

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 22, 2018
Time of Incident:	10:05 am
Location of Incident:	[REDACTED]
Date of COPA Notification:	August 23, 2018
Time of COPA Notification:	9:45 am

After purchasing Phencyclidine (PCP)¹ from an unidentified male on the side of a building in full view of the public, [REDACTED] entered her beige Pontiac Aztec bearing Illinois license plate [REDACTED] and drove from the location. Unbeknownst to [REDACTED] her actions were observed in real time on POD footage and her actions were reported to officers [REDACTED] and [REDACTED] (collectively “the officers”). After receiving the information, the officers located [REDACTED] driving the Aztec with [REDACTED] in the passenger seat. The officer stopped the Aztec and ordered both occupants to exit. Once [REDACTED] out of the vehicle, [REDACTED] admitted to being in possession PCP and that [REDACTED] did not possess any contraband. The officers completed a search of the vehicle, released [REDACTED] impounded the vehicle and transported [REDACTED] to the [REDACTED] District Station. Once at the district station [REDACTED] spoke with members of the Narcotics Unit, volunteered to assist them in identifying her PCP supplier, and was processed as a J. Doe.

In his statement to COPA, [REDACTED] alleged that the officer stopped the Aztec without justification, and that [REDACTED] was coerced into assisting the Department in a narcotics investigation. During our investigation, COPA determined that the stop allegation was **exonerated** and that [REDACTED] allegation of coercion was based on second-hand information and did not warrant allegations.

II. INVOLVED PARTIES

Involved Officer #1:	Officer [REDACTED] / Star # [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2015 / Unit: [REDACTED] / DOB: / Male / Hispanic.
Involved Officer #2:	Officer [REDACTED] / Star# [REDACTED] / Employee ID# [REDACTED] / DOA: [REDACTED], 2019 / Unit: [REDACTED] / DOB: / Male / Hispanic.

¹ [REDACTED] reported to the Officers that she had purchased PCP; however there is no definitive testing results to indicate the substance was in fact PCP. For ease of reading and clarity COPA is referring to the substance [REDACTED] purchased as PCP based on her own identification of the substance.

Involved Officer #3: Officer ██████████ / Star# ████████ / Employee ID# ██████████
 / DOA: ██████████, 2016 / Unit: ████████ / DOB: / Male /
 Hispanic.

Involved Individual #1: ██████████ / DOB: ██████████, 1977 / Male / Hispanic.

Involved Individual #2: ██████████ / DOB: ██████████, 1997 / Female /
 Hispanic.

III. ALLEGATIONS²

Officer	Allegation	Finding / Recommendation
Officer ██████████ ██████████	1. Stopping Mr. ██████████ and Ms. ██████████ without justification, in violation of Rule 6.	Exonerated.
Officer ██████████ ██████████	1. Stopping Mr. ██████████ and Ms. ██████████ without justification, in violation of Rule 6.	Exonerated.
Officer ██████████	1. Stopping Mr. ██████████ and Ms. ██████████ without justification, in violation of Rule 6.	Exonerated.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Prohibits disobedience to any order or directive whether written or oral.

Special Order

1. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

² During his statement to COPA, ██████████ alleged that ██████████ was coerced by unidentified Department members to assist in a controlled narcotic buy in exchange for release of her vehicle. ██████████ was clear only learned of the coercion from ██████████. However, in her statement to COPA, ██████████ was clear that she was not coerced in any way. Therefore; COPA did not serve any allegations related to ██████████ alleged coercion of ██████████

V. INVESTIGATION³

a. Interviews⁴

In a **statement to COPA**⁵ on August 30, 2018, Mr. ██████ stated he was the passenger in a vehicle with expired license plates⁶ being driven by his female companion (█████) when they were stopped by the officers. The officers approached the vehicle, explained they observed ██████ and ██████ complete a hand-to-hand transaction, ordered them to exit the vehicle. Once out of the vehicle, ██████ was arrested. ██████ explained that the officers impounded the vehicle, because narcotics were found in the vehicle. ██████ was released and ██████ and the vehicle were transported to the ██████ District Station.

After ██████ was released, ██████ learned that ██████ had spoken with officers, reached an agreement to assist the Department with an undercover narcotic buy on August 23, 2018, and that the officers would assist in returning the vehicle. ██████ told ██████ that she should not assist the Department because she was not a Department member. ██████ relayed that on August 23, 2018, ██████ met with officers, near a Pink Line CTA station and informed those officers that she would be assisting them. ██████ explained that at the time of his statement the vehicle was still impounded pending the disposition of an administrative hearing.

In a **statement to COPA**⁷ on October 23, 2019, Ms. ██████ stated that as she drove away from the outside location where she completed a narcotics transaction, she and her male companion (█████) were stopped by the officers. ██████ relayed that as the officers approached the vehicle, a beige Pontiac Aztek, ██████ was rolling drugs. The officers requested that ██████ and she exit the vehicle, both complied. ██████ explained that she admitted to the officers she had narcotics stored in her bra and the ██████ did not have any narcotics on him. After making this admission, ██████ and her vehicle were transported to the ██████ District Station and ██████ was released.

Once at the station, ██████ spoke a white male officer about assisting in identifying the person who sold her narcotics and the storage location of the narcotics. ██████ explained that she agreed to assist the officer in hopes that her vehicle would be released. After speaking to the officer, ██████ was photographed and transported to central booking. ██████ explained that she was not released from custody until 3:00 or 4:00 pm on August 23, 2018.⁸ Within three days to a week after her release ██████ was contacted by the officer and asked to meet. She agreed. Once

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ After a review of the all collected evidence, COPA determined that the accused officers' actions were proper and did not require any explanation, therefore, no officer statements were taken.

⁵ Att. 10.

⁶ An Event Query confirms the vehicle's license plate expired in May of 2017. Att. 21.

⁷ Att. 36.

⁸ The J. Doe arrest report details that a female was arrested on August 22, 2018 at 10:05 am at the exact same location as ██████ and was released at 3:55 pm without charges. Att. 27. Additionally, COPA believes that ██████ is possibly confusing this incident with other interactions with Department members. This belief is based on ██████ confusing this incident with a separate incident in which ██████ was arrested during her statement.

they met, ██████ agreed to assist in identifying the narcotics dealer and storage location; however, ██████ was unable to because ██████ was following her in his own vehicle.

██████ was clear that at no time did any Department member offer of any form of assistance to her in exchange for her cooperation and that her decision to cooperate was totally voluntary on her part and based on hopes that she would benefit from the assistance. ██████ did explain that her vehicle was released from impound with no charges and that she has had no criminal proceedings related to her arrest.

b. Digital Evidence

Body Worn Camera⁹ (BWC) footage depicts the officers stopping a beige Pontiac Aztek. Once the vehicle is stopped, the Officers approach the vehicle, order the occupants (██████ – driver, and ██████ – front seat passenger) to roll down the windows and exit the vehicle. Neither ██████ nor ██████ comply. Eventually ██████ opens the driver’s window enough for the officers to unlock and open the door. Once the doors are open, both ██████ and ██████ exit the vehicle and are placed in handcuffs. Once in handcuffs, ██████ admits to the officers she is possession of narcotics in her bra and that ██████ is not in possession of any narcotics. The officers search the vehicle, which resulted in no contraband being located. Once the search was complete ██████ and the vehicle were transported to the ██████ District Station and ██████ was released.

c. Documentary Evidence¹⁰

A **Vehicle Impoundment/Seizure Notice**¹¹ and **Vehicle Inventory Report**¹² detail that the officers stopped a beige Pontiac SUV bearing Illinois license plate ██████ for a traffic violation. The Officers were aware that the driver (██████████) had conducted a hand-to-hand transaction with an unidentified male. Additionally, ██████ admitted to the Officers that she was in possession of PCP. ██████ was taken into custody and her vehicle was impounded for containing unlawful drugs.

An **Arrest Report**¹⁴ details that on August 22, 2018 at 1005 am, a J. Doe was arrested on ██████████,¹⁵ for possession of a controlled substance, but was released without charges. The report detail that Doe was driving a beige Pontiac Aztek at the time of arrest. The report lists officers ██████████, and ██████ as the arresting officers.

⁹ Att. 27.

¹⁰ While COPA acknowledges that the Officers did not complete an Investigatory Stop Report for ██████ or ██████ it determined that the spirit of the Investigatory Stop System order was complied with. Therefore; COPA elected to no serve any allegations for the minor procedural error.

¹¹ This seizure notice is related to RD ██████. Att. 16.

¹² Att. 17.

¹³ The SUV detailed in this report is a Pontiac Aztek.

¹⁴ This arrest report is related to RD ██████. Att. 27

¹⁵ This arrest occurred at the same time, date and location as the traffic stop detailed in Atts. 16, 17, and 21.

An **Inventory Sheet**¹⁶ details that a tin-foil packet containing PCP was recovered from J. Doe.¹⁷

Narcotics Supplementary Report¹⁸ details that live POD surveillance footage captured [REDACTED] and unidentified black male engaging a in a hand-to-hand transaction near [REDACTED]. During this transaction [REDACTED] received a packaged item in exchange for United States Currency. After completing the transaction, [REDACTED] entered her vehicle, bearing Illinois license plate [REDACTED] and traveled east on 13th St. Officers [REDACTED], and [REDACTED] were informed of [REDACTED] actions, vehicle, and direction of travel. The Officers completed a traffic stop on [REDACTED] during which she admitted to possessing PCP. A female officer responded to the scene and recovered a tin foil package laced PCP from [REDACTED] bra. [REDACTED] was transported to the [REDACTED] District Stations for processing. Once at the station members of the Narcotics Team [REDACTED] were notified and [REDACTED] was released from custody without charges pending further investigation.

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

¹⁶ This inventory sheet is related to RD [REDACTED]. Att. 30.

¹⁷ Officer [REDACTED] is one to the officers who conducted the traffic stop detailed in Atts. 16, 17, and 21.

¹⁸ Att. 39.

¹⁹ This is the same license plate affixed to [REDACTED] vehicle when it was impounded, and that Officer [REDACTED] completed a LEADS inquiry on during the traffic stop in which [REDACTED] vehicle was impounded. Atts. 16, 17 and 21.

“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

COPA finds that the allegations against the officers are **exonerated**. A lawful traffic stop requires “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law.”²⁰ “Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observed and the reasonable inferences that are drawn based on the sworn member’s training and experience.”²¹ Here, ██████ was observed in real time, by Department members, completing a narcotics transaction, which she admitted to in her statement to COPA. Those observations, to include the license plate number affixed to her vehicle, were relayed to the officers. The real time observations of ██████ actions would cause any reasonable officer to believe she was engaged in criminal activity. Thus, the officers’ decision to stop ██████ vehicle was reasonable and proper. Additionally, ██████ vehicle had an expired license plate affixed to the vehicle, which also provided an independent objectively verifiable basis to stop the vehicle.²²

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████ ██████	1. Stopping Mr. ██████ and Ms. ██████ without justification, in violation of Rule 6.	Exonerated.
Officer ██████ ██████	1. Stopping Mr. ██████ and Ms. ██████ without justification, in violation of Rule 6.	Exonerated.
Officer ██████	1. Stopping Mr. ██████ and Ms. ██████ without justification, in violation of Rule 6.	Exonerated.

Approved:

████████████████████
████████████████████
████████████████████

4/30/20

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

²⁰ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

²¹ S04-13-09 II(C).

²² Based on the irrefutable evidence in this case, COPA determined it was not necessary to interview the officers.

Appendix A

Assigned Investigative Staff

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