

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 31, 2018
Time of Incident:	2:30 pm
Location of Incident:	356 W. 75 th Street, Chicago, Illinois
Date of COPA Notification:	February 20, 2019
Time of COPA Notification:	11:51 a.m.

On October 31, 2018, Officer [REDACTED] Star# [REDACTED] and Officer [REDACTED] Star# [REDACTED] both of the Chicago Police Department (CPD), approached complainant [REDACTED] and conducted a pat-down. [REDACTED] alleged that the stop was improper. COPA reviewed the complaint and has determined that the stop was lawful and proper.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star# [REDACTED] Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2013, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1985, Male, Black
Involved Officer #2:	[REDACTED] Star# [REDACTED] Employee ID# [REDACTED], Date of Appointment: [REDACTED], 2012, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1979, Male, White
Involved Individual #1:	[REDACTED], DOB: [REDACTED], 1995, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	1. On or about October 31, 2018 at 2:30 p.m. at the location of 356 W.75 th Street, Chicago, Illinois, it is alleged that Officer [REDACTED] stopped and conducted a pat-down on [REDACTED] without justification.	Exonerated

Officer [REDACTED]	<ol style="list-style-type: none"> 1. On or about October 31, 2018 at 2:30 p.m. at the location of 356 W.75th Street, Chicago, Illinois, it is alleged that Officer [REDACTED] stopped and conducted a pat-down on [REDACTED] without justification. 	Exonerated
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IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. **Rule 6:** Disobedience of an order or directive, whether written or oral.

Special Orders

1. **Special Order S04-13-09:** Investigatory Stop System

Federal Laws

1. **U.S. Constitution, 4th Amendment**

State Laws

1. **725 ILCS 5/108-1.01 (Search during temporary questioning)**

V. INVESTIGATION¹

a. Interviews

In his statement to COPA on February 21, 2019², [REDACTED] stated that on October 31, 2018, he was standing in front of a store when two officers approached him. He stated that the officers pulled up rapidly on the sidewalk, exited their car, and told him to put his hands on the car. Officers inquired as to whether he had a gun and proceeded to search him. The officers asked him if he knew why he was being stopped, to which [REDACTED] stated that he responded to the officers that he didn’t. They told him that they had received a call of a person with a gun. The officers searched him to make sure that he did not have anything and then they ran his name.

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 Attachment #8; Attachment #10

█████ then asked the officers for their badge numbers and names, which they provided. █████ stated the officers then told him he could leave.³

In his interview with COPA on May 9, 2019⁴, as a witness officer, **Officer █████** stated that on October 31, 2018 he was on-duty. He stated that he had no recollection of the incident outside of what was recorded on his Body Worn Camera (BWC) and in his Investigatory Stop Report (ISR). Officer █████ could only recall that a citizen told him that the person fitting █████ description may have a gun. Officer █████ could not recall if someone flagged the officers down or whether the information came from a confidential informant. Officer █████ stated that he approached █████ in order to conduct an investigatory stop, because he had reasonable articulable suspicion to believe that █████ had a gun, as █████ matched the description given to him by the citizen.⁵

In his interview with COPA on July 29, 2019, as an accused officer, **Officer █████** confirmed his previous statement provided to COPA on May 9, 2019.⁶

In his interview with COPA on May 16, 2019⁷, as a witness officer, **Officer █████** stated that on October 31, 2018 he was on-duty on routine patrol. He stated, however, that he had no recollection of the incident outside of what was recorded on his BWC and in the relevant ISR. He stated that he believes that Officer █████ completed the ISR. Officer █████ stated he was driving the squad car and that Officer █████ had spotted the person, who has been identified as █████, who matched the description of the suspect that they had received, so he pulled over to investigate. Officer █████ was not able to recall any additional information that was not contained in the ISR.⁸

In his interview with COPA on June 10, 2019, as an accused officer, **Officer █████** confirmed his previous statement provided to COPA on May 16, 2019.⁹

b. Digital Evidence

The Body Worn Camera (BWC) footage of both officers showed their encounter with █████ from their respective positions.¹⁰ Both officers were seen approaching █████ and talking to him about a citizen describing someone matching his description and having a gun. Officer █████ patted █████ down, and █████ presented his identification. Officer █████ provided a *make-shift*¹¹ Investigatory Stop Receipt to █████ because neither officer possessed the prescribed receipt. The encounter with █████ lasted approximately five minutes.¹²

³ Attachment #10

⁴ Attachment #17

⁵ Attachment #17

⁶ Attachment #20

⁷ Attachment #18

⁸ Attachment #4

⁹ Attachment #18

¹⁰ Attachments #12 and #13

¹¹ Handwritten not on the proper CPD form

¹² Attachments #12 and #13

c. Documentary Evidence

Investigatory Stop Report (ISR), # [REDACTED], details the encounter that the officers had with [REDACTED]. It indicates that there was reasonable articulable suspicion to conduct the stop. In the narrative portion of the report, it details that the reporting officers were notified by a concerned citizen that a subject wearing a gray sweatshirt and standing in front of a store may have a gun. The ISR further states that the reporting officers went to the location and observed [REDACTED] wearing a gray sweatshirt with a bulge in the front. The ISR further states that the officers conducted an investigatory stop and pat-down of [REDACTED], which was negative for weapons. The ISR concludes that a name check of [REDACTED] was clear.¹³

VI. ANALYSIS

A. 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.

¹³ Attachment 4

B. COPA Finds that the Allegations are Not Sustained

Investigatory stops must be analyzed under Chicago Police Department Special Order S04-13-09, which codifies the Department’s Investigatory Stop System. Per S04-13-09 (II)(C)(1), “A sworn member must possess specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is committing, is about to commit, or has committed a criminal offense.”

█████ described the interaction that he had with the officers, and his description is corroborated by what is observed on the BWCs. The officers approached █████, performed a pat-down, and then informed █████ why he was being stopped. Contemporaneously with the stop, the officers informed █████ that someone had told them that █████ may have been in possession of a gun. This statement to the officers was also documented contemporaneously with the stop. Although neither officer could recall the circumstances of the interaction with the citizen, COPA does not find that this makes the officers’ accounts less credible. In fact, the lack of recollection gives credence to the statements made on the BWC and in the ISR. Neither officer attempted to embellish the information about the *concerned citizen* in their respective statements to COPA. Six months had elapsed between the time of the stop and COPA’s interview. The stop lasted approximately five minutes. Thus, it would be highly unlikely for these officers to have recalled the incident in its entirety. COPA thus finds that their statements are credible.

COPA further finds that reasonable articulable suspicion existed for the officers to conduct the investigatory stop and pat-down to determine if █████, indeed, possessed a firearm. The officers provided █████ with a *make-shift* receipt to document the stop and subsequent search.¹⁴ COPA finds that it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but that the conduct was lawful and proper. Thus, both officers are Exonerated.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer █████	1. On or about October 31, 2018 at 2:30 pm at the location of 356 W.75 th Street, Chicago, Illinois, it is alleged that Officer █████ stopped and conducted a pat-down of █████ without justification.	Exonerated

¹⁴ Although the officers should have had the proper Investigatory Stop Receipt with them when they stopped █████, they provided █████ with all of the information that would be included on the pre-printed form. As a result, COPA concluded that an allegation was not warranted.

Officer [REDACTED]	1. On or about October 31, 2018 at 2:30 pm at the location of 356 W.75 th Street, Chicago, Illinois, it is alleged that Officer [REDACTED] stopped and conducted a pat-down of [REDACTED] without justification.	Exonerated
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Approved:



3-24-2020

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:

Investigator:

Supervising Investigator:

Deputy Chief Administrator:



Angela Hearts-Glass