

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 22, 2019
Time of Incident:	10:30 PM
Location of Incident:	803 W. 80 th St.
Date of COPA Notification:	August 14, 2019
Time of COPA Notification:	10:11 AM

On July 22, 2019, the complainant [REDACTED] ([REDACTED]) was the subject of a traffic stop by Chicago Police Department (“CPD”) Officer [REDACTED] (“Officer [REDACTED]” and Officer [REDACTED] (“Officer [REDACTED]” during which the officers learned [REDACTED] had marijuana in his vehicle. [REDACTED] alleged that he was stopped without justification and racially profiled, and that his vehicle was damaged. After interviewing [REDACTED] and both of the accused, and reviewing available CPD records, COPA determined all allegations are exonerated, unfounded, or not sustained.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2018, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1986, Male, Black
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Date of Appointment: [REDACTED] 2017, Police Officer, [REDACTED] District, Date of Birth: [REDACTED] 1993, Male, Hispanic
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1985, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on July 22, 2019, at approximately 10:37 PM, at or near 803 W. 80 th St., you: 1. Performed a traffic stop on [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated

	2. Racially profiled [REDACTED] in violation of Rule 6 and Rule 8.	Unfounded
	3. Damaged the exterior of [REDACTED] Buick, in violation of Rule 2 and Rule 8.	Not Sustained
Officer [REDACTED]	It is alleged that on July 22, 2019, at approximately 10:37 PM, at or near 803 W. 80 th St., you:	
	1. Performed a traffic stop on [REDACTED] without justification, in violation of Rule 2 and Rule 6.	Exonerated
	2. Racially profiled [REDACTED] in violation of Rule 6 and Rule 8.	Unfounded
	3. Damaged the exterior of [REDACTED] Buick, in violation of Rule 2 and Rule 8.	Not Sustained
	4. Damaged the car radio in [REDACTED] Buick, in violation of Rule 2 and Rule 8.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

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

General Orders

- G02-01:** Human Rights and Human Resources.

Federal Laws

- Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

Municipal Laws

1. 9-40-250(b) - Driving with View Obstructed Prohibited: No person shall drive any motor vehicle upon a roadway with any object so placed in or upon the vehicle as to obstruct the driver's clear view through the windshield, except required or permitted equipment of the vehicle.

V. INVESTIGATION¹**a. Interviews**

██████████

COPA interviewed the complainant, ██████████ on August 27, 2019. ██████████ related that on July 22, 2019, he was pulled over for having a Little Trees air freshener obstructing his windshield.³ ██████████ asserted he could clearly see out of the windshield. ██████████ believed he was profiled for being an African American male driving a vintage car. The officers said they smelled marijuana and ██████████ showed them his cannabis. ██████████ was asked out of the vehicle, handcuffed, searched, his vehicle was searched, and he was taken to the police station. ██████████ told the officers he has a Concealed Carry License (“CCL”) and had a gun holstered at his waist, which the officers took and unloaded. ██████████ denied to COPA that he had 45 grams of marijuana and asserted his cannabis was for personal use.

When ██████████ retrieved his car from the auto-pound after his arrest, the radio face was removed, and items were strewn about the vehicle. ██████████ clarified that the radio panel was not removable and was torn off. Per ██████████ the vehicle’s exterior was also damaged. ██████████ further alleged that his firearm had about six rounds of ammunition, which were missing when he retrieved the vehicle.⁴

Officer ██████████

COPA interviewed Officer ██████████ on October 29, 2019. On July 22, 2019, Officer ██████████ and Officer ██████████ stopped ██████████ for obstruction of vehicle after they saw something hanging from the rearview mirror and obstructing ██████████ view. Officer ██████████ denied knowing what was obstructing the windshield prior to approaching. The officers also saw ██████████ tucking something under his car seat after they stopped him.⁶ Officer ██████████ recalled ██████████ was driving an “old-school vehicle” in “okay condition.”⁷ Officer ██████████ smelled “unburnt cannabis coming

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

² Att. 1

³ <https://www.littletrees.com/>

⁴ An allegation was not served related to ██████████ assertion that his ammunition was missing. Based on Inventory Sheets (Att. 23), one firearm and six bullets were inventoried from ██████████ arrest. The ammunition was not in the vehicle because it had been inventoried.

⁵ Att. 25

⁶ Officer ██████████ added that they found cannabis near where ██████████ made the tucking motion.

⁷ Approximately 5:33 and 5:48 minute marks of Att. 25, respectively.

from the vehicle,” and ██████ was asked to exit.⁸ The officers handcuffed and arrested ██████ because of, “the large amount of cannabis that was found in the vehicle.”⁹ Officer ██████ asked ██████ if he had a gun and when he did, the officers, “disarmed [██████] for officer safety.”¹⁰

Once at the station, the officers completed impoundment documents for ██████ car, processed his arrest, and weighed the recovered cannabis. Per Officer ██████ when cannabis is recovered, it gets weighed in its original container, without the weight of the container subtracted. Officer ██████ did not recall ██████ radio breaking or that Officer ██████ broke the radio face. Officer ██████ did not know how ██████ vehicle was damaged and recalled no damage to ██████ car. Officer ██████ related that after completing the impoundment/seizure report, he did not see ██████ vehicle again. Officer ██████ denied that he racially profiled ██████ and added that the ██████ District is, “predominately African American [...] and I’m African American myself.”¹¹

Officer ██████

Officer ██████ was interviewed by COPA on October 31, 2019. Officer ██████ and Officer ██████ performed a traffic stop on ██████ after seeing an item hanging from ██████ rearview mirror. Officer ██████ asserted he could not tell what the object was, but believed it was obstructing ██████ view. Officer ██████ denied seeing the driver, or knowing the driver was an African American male, before making the stop. Officer ██████ denied racially profiling ██████ and stated, “The ██████ District [...] is a majority African American community. And again, it’s nighttime, I couldn’t observe who was driving the vehicle [...]”¹³ Officer ██████ did not recall seeing any damage to ██████ car at this time, but related he was focused on ██████ who was making movements about the vehicle as he approached. Officer ██████ elaborated that it appeared ██████ was trying to hide something, off to his right side.¹⁴ ██████ was asked to exit because the officers could “smell fresh, unburnt cannabis coming from the vehicle.”¹⁵ ██████ told the officers he had his CCL and was armed. The officers disarmed ██████ and Officer ██████ searched ██████ car, recovering cannabis. Officer ██████ related that the ammunition was taken out of ██████ firearm on scene, and he believed it was inventoried. ██████ was handcuffed once the officers determined they were going to arrest him, due to the large amount of cannabis found and because ██████ was violating conditions of his CCL.

After returning to the police station, the officers weighed the recovered cannabis. Officer ██████ verified that this weight included the weight of the containers in which the cannabis was recovered. The officers also continued searching ██████ car, once at the station. Officer ██████ admitted that he removed the paneling from ██████ radio face. Officer ██████ denied damaging or breaking the radio. Per Officer ██████ “The reason we search these cars is because they have secret compartments, and there’s a lot of times where people will hide stuff behind paneling

⁸ Approximately 6:40 minute mark of Att. 25.

⁹ Approximately 6:58 minute mark of Att. 25.

¹⁰ Approximately 7:14 minute mark of Att. 25.

¹¹ Approximately 12:09 minute mark of Att. 25.

¹² Att. 28

¹³ Approximately 11:11 minute mark of Att. 28.

¹⁴ Per Officer ██████ the officers found cannabis between the car seats, near where ██████ was seen making a motion.

¹⁵ Approximately 6:00 minute mark of Att. 28.

[...].”¹⁶ Officer ██████ related that this particular paneling looked loose, and he did not return the paneling after removing it. Officer ██████ did not report this to anyone because the radio was not damaged. At the station, Officer ██████ did not observe any damage to ██████ car. Officer ██████ denied damaging ██████ vehicle. Officer ██████ did not believe that he performed any additional searches or interacted with the car again after his BWC concluded, at roughly 10:46 PM.

b. Digital Evidence

Body Worn Camera (“BWC”)

Officer ██████ and Officer ██████

Officer ██████ approached ██████ car on the passenger side at about 10:27 PM, and Officer ██████ on the driver’s side. As seen in Officer ██████ BWC, two Little Tree air fresheners and a white object were hanging from ██████ rearview mirror (see Photo 1), which ██████ removed shortly after. Officer ██████ told Officer ██████ that he smelled something and relocated to the driver’s side. ██████ was asked out of his vehicle, after Officer ██████ related he smelled marijuana. ██████ complied and told the officers he had a gun and a CCL. Officer ██████ removed ██████ gun from his waist and unloaded the ammunition before putting the gun in their squad car. Officer ██████ began searching inside ██████ vehicle at roughly 10:31 PM. At about 10:34 PM, Officer ██████ showed Officer ██████ a bag of marijuana from ██████ car, and Officer ██████ handcuffed ██████. Officers ██████ and ██████ escorted ██████ off, and Officer ██████ began searching inside ██████ vehicle. Officer ██████ BWC ended at about 10:36 PM, as he was searching inside ██████ car.

Officer ██████ drove off in ██████ car at approximately 10:38 PM and arrived at the ██████ District roughly one minute later. Officer ██████ was seen removing what appeared to be plastic casing from ██████ radio at about 10:40 PM, before exiting the vehicle.¹⁸ Officer ██████ was also in the police station parking lot, and both officers continued searching ██████ vehicle. At about 10:42 PM, Officer ██████ removed a black cylinder-shaped object from ██████ trunk, that apparently contained additional cannabis. Officer ██████ affixed a Vehicle Seizure Notice sticker to ██████ car, and he terminated his BWC at roughly 10:46 PM.

¹⁶ Approximately 9:38 minute mark of Att. 28.

¹⁷ Atts. 21, 22

¹⁸ This began at approximately the T03:40:20Z timestamp of Officer ██████ BWC.



Photo 1

In Car Camera (ICC)¹⁹***Beat [REDACTED] (Officer [REDACTED] and Officer [REDACTED])***

ICC for Beat [REDACTED] showed the officers driving behind [REDACTED] car at about 10:26 PM. The officers stopped [REDACTED] approximately one minute later. An officer was heard confirming [REDACTED] driver's license before they exited the squad car and approached. [REDACTED] got out of his car at roughly 10:30 PM, and Officer [REDACTED] removed a firearm from [REDACTED] waist area. Officer [REDACTED] was seen reaching into [REDACTED] car and Officer [REDACTED] performed a pat down on [REDACTED]. At about 10:32 PM, an officer was heard confirming [REDACTED] CCL over the radio. Officers [REDACTED] and [REDACTED] arrived at approximately 10:33 PM, and Officer [REDACTED] was seen searching in [REDACTED] car. At approximately 10:35 PM, [REDACTED] was handcuffed and escorted out of frame. Officers [REDACTED] and [REDACTED] continued searching [REDACTED] car. At roughly 10:38 PM, Officer [REDACTED] drove off in [REDACTED] vehicle, followed by Officer [REDACTED] in the squad car.

Officer [REDACTED] and Officer [REDACTED]²¹

The officers approached at approximately 10:33 PM, as [REDACTED] was being detained near the rear of his car. Officer [REDACTED] was searching inside [REDACTED] car while Officer [REDACTED] stood with [REDACTED]. Officer [REDACTED] handcuffed [REDACTED] shortly after. Officer [REDACTED] performed a pat down before he and Officer [REDACTED] transported [REDACTED] in their vehicle. They arrived at the police station at roughly 10:42 PM and escorted [REDACTED] inside.

Photos of [REDACTED] Car²²

[REDACTED] provided COPA with Photo 2 and Photo 3 below, reportedly of his vehicle after he retrieved it from the auto-pound following his arrest.

¹⁹ Att. 7

²⁰ Audio was not consistently available after throughout the video.

²¹ Atts. 5, 6

²² Atts. 29, 30



Photo 2



Photo 3

c. Physical Evidence

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

d. Documentary Evidence

Arrest Report - RD # [REDACTED]

[REDACTED] was charged with obstruction of driver's view and felony manufacture/delivery of cannabis. Approximately 45 grams of suspect cannabis was recovered. Officers [REDACTED] and [REDACTED] performed a traffic stop on [REDACTED] due to obstruction of view. When the officers approached, they saw [REDACTED] "moving about the vehicle as if 'attempting to conceal items' as well as a strong odor of unburnt cannabis coming from inside the vehicle." Officer [REDACTED] ordered [REDACTED] out of the car. [REDACTED] related that he had a firearm and provided his Concealed Carry License ("CCL").

²³ Att. 13

██████████ also admitted he had cannabis in his car and the officers found \$425. ██████████ was taken to the ██████████ District and placed in a one-person cell under close observation.²⁴

Tow Documentation

The Vehicle Impoundment/Seizure Report relates that ██████████ Buick was stopped for obstruction of view when the arresting officers, Officer ██████████ and Officer ██████████ “observed a strong odor of cannabis coming from vehicle.”²⁵ The officers “discovered 45 grams of suspect cannabis from vehicle.” The arresting officers reported that it was unknown if the car’s interior was damaged and that the exterior was not damaged.

Similarly, COPA obtained ██████████ Motor Vehicle Inventory, and additional relevant documents.²⁶ ██████████ vehicle was reported as having the following exterior damage when it was taken to the auto pound: front hood, front bumper, back bumper, back trunk, passenger door, passenger fender, front hood, driver-side door, and driver-side fender. No issues were reported relating to ██████████ radio. ██████████ car was released on August 7, 2019. The impound was ordered on July 23, 2019 at roughly 2:54 AM, and the tow driver signed for the vehicle at approximately 3:50 AM. When Officer ██████████ completed his investigation at about 2:55 AM, he reported that the exterior was not damaged, and it was unknown if the interior was damaged.

A notice of hearing and impounded vehicle details was obtained related to ██████████ car.²⁷ ██████████ car was impounded for unlawful drugs on July 23, 2019, with scheduled hearing date for August 5, 2019. The vehicle was impounded at 10301 S. Doty Ave.

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.

²⁴ An Original Case Incident Report was also obtained for RD # ██████████ which contained no additional, relevant content (Att. 10).

²⁵ Att. 16

²⁶ Att. 24

²⁷ Att. 33

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

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

VII. ANALYSIS

Allegation 1

Allegation 1 against Officer [REDACTED] and Officer [REDACTED] that they performed a traffic stop on [REDACTED] without justification, is exonerated. Based on all accounts, [REDACTED] did have several objects hanging from his rearview mirror. Chicago Municipal Code prohibits individuals from operating a "motor vehicle [...] with any object so placed in or upon the vehicle as to obstruct the driver's clear view through the windshield [...]." Therefore, the presence of the objects provided probable cause for the officers to make the stop. Once the officers stopped [REDACTED] they smelled cannabis and [REDACTED] admitted to possessing cannabis. Because the officers had probable cause to stop [REDACTED] this allegation is exonerated.

Allegation 2

The allegation the Officer [REDACTED] and Officer [REDACTED] racially profiled [REDACTED] is unfounded. Both officers denied that they racially profiled [REDACTED] provided no examples of bias based actions or language from the officers, and none was observed on BWC. Rather, [REDACTED] articulated a general sense that this happened to his because he is an African American. Additionally, as stated above, the officers had probable cause to stop [REDACTED] Because there is no evidence that Officer [REDACTED] and Officer [REDACTED] racially profiled [REDACTED] this allegation is unfounded.

Allegation 3

Allegation 3, that Officer [REDACTED] and Officer [REDACTED] damaged the exterior of [REDACTED] Buick is Not Sustained. The officers were not seen damaging the exterior of [REDACTED] vehicle on available video. They also denied causing said damage. [REDACTED] acknowledged that he had no first-hand knowledge of how or when the damage occurred. Further, [REDACTED] vehicle was towed and impounded, and any possible damage could have occurred after the officers left the vehicle. [REDACTED] also failed to provide COPA with any evidence that his car's exterior was damaged,

although the Motor Vehicle Tow Report did state this was the case.²⁸ Because COPA cannot confirm the vehicle was damaged, or by whom, this allegation is not sustained for both officers.

Allegation 4

Allegation 4 against Officer [REDACTED] that he damaged the car radio in [REDACTED] Buick is exonerated. Officer [REDACTED] admitted to removing the radio paneling, suspecting in may have been a compartment because it appeared to be loose. As seen in BWC, the radio face easily came off for Officer [REDACTED]. Because [REDACTED] had been arrested for cannabis possession, Officer was searching for additional cannabis, and he easily removed the radio face, this search was permissible, and the allegation is exonerated.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on July 22, 2019, at approximately 10:37 PM, at or near 803 W. 80 th St., you: <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification, in violation of Rule 2 and Rule 6. 2. Racially profiled [REDACTED] in violation of Rule 6 and Rule 8. 3. Damaged the exterior of [REDACTED] Buick, in violation of Rule 2 and Rule 8. 	Exonerated Unfounded Not Sustained
Officer [REDACTED]	It is alleged that on July 22, 2019, at approximately 10:37 PM, at or near 803 W. 80 th St., you: <ol style="list-style-type: none"> 1. Performed a traffic stop on [REDACTED] without justification, in violation of Rule 2 and Rule 6. 2. Racially profiled [REDACTED] in violation of Rule 6 and Rule 8. 3. Damaged the exterior of [REDACTED] Buick, in violation of Rule 2 and Rule 8. 	Exonerated Unfounded Not Sustained

²⁸ Att. 24

4. Damaged the car radio in [REDACTED] Exonerated
Buick, in violation of Rule 2 and Rule 8.

Approved:

[REDACTED]

January 31, 2020

Andrea Kersten
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:

Investigator:

Supervising Investigator:

Deputy Chief Administrator:

Andrea Kersten