

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 19, 2018
Time of Incident:	10:25 p.m.
Location of Incident:	5700 S. Morgan St., Chicago, IL 60621
Date of COPA Notification:	July 20, 2018
Time of COPA Notification:	12:24 p.m.

Complainant, [REDACTED] ([REDACTED] alleged he was unlawfully stopped by Chicago police officers while driving and that the Chicago police officers then asked him and his passenger, [REDACTED] ([REDACTED] to get out of the vehicle. [REDACTED] further alleges that the Chicago police officers conducted a pat down of him and [REDACTED] before searching his vehicle without consent. [REDACTED] and [REDACTED] were not issued any citations and were free to go after the Chicago police officers completed the stop.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED] 2012, Rank: Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED] 1979, Male, White.
Involved Officer #2:	[REDACTED] Star # [REDACTED], Employee ID # [REDACTED], Date of Appointment: [REDACTED], 2012, Rank: Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1985, Male, White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1977, Male, Black.
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1985, Male, Black.

III. ALLEGATIONS¹

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	It is alleged by [REDACTED] and [REDACTED] that on or about July 19, 2018 at approximately 10:20 p.m. at or near 5700 S.	

¹ The involved officers were not served with formal allegations.

	<p>Morgan St., Chicago, IL 60621 that [REDACTED] # [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Searching [REDACTED] and [REDACTED] without justification; and 2. Searching the vehicle driven by [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged by [REDACTED] and [REDACTED] that on or about July 19, 2018 at approximately 10:20 p.m. at or near 5700 S. Morgan St., Chicago, IL 60621 that [REDACTED] # [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Searching [REDACTED] and [REDACTED] without justification; and 2. Searching the vehicle driven by [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.²

State Laws

1. 730 ILCS 5/3-3-7: Conditions of parole or mandatory supervised release.

² “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

V. INVESTIGATION³

a. Interviews

██████████⁴

COPA investigators interviewed ██████████ on July 30, 2018. ██████████ told investigators that he had picked up his brother (██████████ his brother’s “girl,” and her kids. He was then pulled over by Chicago police officers. ██████████ presented his identification to the officers. The officers then ran his name and then came back informing ██████████ that there was a problem. The officers then asked ██████████ to get out of the car. The officers handcuffed ██████████ and then put him in a police vehicle. ██████████ informed the investigators that he uses hand controls to drive his car because he is paralyzed from the waist down. All occupants were asked to get out of the car. ██████████ was arguing with the officers. According to ██████████ a sergeant came to the scene and informed him that the police can ask occupants out of a vehicle according to some case from Pennsylvania.⁵ Officers then conducted a pat down on ██████████ and searched his car. ██████████ did not receive any citation.

██████████⁶

COPA investigators interviewed ██████████ on July 30, 2018. ██████████ told investigators that he was in his brother’s car (██████████ when the car was pulled over by Chicago police officers. The occupants were asked to get out of the car. ██████████ admitted to arguing with the police officers when they asked him to get out of the car. He did not understand why they had to get out of the car because ██████████ had given the police officers his driver’s license and insurance. After ██████████ exited the car, he was handcuffed and put in a police vehicle. After ██████████ got out of the car, the police officers searched it. ██████████ is adamant that when there is a traffic stop, it does not concern the passengers of the vehicle and the police have no right to ask for their information or ask them to get out of the vehicle. A sergeant came to speak with ██████████. The sergeant explained why he was handcuffed and detained due to the way he was acting. ██████████ was not arrested. They were free to go and neither himself nor ██████████ were issued any tickets.

b. Digital Evidence

Body Worn Camera “BWC”

The BWC footage from Officers ██████████ and ██████████ captured the traffic stop on ██████████ conducted on July 19, 2018. Generally, the footage showed that Officer ██████████ informed ██████████ that he was stopped because he was driving without wearing a seatbelt, which ██████████ did not deny. The officers then ran ██████████ information through their computer system. During the inquiry, it was discovered that ██████████ was on parole. The officers came back to the vehicle and asked that

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 Attachment 8.

⁵ It is COPA’s belief that the sergeant was referring to the case *Pennsylvania v. Mimms*, 434 U.S. 106; 98 S. Ct. 330; 54 L. Ed. 2d 331 (1977). The Supreme Court of the United States held that the order to get out of the car, issued after the driver was lawfully detained, was reasonable and thus permissible under the *Fourth Amendment*.

⁶ Attachment 13.

█████ and █████ step out of the vehicle. █████ is handicapped and cannot walk, so they needed to provide him with his wheelchair to assist him out of the vehicle. █████ was sitting in the left rear passenger seat of the vehicle directly behind █████ outright refused to step out of the vehicle. █████ was irate and uncooperative during the encounter. Prior to getting out of the vehicle, the officers noticed that █████ had a pair of scissors in his lap and seemed to be concealing something with the way he was sitting. After █████ got out of the vehicle, he was handcuffed, and the officers conducted a pat down before detaining him in a Chicago Police Department vehicle. █████ significant other was also in the car along with their two children. After all occupants were out of the vehicle, the officers conducted a search of the vehicle. The search did not uncover contraband or weapons of any kind. █████ and █████ were free to go on their way after the stop.

c. Documentary Evidence

The Chicago Police Department Investigatory Stop Report documents an investigatory stop of █████ that was conducted near 5700 S. Morgan St. on July 19, 2018, at approximately 10:20 p.m.

The Office of Emergency Management and Communications PDT Messages Report documents that █████ information was ran through LEADS by the officers on July 19, 2018, at approximately 10:21 p.m.⁷ The LEADS response indicated that █████ was on Mandatory Supervised Release (“MSR”) parole at the time of the stop.

VI. ANALYSIS

COPA recommends a finding of Exonerated for all allegations against both officers related to this incident.

The involved officers told COPA investigators that they pulled █████ over for not wearing his seatbelt. Equally important, █████ admitted, as seen on BWC, to not wearing his seatbelt, which is a traffic violation. Thus, the initial stop of █████ for not wearing his seatbelt is not in dispute and was a lawful detention.

Once a motor vehicle has been lawfully detained for a traffic violation, police officers may order the driver out of the without violating the Fourth Amendment. *Pennsylvania v. Mimms*, 434 U.S. 106, 111 n.6; 98 S. Ct. 330; 54 L. Ed. 2d 331 (1970). Asking █████ to get out of his vehicle was only a de minimis intrusion on his freedom. Additionally, In *Maryland v. Wilson*, 519 U.S. 408, 415; 117 S. Ct. 882; 137 L. Ed. 2d 41 (1997), it was held that although there is not the same basis for ordering the passengers out of the vehicle as there is for the driver, the additional intrusion on the passengers is minimal, and officers making a traffic stop may order passengers out of the vehicle pending completion of the stop. In the instant case, the officers asked █████ to get out of the vehicle. Thus, the officers ordering █████ and █████ to get out of the vehicle was permissible.

⁷ Attachment 17.

Now at issue is whether the officers acted properly in searching [REDACTED] and [REDACTED]. The Supreme Court has found that police officers are justified in conducting a limited search of an individual for weapons once the officer reasonably concluded that the individual may be armed. *Mimms*, 434 U.S. at 112.

Here, as the officers were talking with [REDACTED] and [REDACTED] was noticeably irritated and uncooperative. The BWC and documentary evidence indicates that the officers also noticed a pair of scissors in [REDACTED] lap and saw a bulge in [REDACTED] waistband. And, the BWC video shows that the officers believed [REDACTED] was perhaps concealing something because of the the way [REDACTED] was acting, how he was sitting in the vehicle, and his refusal to step out. In light of these facts, we find that another officer in same situation taking reasonable caution would have likely conducted the protective pat down on [REDACTED]. Thus, we find that the search of [REDACTED] did not amount to misconduct.

We now turn to the search of [REDACTED] and [REDACTED] vehicle. The standard conditions of MSR⁸ requires parolees to “consent to a search of his or her person, property, or residence under his or her control”, which in this case includes [REDACTED] vehicle.⁹ Additionally, the United States Supreme Court has held that parolees enjoy a greatly diminished expectation of privacy due to their status as probationers and parolees and the salient government interest in preventing recidivism and protecting society from future crimes.¹⁰ Here, per the PDT results, [REDACTED] parole status was provided to the officers prior to searching [REDACTED] vehicle. Considering [REDACTED] status as a parolee, [REDACTED] demeanor, safety considerations for the involved officers, and the resulting diminished expectation of privacy, we find that the officers did not search [REDACTED] or his vehicle without justification.

In conclusion, for the reasons outlined above, COPA recommends a finding of Exonerated for all allegations against both officers related to this incident.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	It is alleged by [REDACTED] and [REDACTED] on or about July 19, 2018 at approximately 10:20 p.m. at or near 5700 S. Morgan St., Chicago, IL 60621 that [REDACTED] # [REDACTED] committed misconduct through the following acts or omissions:	

⁸ What was referred to as “parole” in Illinois prior to February 1, 1978, is now termed “mandatory supervised release” (MSR). 730 ILCS 5/5-8-1(d) (West 2006). For clarity, Illinois defendants on MSR shall be referred to as “parolees” in this analysis.

⁹ 730 ILCS 5/3-3-7; see also the Illinois Department of Corrections’ MSR Agreement: <https://www2.illinois.gov/idoc/parole/documents/paroleormandatorysupervisedreleaseagreement.pdf>

¹⁰ *Wilson*, 228 Ill. 2d at 41 (and cases cited therein).

	<ol style="list-style-type: none"> 1. Searching [REDACTED] and [REDACTED] without justification; and 2. Searching the vehicle driven by [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>It is alleged by [REDACTED] and [REDACTED] on or about July 19, 2018 at approximately 10:20 p.m. at or near 5700 S. Morgan St., Chicago, IL 60621 that [REDACTED] # [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Searching [REDACTED] and [REDACTED] without justification; and 2. Searching the vehicle driven by [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p>

Approved:



November 23, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

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