 13, 2019. Officer █████ account of the incident was generally consistent with Officer █████ account.

Officer █████ █████

COPA interviewed Officer █████ (“Officer █████ on August 9, 2019. Officer █████ told investigators that as he approached █████ car he saw Officer █████ “make a

¹² See Att. 38 for the Recovered Vehicle Supplementary Report. In this instance, █████ vehicle was not towed.

¹³ Att. 52

¹⁴ Approximately 6:09 minute mark of Att. 52.

¹⁵ See Att. 31 for █████ Arrest Report from December 16, 2018.

¹⁶ Att. 63

¹⁷ Att. 57

¹⁸ Att. 42

quick motion,” toward ██████ car with his gun.¹⁹ Officer ██████ believed Officer ██████ saw something, so Officer ██████ unholstered his own weapon and held it, “at a 45 degree angle [...] close to [his] body, pointing towards the floor.”²⁰ Additionally, Officer ██████ related that he unholstered his gun because they were making a felony stop with a stolen vehicle, which can be dangerous.

b. Digital Evidence

Body Worn Camera (“BWC”)²¹

Collectively, BWC captures officers approaching ██████ vehicle. Some of the officers had their guns drawn. ██████ complies with the officers, is removed from her car, and is handcuffed. ██████ explains she is the vehicle’s owner. ██████ is held in the rear of a police vehicle. Officers ██████ and ██████ get into the police vehicle with ██████ and obtained ██████ information. Officer ██████ then shows ██████ the PCAD and tells her that her vehicle displays as stolen. Later, the officers get out of the car, remove ██████ uncuff her, and let her leave. Officer ██████ apologizes to ██████ explaining they responded the way they did because of recent car jackings in Chicago.

c. Documentary Evidence

ISR Report

Following a search of CPD records, No ISR was located for ██████ from January 25, 2019.

Recovery Vehicle Supplementary Reports²²

A request to CPD for a Recovery Vehicle Supplementary report from January 25, 2019 was met with negative results.

A Recovery Vehicle Supplementary Report from December 17, 2018 indicated that ██████ was notified and retrieved her vehicle from the ██████ District, and that the AD desk ██████ was notified on December 17, 2019 at approximately 9:50 AM.

Arrest Report²³

Per this report, dated December 16, 2018, ██████ vehicle was cleared from the “AD desk” by ██████ at approximately 6:17 PM.

¹⁹ Approximately 8:50 minute mark of Att. 42.

²⁰ Approximately 10:45 minute mark of Att. 42.

²¹ Att. 30

²² Atts. 72 and 38

²³ Att. 31

*OEMC Reports*²⁴

An Event Query Report ([REDACTED]) from the 16th of December 2018, indicates that a stolen vehicle was recovered following a traffic stop on.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS***Failure to "Clear" [REDACTED] Vehicle Once It Was Recovered***

The allegation that Officers [REDACTED] and [REDACTED] failed to ensure that [REDACTED] vehicle was "cleared" following the vehicle's recovery is exonerated. We find that CPD Special Order S04-03-10: *Vehicle Theft and Wanted Vehicle Procedures*, requires that the recovering officer: 1.) notify the OEMC dispatcher of the recovery, 2.) document in a report how the recovered vehicle was "cleared," and 3.) complete the applicable reports, i.e. a Recovered Vehicle Supplementary Report and/or a Vehicle Tow Report. We believe that these affirmative duties are akin to required notifications by the recovering officers and not a duty to *ensure* that the stolen

²⁴ Att. 22

vehicle is actually “cleared.” Our investigation revealed that Officers ██████ and ██████ made these notifications and completed the applicable paperwork.

First, a Recovered Vehicle Supplementary Report was completed.²⁵ Second, Officer ██████ and Officer ██████ both told COPA investigators that they alerted OEMC of the recovery of ██████ vehicle. Equally important, an OEMC Event Query Report (Event # ██████) documents the officers’ contact with OEMC. Third, with regards to documenting the manner of “clearing,” both the related Arrest Report and Recovery Vehicle Supplementary for the December 16, 2018 recovery document that the AD Desk was notified of the recovery.²⁶

In sum, because the evidence shows that Officers ██████ and ██████ actions were in substantial compliance with the requirements of CPD Special Order S04-03-10, we reached a finding of exonerated with respect to both officers.

Pointing Their Firearms

It is certain that Officers ██████ and ██████ displayed their firearms as they approached ██████ – they both told COPA investigators they approached with their firearm unholstered. It is also certain that CPD rule 38 prohibits CPD officers from the unlawful or unnecessary use or display of their weapons. In this case, we find that Officer ██████ and ██████ acted reasonable in displaying their weapons.

At the time of approach, both officers were justified in believing ██████ vehicle was stolen – available evidence shows that through no fault of Officers ██████ and ██████ law enforcement records still indicted ██████ vehicle as stolen. We also take notice of the inherently dangerous situation of approaching a stolen vehicle possibly occupied by the thief. In fact, BWC captures Officer ██████ explaining to ██████ there have been car jackings occurring in the city and that is why the officers responded in the manner that they did. BWC further shows the officers quickly holstering their weapon once they determine that ██████ is not a threat.

In consideration of this factors, we find the that officers’ approach of ██████ with their weapons drawn to be reasonable. Therefore, COPA finds this allegation is exonerated with respect to both officers.

ISR Report

During their interviews with COPA investigators, Officer ██████ and ██████ both admitted to not completing ISR reports related to their interaction with ██████ on January 25, 2019. Moreover, both officers asserted they did not need to complete an ISR because they made a probable cause stop, and not an investigatory stop, after their license plate reader returned ██████ vehicle as stolen. Contrary to the officers’ belief, CPD Special Order S04-13-09: *Investigatory Stop System* expressly requires an officer to complete an ISR for a probable cause stop when no other document captures the reason for the detention. Our investigation revealed no document capturing the reason(s) for ██████ detention.

²⁵ A vehicle tow report was not necessary as ██████ retrieved the vehicle from officers at the district office.

²⁶ “AD Desk” is CPD vernacular for the Auto Reporting Desk located at OEMC.

For these reasons, Allegation 2 against Officers ██████ and ██████ is sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer ██████

i. **Complimentary and Disciplinary History:** Problem Solving Award, 1; Emblem of Physical Fitness, 11; Attendance Recognition Award, 4; Department Commendation, 1; Honorable Mention, 83; Police Officer of the Month Award, 1; Complimentary Letter; 3; NATO Summit Service Award, 1; Police Blue Shield Award, 1; Honorable Mention Ribbon Award, 1; Life Saving Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 1. No applicable disciplinary history.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 2:** Failed to complete an Investigatory Stop Report (ISR) following ██████ stop – Violation Noted.

b. Officer ██████

c.

i. **Complimentary and Disciplinary History:** Problem Solving Award, 1; Attendance Recognition Award, 1; Emblem of Recognition – Physical Fitness; 1; Military Service Award, 1; Department Commendation, 1; Honorable Mention, 62; Police Officer of the Month Award, 1;1 Complimentary Letter, 1; Lifesaving Award, 1; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1. No applicable disciplinary history.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 2:** Failed to complete an Investigatory Stop Report (ISR) following ██████ stop – Violation Noted.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	<p>It is alleged that on December 16, 2018 at approximately 4:38 PM, at or near 5500 S. Lake Shore Drive NB, you:</p> <ol style="list-style-type: none"> Failed to ensure [REDACTED] vehicle was "cleared," per CPD Special Order S04-03-10. 	Exonerated
Officer [REDACTED]	<p>It is alleged that on December 16, 2018 at approximately 4:38 PM, at or near 5500 S. Lake Shore Drive NB, you:</p> <ol style="list-style-type: none"> Failed to ensure [REDACTED] vehicle was "cleared," per CPD Special Order S04-03-10. 	Exonerated
Officer [REDACTED]	<p>It is alleged that on January 25, 2019 at approximately 1:10 AM, at or near 2200 S. Western you:</p> <ol style="list-style-type: none"> Failed to complete an Investigatory Stop Report (ISR) following [REDACTED] Stop. 	Sustained / Violation Noted
Officer [REDACTED]	<p>It is alleged that on January 25, 2019 at approximately 1:10 AM, at or near 2200 S. Western you:</p> <ol style="list-style-type: none"> Pointed Your firearm at [REDACTED] without justification Failed to complete an Investigatory Stop Report (ISR) following [REDACTED] Stop. 	Exonerated Sustained / Violation Noted
Officer [REDACTED]	<p>It is alleged that on January 19, 2019 at approximately 1:10 AM, at or near 2200 S. Western, you:</p> <ol style="list-style-type: none"> Pointed your firearm at [REDACTED] without justification. 	Exonerated

Officer [REDACTED]		Close/Hold
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Approved:

[REDACTED]

December 19, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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