

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 24, 2018
Time of Incident:	6:30 PM
Location of Incident:	6700 block of S. Ashland Ave., Chicago, IL
Date of COPA Notification:	October 25, 2018
Time of COPA Notification:	9:17 AM

On October 24, 2018, at approximately 6:30 PM, complainant [REDACTED] ([REDACTED]) was at or around the 6700 block of S. Ashland Ave., when he was stopped by two Chicago Police Department (“CPD”) police officers in a marked vehicle, identified as Officers Ryan Chulumovich, (“Officer Chulumovich”), Star# 4513, and Bernard Butler, (“Officer Butler”), Star# 3036, both assigned to the 7th District, for alleged traffic violations. Assisting Officers Chulumovich and Butler during the traffic stop were Sergeant Elmer Fabian, (“Sgt. Fabian”), Star# 2666, and Police Officer Carmen Mostek, (“Officer Mostek”), Star# 8664, also of the 7th District. [REDACTED] alleges that the involved CPD members stopped him for no reason, detained him in handcuffs, and searched his vehicle without cause. [REDACTED] was issued traffic violations and released at the scene.

II. INVOLVED PARTIES

Involved Officer #1:	Elmer A. Fabian, Star# 2666, Employee ID# [REDACTED], DOA: 10/10/2000, Rank: Sergeant, UOA: 7 th District, DOB: [REDACTED]1973, Male, Hispanic
Involved Officer #2	Bernard D. Butler, Star# 3036, Employee ID# [REDACTED], DOA: 11/16/2017, Rank: Police Officer, UOA: 3 rd District, DOB: [REDACTED]1989, Male, Black
Involved Officer #3	Ryan A. Chulumovich, Star# 4513, DOA: 4/25/2016, Rank: Police Officer, UOA: 7 th District, DOB: [REDACTED]1992, Male, White
Involved Officer #4	Carmen K. Mostek, Star: 8664, DOA: 7/17/2017, Rank: Police Officer, UOA: 18 th District, DOB: [REDACTED]1993, Female, White Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED]1986, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sgt. Fabian	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Sgt Fabian:</p> <ol style="list-style-type: none"> 1. Searched the vehicle of [REDACTED] without justification in violation of Rules 2,3 and 6. 	Exonerated
Officer Butler	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Butler:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification in violation of Rules 2, 3 and 6. 2. Detained [REDACTED] without justification in violation of Rules 2, 3 and 6. 3. Searched the vehicle of [REDACTED] without justification in violation of Rules 2, 3 and 6. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer Chulumovich	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Chulumovich:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification in violation of Rules 2, 3 and 6. 2. Detained [REDACTED] without justification in violation of Rules 2,3 and 6. 3. Searched the vehicle of [REDACTED] without justification in violation of Rules 2, 3 and 6. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

Officer Mostek	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Mostek:</p> <ol style="list-style-type: none"> 1. Searched the vehicle of [REDACTED] without justification in violation of Rules 2, 3 and 6. 	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. **S04-13-09:** Investigatory Stop System

Federal Laws

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

V. INVESTIGATION¹

a. Interviews

On April 22, 2019, complainant [REDACTED] gave COPA an audio recorded interview. [REDACTED] stated at approximately 6:30 PM on October 24, 2018, at or around 6700 S. Ashland Ave., his vehicle was stopped by two unidentified white male CPD officers. [REDACTED] stated the unidentified officer that approached the driver's side of the vehicle was a white male, approximately 25 years of age, 6'0", 180 lbs., dressed in plainclothes, and wearing a hat and vest. [REDACTED] stated the second unidentified CPD officer was approximately 30 years of age, 5'11", slim build, and was in uniform. [REDACTED] stated the unidentified officer at the driver's window said he was stopped because he failed to use a turn signal. [REDACTED] stated he did not use his turn signal because he was driving in the same lane until he saw the flashing lights from the CPD vehicle and pulled over. [REDACTED] stated the unidentified officer told him to lower his window. [REDACTED] stated as he put his phone down

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

to retrieve his driver's license and insurance, the unidentified officer put his hand on his weapon and told him not to go into his pockets. ██████ stated he told the officer he was getting his driver's license and insurance. ██████ stated that after giving the officer the requested documents, he was told to exit the vehicle. ██████ stated he asked the officer why he had to exit the vehicle. ██████ stated the officer opened his door, grabbed his left arm, physically forcing him from the vehicle. ██████ said he exited the vehicle because he did not want to make the situation worse. ██████ stated the officer placed him in handcuffs and searched his person. ██████ stated he felt violated because the unidentified officer grabbed his crotch area. ██████ stated more officers responded to the scene. ██████ stated the officers ransacked his vehicle. ██████ stated the officers searched the entire vehicle, pulling items apart, and broke his radio. ██████ stated the officers recovered nothing as a result of searching his vehicle. ██████ stated he was issued traffic violations from the stop and released at the scene. ██████ stated he was told by the officers at the beginning of the incident that the traffic stop was being recorded by their body worn cameras ("BWC"). ██████ stated he believed he was racial profiled because he is a black man driving a nice vehicle.²

On July 16, 2019, **accused Police Officer Carmen Mostek**, gave COPA an audio recorded interview. Officer Mostek stated on October 24, 2018, she was the passenger in the beat unit's marked CPD vehicle. Officer Mostek stated she does not recall who her partner was on that date. Officer Mostek stated on the date in question, at approximately 6:30 PM, she and her partner were at or near 6700 block of S. Ashland assisting on a traffic stop. Officer Mostek stated she does not recall the name or description of the person stopped at the location. Officer Mostek stated she had no prior contact with ██████ Officer Mostek stated that ██████ refused to exit his vehicle. Officer Mostek stated prior to being stopped, ██████ had gone several blocks before pulling over for Officers Chulumovich and Butler. Officer Mostek stated that ██████ was acting evasive, failing to follow the verbal instructions of Officer Chulumovich to exit the vehicle. Officer Mostek stated ██████ exited the vehicle once accused Sergeant Fabian arrived on scene. Officer Mostek stated she observed Officer Chulumovich perform a protective pat down of ██████ resulting in the discovery of a pocket knife. Officer Mostek stated after Officer Chulumovich received approval from Sgt. Fabian, she assisted in searching ██████ vehicle. Officer Mostek stated she searched the door panel and underneath the seat of the front passenger area in the vehicle. Officer Mostek stated she did not remove a mounted radio or force open any enclosed vents within the vehicle. Officer Mostek stated she recovered nothing from the vehicle search. Officer Mostek stated that Officer Chulumovich and Sgt. Fabian searched the driver side of ██████ vehicle. Officer Mostek stated she did not recall if ██████ was handcuffed during the search of his vehicle. Officer Mostek stated ██████ was not placed in a CPD vehicle while his vehicle was searched.³

² Attachment 9

³ Attachment 28

On July 18, 2019, **accused Police Officer Bernard Butler** gave COPA an audio recorded interview. Officer Butler stated on October 24, 2018 his partner was Officer Chulumovich. Officer Butler stated at approximately 6:30 PM, he and Officer Chulumovich were at or around 6700 S. Ashland conducting a traffic stop. Officer Butler stated the vehicle was stopped for failing to signal a lane change and running a red light. Officer Butler stated the traffic violations originally occurred at 69th and Ashland. Officer Butler stated that the CPD vehicle's overhead lights were activated at 69th and Ashland, but that the vehicle did not immediately stop until the 6700 block of S. Ashland. Officer Butler stated the driver of the vehicle, [REDACTED] made evasive actions to avoid being stopped, including disregarding a red light. Officer Butler stated he and Officer Chulumovich exited their vehicle. Officer Butler stated Officer Chulumovich, approached the driver's window of [REDACTED] vehicle. Officer Butler stated he approached the passenger side of the vehicle. Officer Butler stated given [REDACTED] evasive actions, Officer Chulumovich asked him to exit the vehicle. Officer Butler stated [REDACTED] refused. Officer Butler stated additional officers responded to the location and that [REDACTED] was again asked to exit his vehicle, but again refused. Officer Butler stated he believed [REDACTED] eventually exited the vehicle due to the increased police presence and the arrival of Sgt. Fabian on scene. Officer Butler stated because of [REDACTED] behavior, he was detained. Officer Butler stated that [REDACTED] was very agitated before exiting the vehicle. Officer Butler stated for everyone's safety, [REDACTED] was handcuffed. Officer Butler stated Officer Chulumovich conducted a protective pat down of [REDACTED] resulting in the discovery of a pocket knife. Officer Butler stated he searched, the front and rear compartments of the passenger doors, along with sides of the front and rear windows, of [REDACTED] vehicle for weapons and contraband. Officer Butler stated there were negative results from the vehicle search. Officer Butler stated [REDACTED] was issued several traffic violations and released. Officer Butler stated the traffic stop took approximately thirty minutes. Officer Butler stated an Investigative Stop Report ("ISR")⁴ was completed documenting the traffic stop.⁵

On July 19, 2019, **accused Officer Ryan Chulumovich** gave COPA an audio recorded interview. Officer Chulumovich stated on October 24, 2018, at approximately 6:30 PM, he and Officer Butler were in the 6900 block of S. Ashland when he observed complainant [REDACTED] in his vehicle commit a traffic violation. Officer Chulumovich stated as he attempted to get behind [REDACTED] he observed him make a second traffic violation in that he disregarded a traffic signal. Officer Chulumovich stated he activated his vehicle's overhead emergency lights. Officer Chulumovich stated [REDACTED] drove approximately two city blocks before stopping his vehicle in the 6700 block of S. Ashland. Officer Chulumovich stated since [REDACTED] did not stop immediately, he called for assistance, with multiple beats responding to their location. Officer Chulumovich stated he activated his BWC, exited his vehicle, and asked [REDACTED] multiple times to lower the driver's window as he approached the vehicle. Officer Chulumovich stated

⁴ Attachment 14

⁵ Attachment 30

upon arriving at [REDACTED] driver's window, he again asked him to lower the window and eventually he did. Officer Chulumovich stated he told [REDACTED] to exit the vehicle, but he refused. Officer Chulumovich stated while still inside the vehicle, [REDACTED] was moving around and putting his hands into his pockets. Officer Chulumovich stated he told [REDACTED] to remove his hands from his pockets. Officer Chulumovich stated because of [REDACTED] continued refusal to exit his vehicle, he requested a patrol supervisor to his location.

Officer Chulumovich stated Sgt. Fabian responded. Officer Chulumovich stated after giving [REDACTED] additional commands, he finally exited the vehicle. Officer Chulumovich stated [REDACTED] was handcuffed after exiting the vehicle, due to his evasive actions, and for officer safety, for the duration of the traffic stop. Officer Chulumovich stated while conducting a protective pat-down of [REDACTED] he felt a long flat object. Officer Chulumovich stated believing the object was a weapon, he went into [REDACTED] pocket and recovered a pocket knife. Officer Chulumovich stated fearing the presence of additional weapons, he conducted a search inside [REDACTED] vehicle. Officer Chulumovich stated Sgt. Fabian, who is very experienced and has received specialized training in vehicle searches, told him to be aware of the existence of hidden compartments within [REDACTED] vehicle. Officer Chulumovich stated he searched the front driver's seat area, including the center console area, the radio, cupholders, and the rear driver and passenger seat areas. Officer Chulumovich stated he also removed a CD holder from the center console area. Officer Chulumovich stated after completing his search of the vehicle, Sgt. Fabian searched the vehicle as well. Officer Chulumovich stated no items were recovered from the vehicle search. Officer Chulumovich stated [REDACTED] was issued traffic violations and released at the scene. Officer Chulumovich stated an ISR was completed documenting [REDACTED] traffic stop.⁶

On July 22, 2019, **accused Sergeant Elmer Fabian** gave COPA an audio recorded interview. Sgt. Fabian stated that at approximately 6:30 PM on October 24, 2018 he responded to an assistance call from Officers Chulumovich and Butler. Sgt. Fabian stated he could not recall if Officers Butler and Chulumovich requested a supervisor at that location. Sgt. Fabian stated upon arrival, he observed that several squad cars were already on scene. Sgt. Fabian stated he supervised and directed the work of the officers on scene during the traffic stop. Sgt. Fabian stated he observed [REDACTED] being upset, very defensive, and not wanting to exit his vehicle. Sgt. Fabian stated he observed that a pocket knife was retrieved from a pat-down of [REDACTED] Sgt. Fabian stated he then observed the officers conduct a search inside [REDACTED] vehicle. Sgt. Fabian stated the officers searched any area inside the vehicle accessible to [REDACTED] Sgt. Fabian stated nothing was recovered by the officers from the vehicle search. Sgt. Fabian stated he also searched inside the vehicle. Sgt. Fabian stated that his prior experience, and the actions of the individual being stopped, dictate whether he will search a vehicle. Sgt. Fabian stated he has received advanced training in conducting vehicle searches, examining areas inside of a vehicle where weapons or contraband could be concealed that officers might overlook. Sgt. Fabian stated

⁶ Attachment 31

██████████ was detained and handcuffed for officer safety during the traffic stop. Sgt. Fabian stated ██████████ was issued traffic violations and released at the scene.⁷

b. Digital Evidence

The BWC video of Sgt. Fabian on October 24, 2018, shows the interaction of Sgt. Fabian with ██████████ during the traffic stop. The video shows Sgt. Fabian searching ██████████ vehicle.⁸

The BWC video of Officer Butler on October 24, 2018, shows the interaction of Officer Butler with ██████████ during the traffic stop. The video shows Officer Butler searching ██████████ vehicle.⁹

The BWC video of Officer Chulumovich on October 24, 2018, shows the interaction of Officer Chulumovich with ██████████ during the traffic stop. Officer Chulumovich's BWC shows him requesting a supervisor on scene. The video shows Officer Chulumovich searching ██████████ vehicle.¹⁰

The BWC video of Officer Mostek on October 24, 2018, shows the interaction of Officer Mostek with ██████████ during the traffic stop. The video shows Officer Mostek searching ██████████ vehicle.¹¹

c. Documentary Evidence

The CPD Investigatory Stop Report, ("ISR"), No. ISR000681874, states that on October 24, 2018, at approximately 6:53 PM, complainant ██████████ driving a 2002 black/black 4DR BMW, failed to signal its lane change into the left turn lane at approximately 6905 S. Ashland. The report states as Officers Chulumovich and Butler got their marked CPD vehicle behind ██████████ he ran a yellow light, again made a lane change without signal, and proceeded northbound on Ashland. The report states that Officers Chulumovich and Butler, believing ██████████ was attempting to evade, activated their vehicle's emergency lighting, pulling behind ██████████ vehicle. The report states ██████████ took two city blocks to stop his vehicle from where Officers Chulumovich and Butler activated their emergency equipment, finally stopping in front of 6717 S. Ashland. The report states ██████████ repeatedly refused commands to lower the driver's window. When ██████████ finally lowered the driver's window, and given his suspicious behavior, he was requested to exit the vehicle. The report states ██████████ repeatedly refused to exit the vehicle but eventually complied. The report states given ██████████ suspicious behavior and refusal to comply with commands to exit the vehicle, a pat-

⁷ Attachment 34

⁸ Attachment 25

⁹ Attachment 23

¹⁰ Attachment 24

¹¹ Attachment 26

down was conducted. It further states that upon conducting the pat-down of [REDACTED] Officer Chulumovich felt a long flat object. The report states that Officer Chulumovich, believing the object to be a weapon, went into [REDACTED] front right pocket and retrieved a pocket knife. The report states Officer Chulumovich also felt what he believed to be keys and knowing keys to often have sharp edges and utility knives attached, went into [REDACTED] pocket to check for any sharp utility tools and or knives. The report states Officer Chulumovich conducted a vehicle search for additional weapons and or contraband based upon the previous circumstances of [REDACTED] refusal to comply, and the finding of a folding pocket knife. The report states the vehicle search had negative results. The report states [REDACTED] received four traffic citations and an ISR receipt.¹²

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.

1. *Traffic stop and detention of* [REDACTED]

¹² Attachment 14

As a preliminary matter, when a police officer observes a driver commit a traffic violation, the officer is justified in briefly detaining the driver to investigate the violation." *People v. Ramsey*, 362 Ill.App.3d 610 (4th Dist. 2005). A stop of a vehicle and the detention of its occupants constitutes a "seizure" under the fourth amendment. *People v. Jones*, 215 Ill.2d 261 (2005). To be constitutionally permissible, a vehicle stop must be reasonable under the circumstances, and the stop will be deemed reasonable "where the police have probable cause to believe that a traffic violation has occurred." *Ramsey*, 362 Ill. App. 3d at 615 (quoting *Whren v. United States*, 517 U.S. 806 (1996)). Both Officers Chulumovich and Butler stated, and later memorialized in the completed ISR, that ██████████ committed traffic offenses in that he failed to signal when changing lanes and ran a light. Moreover, when ██████████ did not immediately stop, the officers had probable cause to believe that he was attempting to evade or flee. Thus, it was permissible for the officers to stop and detain ██████████ for investigation.

2. Interior search of ██████████ vehicle

There are limited circumstances when a lawfully stopped vehicle may be searched without consent or a warrant. An officer can conduct a warrantless search when the occupant, or occupants, of a lawfully stopped vehicle give the officer reasonable suspicion that they are dangerous, *and* the occupants might access the vehicle to gain control of the weapons. *Michigan v. Long*, 103 S.Ct. 3469 (1983). In this instance, a search of the passenger area of the vehicle is appropriate. Under *Long*, "protective search" of the passenger compartment should be limited to the area where a weapon may be located or hidden. The search is permissible *only* when the officers possess a reasonable belief, based on specific and articulable facts and reasonable inferences from those facts, that the individual was dangerous and could gain control of a weapon. Officers Chulumovich and Butler stated in their COPA interviews and in the ISR that ██████████ attempted to evade them by failing to immediately stop his vehicle after Officer Chulumovich activated his vehicle's emergency lights, made sudden and rapid lane changes, refused to lower the driver's window upon command, continuously moved around inside his vehicle and put his hands into his pockets, and refused to exit the vehicle upon being requested by an officer.¹³ Based upon ██████████ cumulative evasive actions, the officers had reasonable articulable suspicion to believe that ██████████ presented a danger of attack to himself or others, thereby justifying a protective pat-down. Officer Chulumovich, assisted by Sgt. Fabian, and Officers Butler and Mostek, were justified in conducting a vehicle search for additional weapons and or contraband based upon the previous circumstances of ██████████ refusal to comply, and the pocket knife that was recovered during the pat down. All of the allegations against the officers are therefore exonerated.

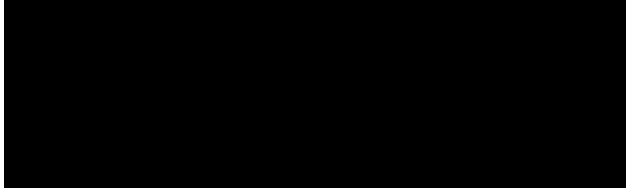
VII. CONCLUSION

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

¹³ Pursuant to *Pennsylvania v. Mims*, 434 U.S. 106 (1977), during a lawful vehicle stop, all occupants may be required to exit the vehicle.

Officer	Allegation	Finding / Recommendation
Sgt. Fabian	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Sgt Fabian:</p> <ol style="list-style-type: none"> 1. Searched the vehicle of [REDACTED] without justification in violation of Rules 1, 2 and 8. 	Exonerated
Officer Butler	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Butler:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification in violation of Rules 6 and 8. 2. Detained [REDACTED] without justification in violation of Rules 6 and 8. 3. Searched the vehicle of [REDACTED] without justification in violation of Rules 1, 2 and 8. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer Chulumovich	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Chulumovich:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification in violation of Rules 6 and 8. 2. Detained [REDACTED] without justification in violation of Rules 6 and 8. 3. Searched the vehicle of [REDACTED] without justification in violation of Rules 1, 2 and 8. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
Officer Mostek	<p>It is alleged that on or around October 25, 2018, at approximately 6:30 PM, at or near 6700 S. Ashland Ave., Officer Mostek:</p> <ol style="list-style-type: none"> 1. Searched the vehicle of [REDACTED] without justification in violation of Rules 1, 2 and 8. 	Exonerated

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

8-17-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	Mark A. Glenn
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass