

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

Date/Time/Location of Incident:	July 14, 2016 / Approximately 12:55pm
Date of COPA Notification:	September 14, 2017
Involved Member #1:	Sergeant (“Sgt.”) ██████████ star # ██████ employee # ██████ unit ██████, Date of Appointment: ██████████ 1998, Date of Birth: ██████████ 1973, Male, Caucasian
Involved Member #2:	Detective (“Det.”) ██████████ star # ██████, employee # ██████ unit ██████, Date of Appointment: ██████████, 2004, Date of Birth: ██████████ 1981, Male, Caucasian
Involved Member #3:	Officer ██████████ star # ██████ employee # ██████, unit ██████, Date of Appointment: ██████████, 2001, Date of Birth: ██████████, 1971, Male, Hispanic
Involved Individual #1:	██████████ Male, African American, Date of Birth: ██████████ 1989
Involved Individual #2:	██████████ Female, African American, Date of Birth: ██████████, 1991
Case Type:	4 <sup>th</sup> Amendment / False Statements

I. ALLEGATIONS <sup>2</sup>

Members	Allegation	Finding
Sgt. ██████████ Det. ██████████ Officer ██████████	On July 14, 2016, at approximately 12:55pm, at or near 315 N. Laramie Ave, Chicago, IL, the accused members committed misconduct through the following acts or omissions:  1. Arrested ██████████ without justification;	Exonerated

<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.

<sup>2</sup> COPA received a written Freedom of Information Act request from ██████████ on September 8, 2017. In that request and reiterated in his statement to COPA on December 12, 2017, ██████████ made the allegations raised in this section. ██████████ specifically alleged misconduct against the officers listed in this section.

2. Denied [REDACTED] an attorney; and/or	Unfounded
3. Made an inaccurate report (oral or written) precipitating future, false statements before a Grand Jury.	Not Sustained

**II. SUMMARY OF EVIDENCE <sup>3</sup>**

On July 14, 2016, officers assigned to the Gang Investigations Division, unit [REDACTED], curbed driver [REDACTED] ([REDACTED] and passenger [REDACTED] ([REDACTED] for failure to signal while changing lanes. The curbing of [REDACTED] vehicle arose out of an investigation triggered by information received from a registered confidential informant (“RCI”).<sup>4</sup> The RCI related that an African American male, possibly with an active warrant, illegally possessed a firearm near the 1200 block of S. Independence Blvd. Based on this information, officers from the Gang Investigations Division conducted a fixed and mobile surveillance operation. The surveillance team followed [REDACTED] after observing him exiting [REDACTED] and getting into a Jeep Cherokee with [REDACTED] Sgt. [REDACTED] (“Sgt. [REDACTED] observed [REDACTED] fail to signal while changing lanes after exiting the I-290 Expressway. Subsequently, Officer [REDACTED] (“Officer [REDACTED] and Detective (“Det.”), then officer, [REDACTED] (“Det. [REDACTED] performed a traffic on the Jeep Cherokee occupied by [REDACTED] and [REDACTED]

During the traffic stop, Det. [REDACTED] and Officer [REDACTED] smelled a strong odor of cannabis emanating from the vehicle, and observed [REDACTED] moving around and closing the glove box. [REDACTED] failed to produce a driver’s license to officers. Officers placed [REDACTED] and [REDACTED] respectively into custody. Officer [REDACTED] (“Officer [REDACTED] recovered and inventoried a rolled-up cigar containing suspect cannabis.<sup>5</sup> Officer [REDACTED] also recovered and inventoried a firearm with five live rounds from the vehicle’s glove box. Officers relocated [REDACTED] and [REDACTED] to [REDACTED]

At [REDACTED] Det. [REDACTED] and Officer [REDACTED] (“Officer [REDACTED] mirandized [REDACTED] and [REDACTED] who then each signed a CPD Advisement of Rights and Waiver.<sup>6</sup> Reportedly, [REDACTED] told the officers that he did not want to get his girlfriend ([REDACTED] in trouble for the revolver in the glove box and that he carried it on his person when he visits his uncle. [REDACTED] requested an attorney. The investigation concluded with the arrest of both [REDACTED] and [REDACTED]. A grand jury returned a true bill indictment.

Of particular importance, interviewed CPD members told investigators they observed [REDACTED] bent over in the passenger seat, and then close the glove box. The driver of the vehicle, [REDACTED] could not provide a driver’s license to Officer [REDACTED]. The officers smelled burnt

<sup>3</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases, such as this one, are summarized more succinctly in a Modified Summary Report of Investigation.

<sup>4</sup> See Attachments 6, 7, and 40.

<sup>5</sup> See Attachment 41.

<sup>6</sup> Whereby waiving their Miranda Rights and consenting to statement without an attorney.

cannabis, so they asked the passengers to exit and brought them to the rear of the vehicle. Officer ██████ recovered cannabis from the center console of the vehicle and a firearm from the glove box.<sup>7</sup> No officers observed ██████ in possession of the weapon. The officers did not inquire as to whether the firearm was legally owned by either ██████ or ██████. However, once transported to ██████ ██████ admitted to carrying the firearm for protection<sup>8</sup> and stated that he did not want his girlfriend (██████) to get in trouble for it. ██████ was charged based on his confession. Det. ██████ did not recall ██████ asking for an attorney.

Conversely, ██████ denied his confession in his letter to COPA and subsequent interview. ██████ asserted that once at the police station and in the interrogation room, officers continued asking him questions – antagonizing him and trying to trick him into stating the weapon had been his, e.g., making statements that the officers will charge both him and ██████ and asking him if he was going to let his girl go down for the gun. After a few questions, ██████ asked for an attorney. Once he asked for an attorney those officers left. Subsequently, two different officers wearing suits who he had never seen came in stating that the previous officers had said they saw him putting a revolver in the glove box. ██████ said that was a lie and he reiterated his request for an attorney. The suit-clad officers then left. Going forward, no officers or detectives questioned ██████ again. ██████ said he did not receive an attorney until he called his family from Cook County Jail and asked them to hire one.

### III. 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.

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<sup>7</sup> Det. ██████ stated that the glove box was unlocked.

<sup>8</sup> ██████ informed Det. ██████ that he carried the weapon because a friend of his was recently killed.

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. Coin*, 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.

#### IV. ANALYSIS AND CONCLUSION

##### Allegations Against Members [REDACTED] & [REDACTED]

##### *Unjustified Arrest of [REDACTED]*

In [REDACTED] letter and subsequent interview with COPA investigators, [REDACTED] seemingly does not dispute the initial stop or the set of facts that may have given rise to probable cause permitting the involved officers' search of the vehicle, i.e., the possible smell of burnt cannabis. Instead, [REDACTED] challenges the officers' decision to arrest him.

It is without dispute that [REDACTED] was a passenger in a vehicle from which a firearm was recovered. Officers recovered the firearm from an area of the vehicle within the immediate control of [REDACTED]. Additionally, the sole reason to follow and stop the vehicle was based upon an RCI's information indicated that an individual matching [REDACTED] description was possibly, and illegally, in possession of a firearm. In sum, we find these facts form sufficient probable cause to arrest [REDACTED]. Furthermore, it was also certain from the evidence that the firearm was recovered in a condition making it illegal for transport: loaded with five rounds.

In sum, for the above reasons, we find [REDACTED] allegation of unjustified arrest exonerated.

##### *Denial of an Attorney*

According to [REDACTED] own statement: (1) he did not ask for an attorney until he was at [REDACTED] (2) the first set of officers left after he asked an attorney; and (3) the subsequent set of officers that he described as wearing suits, identified as detectives by COPA from the narrative of the Detective Supplementary Report, made one statement/question before [REDACTED] again invoked his request for counsel to which they also immediately left. Additionally, COPA obtained the inventoried Advisement of Rights and Waiver, initialed and signed by [REDACTED]

[REDACTED] own statement of what occurred does not demonstrate a violation of his right to an attorney. By his own account, the officers he described left the room after he asked for an attorney. A set of detectives then entered the room. While those detectives made a statement about the officers having said he did not want to speak, [REDACTED] himself stated they left immediately after he again said he wanted an attorney.

Reviewing the totality of the evidence, emphasizing [REDACTED] own narrative, COPA concludes that no denial of an attorney transpired. Moreover, no evidence has been uncovered that

Officer ██████ participated in any questioning of ██████. Thus, COPA finds the allegation Unfounded.

***False Statement Before the Grand Jury***

██████ alleges that the officers committed perjury to the grand jury, in that, ██████ never admitted to owning the recovered firearm. ██████ basis for his perjury allegation stems from a conversation with his former attorney and that did not review grand jury transcripts or have direct knowledge of perjury whatsoever. Finally, ██████ asserted admission of owning the firearm occurred during the unrecorded questioning of ██████ by the involved officers, which gives rise to a situation of pitting the officers' creditability against ██████. Following investigation, we find there is insufficient evidence to make the required credibility determination, and therefore, ultimately any finding other than not sustained.

Additionally, the true bill indictment reveals Det. ██████ as the only witness presented to the grand jury, thus none of the accused officer were in a position to commit perjury.<sup>9</sup> Therefore, any alleged false statement could only have occurred in the involved officers' oral and/or written reporting of ██████ admission.

In sum, For the above-mentioned reasons we reached a finding of not sustained against the involved officers.

***Allegations Against Sgt. ██████***

Other than in his initial letter to COPA, ██████ never made direct allegations against Sgt. ██████ in his statement to COPA. Notwithstanding this fact, there is no evidence to suggest that Sgt. ██████ had any involvement in the search or recovery of items from ██████ vehicle or in the questioning or interviewing of ██████. In fact, other than his surveillance role of ██████ vehicle there is no evidence that Sgt. ██████ had on scene involvement in the subsequent traffic stop. According to ██████ own statement, he only recalled one white shirt clad officer on scene who he described as observing off to the side. This is supported by the Gang Supplementary Report which lists Sgt. ██████ as the only on scene supervisor. Further, the true bill indictment reveals only Det. ██████ testified on behalf of the State. Based on the totality of the evidence, there is no evidence to warrant any adverse finding for any of the allegations ██████ makes against Sgt. ██████

Approved:

████████████████████

\_\_\_\_\_  
Andrea Kersten  
Deputy Chief Investigator

February 3, 2020

\_\_\_\_\_  
Date

<sup>9</sup> See Attachment 33.

Appendix A

Assigned Investigative Staff

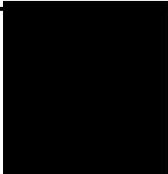
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**Squad#:**

**Investigator:**

**Supervising Investigator:**

**Deputy Chief Administrator:**



Kersten