

## SUMMARY REPORT OF INVESTIGATION

### I. EXECUTIVE SUMMARY

Date of Incident:	May 31, 2018
Time of Incident:	8:10 pm
Location of Incident:	████████████████████
Date of COPA Notification:	June 08, 2018 <sup>1</sup>
Time of COPA Notification:	10:38 am

Officers ██████████ # ██████ and ██████████ # ██████ responded to a call of a person with a gun in the vicinity of ██████████ OEMC described the person with a gun as a black male, between the age of ten to twelve years old, and wearing all blue. When the officers arrived near the location of incident, the officers observed ██████████ a 10-year-old boy, who matched the description. The officers attempted to detain ██████████ but he ran. After a brief foot pursuit, the officers placed ██████████ in handcuffs, searched him and detained him for approximately seventeen minutes total.<sup>2</sup> No weapons were recovered, and ██████████ was released.

### II. INVOLVED PARTIES

Involved Officer #1:	██████████, star # ██████ employee ID# ██████; Date of Appointment: ██████ 2016; Police Officer; Unit of Assignment: ██████; DOB: ██████ 1991; Gender: Male; Race: Asian.
Involved Officer #2:	██████████, star # ██████ employee ID# ██████ Date of Appointment: ██████ 2016; Police Officer; Unit of Assignment: ██████; DOB: ██████, 1988; Gender: Male; Race: Hispanic.
Involved Individual #1:	██████████; DOB: ██████, 2007; Gender: Male; Race: Black.

<sup>1</sup> COPA was made aware of this incident via news coverage from NBC 5 Chicago News. On June 8, 2018, COPA registered a complaint on behalf of ██████████

<sup>2</sup> See Timeline on Page 11 of this Summary Report of Investigation.

### III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	<ol style="list-style-type: none"> <li>1. Detained [REDACTED] without justification.</li> <li>2. Detained [REDACTED] for an excessive amount of time.</li> <li>3. Handcuffed [REDACTED] without justification.</li> <li>4. Handcuffed [REDACTED] too tightly.</li> <li>5. Directed profanities at [REDACTED]</li> <li>6. Handcuffed [REDACTED] for an excessive amount of time.</li> <li>7. Searched [REDACTED] without justification.</li> <li>8. Failed to complete an Investigatory Stop Report for [REDACTED]</li> <li>9. Failed to provide [REDACTED] with an Investigatory Stop Receipt.</li> </ol>	<p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Exonerated</p> <p>Unfounded</p> <p>Not Sustained</p>
Officer [REDACTED] [REDACTED]	<ol style="list-style-type: none"> <li>1. Detained [REDACTED] without justification.</li> <li>2. Detained [REDACTED] for an excessive amount of time.</li> <li>3. Handcuffed [REDACTED] without justification.</li> <li>4. Handcuffed [REDACTED] too tightly.</li> <li>5. Directed profanities at [REDACTED]</li> <li>6. Handcuffed [REDACTED] for an excessive amount of time.</li> </ol>	<p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Exonerated</p>

	7. Searched [REDACTED] without justification.	Unfounded
	8. Failed to complete an Investigatory Stop Report for [REDACTED]	Not Sustained
	9. Failed to provide [REDACTED] with an Investigatory Stop Receipt.	

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. Rule 1 – Violation of any law or ordinance
  2. Rule 6 – Disobedience of an order/directive whether written or oral
  3. Rule 9 – Unjustified verbal/physical altercation with person on/off duty
  4. Rule 10 – Inattention to duty.
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Special Orders

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1. Investigatory Stop System, Special Order S04-13-09
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Federal Laws

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1. Fourth Amendment to the United States Constitution
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State Laws

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1. Article I, Section 6 of the Illinois Constitution
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## INVESTIGATION<sup>3</sup>

### a. Interviews

In a statement with ██████████<sup>4</sup> on August 18, 2018, ██████████<sup>5</sup> stated that on the date of incident he was at his grandmother's (██████████) house riding his bike outside with his cousins. ██████████ was sitting on his bike talking to his cousins and his cousin's best friend when a police car pulled up. The police car did not have sirens or lights on, and ██████████ believed that the police car was going to strike him. The police car stopped, and the passenger officer stated to him, "Hey, bitch, don't move."<sup>6</sup> ██████████ ran on foot toward ██████████ house as the officers pursued him on foot in the alley.

██████████ believed the passenger officer was going to pull out a gun because his hand was on the gun, so ██████████ turned around and stopped running. The officers asked ██████████ if he saw a pre-teen with a gun. ██████████ told the officers "no," and the passenger officer handcuffed him. ██████████ stated the passenger officer handcuffed him wrongly by making the handcuffs too tight so ██████████ could not move his hand. The driver police officer was nicer and loosened the handcuffs. ██████████ stated both officers searched him by patting him down while he was handcuffed.

██████████'s cousin went to tell ██████████ what happened. A few minutes later, ██████████ approached ██████████ and the officers. The officers told ██████████ they were looking for a pre-teen boy. ██████████ got mad and stated ██████████ was not a pre-teen. ██████████ started to cry and urinated on himself because he was scared. According to ██████████ another police vehicle pulled up but left shortly afterwards. The driver officer told the passenger officer that they had to let ██████████ go because he was not a pre-teen. The driver officer took the handcuffs off ██████████ and ██████████ went inside ██████████ house.

██████████ stated his aunt, ██████████<sup>7</sup> recorded the incident. ██████████ stated he was in handcuffs for at least thirty minutes and received a mark on his hand and wrist from the handcuffs. ██████████ stated that he did not tell the officers the handcuffs were too tight.

In a statement with COPA on October 29, 2018, **Witness** ██████████<sup>8</sup> stated she was at home when she heard sirens. ██████████ observed a police car going north on Kedzie Avenue and then turn west into the alley. ██████████ jumped up and went to the alley because she knew kids,

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

<sup>4</sup> COPA sought the help of the ██████████ for assistance with interviewing ██████████. COPA reviewed the NBC video footage and understood that this was a traumatic situation for ██████████. The ██████████ has forensic interviewers who are specially trained to interview children by minimizing trauma and ensuring that children can provide an account in their own words.

<sup>5</sup> Attachments 20, 44.

<sup>6</sup> Attachment 44, Page 22, Line 22.

<sup>7</sup> Witness ██████████ stated ██████████ is not ██████████ aunt. During a telephone conversation with ██████████ she stated she witnessed and recorded the incident, but she no longer had a copy of the video. Attempts to conduct an in-person interview of ██████████ were unsuccessful.

<sup>8</sup> Attachment 26.

including ██████ were playing in the alley. The kids started to run as the police vehicle turned into the alley. ██████ went to the alley and observed that officers had ██████ in handcuffs. The officers started to pull ██████ by his arm towards their police vehicle. ██████ stated ██████ and several other kids were crying because they were afraid.

██████ asked the officers why ██████ was in handcuffs. The officers stated they got a call of a teenager dressed in all blue with a gun. ██████ told the officers that ██████ was a baby, not a teenager. ██████ then told the officers that they could look at ██████ and tell he was not a teenager. ██████ observed that ██████ had urinated on himself. ██████ asked the officers to take ██████ out of the handcuffs, but the officers repeated they were responding to a gun call. ██████ stated she could tell the handcuffs were tight on ██████'s wrists just by looking at the handcuffs on him. ██████ stated that ██████ never complained to her that the handcuffs were on too tightly. ██████ stated that during the incident, one of the officers questioned ██████ "Where the fuck are the guns at?"<sup>9</sup> ██████ stated that the incident lasted thirty minutes, or longer, and ██████ was handcuffed about five to ten minutes during that time. ██████ stated that her neighbors, ██████ and ██████<sup>10</sup> were outside and witnessed the incident.

In a statement with COPA on December 20, 2019, **Witness ██████** stated that on the date of the incident he was outside with some of his neighbors<sup>12</sup> and about ten kids, including ██████ from the neighborhood.<sup>13</sup> ██████ heard one of the kids scream, "they have little ██████ they have little ██████"<sup>14</sup> ██████ was sitting on a bench outside, stood up, and observed that the police had ██████ in handcuffs. ██████ heard the officers ask ██████ "Where's the gun? Where's the gun? Where did you hide the gun? Where's the gun at? Who has the gun?"<sup>15</sup> ██████ denied having a gun and told the officers he was only ten years old. ██████ and ██████ walked towards ██████ and the officers. ██████ stated ██████ started to cry and urinate on himself. The officers told ██████ and the neighbors to stay back. ██████ asked the officers why they were there, and the officers told ██████ they got a call of a kid, 12 -13 years of age, with a gun dressed in blue. ██████ stated there were other kids, besides ██████ outside dressed in blue. The officers eventually released ██████ and ██████ escorted ██████ away from the scene. ██████ stated the incident lasted about fifteen to twenty minutes and that ██████ was handcuffed for about fifteen minutes. ██████ also stated the incident was recorded by ██████ ██████ denied hearing the officers use any offensive language.

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<sup>9</sup> Cited at 5:02 on the Audio Interview. ██████ stated the shorter officer made this statement. According to CPD CLEAR Data Personnel Check (Attachment 38), Officer ██████ is 5'8" and Officer ██████ is 5'10." Therefore, COPA believes ██████ was referring to Officer ██████

<sup>10</sup> Attempts to conduct an in-person interview ██████ were unsuccessful. In addition, there was no contact information available to attempt to interview ██████. A personal visit to the location of incident did not produce any additional information.

<sup>11</sup> Attachment 53.

<sup>12</sup> ██████ could only recall ██████ and ██████ being present.

<sup>13</sup> ██████ stated that some of the kids were ██████ grandkids and the other kids lived in the area.

<sup>14</sup> Cited at 6:04 on the Audio Interview.

<sup>15</sup> Cited at 7:31 on the Audio Interview.

In a statement with COPA on February 6, 2019, **Accused Police Officer** ██████ stated that on the date of the incident he was working the ██████ in uniform, and partnered with Officer ██████. He had been assigned to this detail from May through August 2018, working in various police districts.<sup>17</sup> On the date of the incident, Officers ██████ and ██████ were working Beat ██████ in a marked unit and assigned to work in the ██████ District. Officers assigned to the ██████ detail were not issued body-worn camera's and thus, the incident was not captured on video. Officer ██████ was the passenger officer.<sup>18</sup> While on patrol, OEMC<sup>19</sup> dispatched a call of a male with a gun. OEMC provided the description as a black male, between the age of ten to twelve years old, wearing all blue near ██████ Avenue.

When the officers arrived, Officer ██████ observed a group of approximately eight to ten kids in a circle. Officer ██████ did not know what the kids were doing in the circle. The kids were giving their attention to ██████ who was stationary on a bike. Officer ██████ stated ██████ was the only person in the group wearing all blue. The officers pulled the police car into the alley. ██████ jumped off the bike and started running. Officer ██████ stated that ██████ was the only person who started running, while the other kids just stood there. The officers exited their squad vehicle and pursued ██████ in the alley. During the pursuit, Officer ██████ stated that either he or Officer ██████ gave ██████ verbal commands to stop running, but he could not recall who gave the command. ██████ did not follow the verbal commands. Officer ██████ was able to grab ██████'s arm and detain him. Officer ██████ stated that ██████ ran about fifteen to thirty feet from his initial location. Officer ██████ asked ██████ if he had a gun. ██████ denied having a gun. The officers handcuffed ██████ and patted him down for weapons<sup>20</sup> on his outer garments. Officer ██████ stated nothing was recovered from ██████

Officer ██████ stated that, at some point, he and Officer ██████ walked ██████ back towards their squad car because parents had started screaming and yelling. Officer ██████ did not know who exactly the parents were, but that it was a group of ten adults yelling and screaming. The officers attempted to explain the nature of the dispatch call, what they were doing, and why they were doing it. Officer ██████ recalled that during the incident Officer ██████ had requested another assist unit. Another unit arrived with two officers<sup>21</sup> but left shortly afterwards.

Officer ██████ denied the allegations made against him. Officer ██████ stated that ██████ was stopped because he fit the description reported by OEMC and because he started to run. Officer ██████ stated ██████ was handcuffed due to the nature of the call, i.e., gun possession, officer safety, and because ██████ ran when the officers arrived on the scene.

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<sup>16</sup> Attachments 43, 45.

<sup>17</sup> Officer ██████ stated he and Officer ██████ were not assigned to the same districts while working the ██████ Attachment 46, Pg. 10, Ln. 5-7.

<sup>18</sup> Both Officers ██████ and ██████ identified themselves as the passenger officer.

<sup>19</sup> Office of Emergency Management and Communication.

<sup>20</sup> Officer ██████ could not recall whether he or Officer ██████ handcuffed and patted down ██████

<sup>21</sup> Officer ██████ was unable to identify the officers.

Officer ██████ could not recall how long ██████ was in handcuffs, if he complained that the handcuffs were too tight, or his handcuffs were ever loosened during the incident. Officer ██████ stated an Investigatory Stop Report (ISR) was completed. Officer ██████ stated that after ██████ was uncuffed, he was immediately taken from the scene by the adults and he nor Officer ██████ had the opportunity to provide an ISR receipt.

In a statement with COPA on December 19, 2018, **Accused Police Officer ██████** stated he was the passenger officer. Officer ██████ provided a similar account as Officer ██████. Officer ██████ added that ██████ was walked over to their squad car<sup>23</sup> after he was handcuffed, and a protective pat-down was conducted. Officer ██████ could not recall who handcuffed ██████ but stated both he and Officer ██████ conducted a protective pat-down of him. Officer ██████ stated that ██████ was handcuffed due to the nature of the call being a person with a gun. Officer ██████ described the protective pat-down as a pat-down of ██████'s outer garments for any hard objects, to which he found none.

The officers asked ██████ if he had a weapon, but ██████ did not really answer the officers' questions. Thereafter, people from the neighborhood started to come out of their homes, upset that ██████ was being detained stating that he was a child. Officer ██████ explained to the crowd why they responded to the area and had detained ██████. At their request for assistance, another squad with plain clothed officers arrived but left quickly thereafter.<sup>24</sup> Officer ██████ stated that he did not know the officers who had arrived. "After a couple of minutes,"<sup>25</sup> ██████'s handcuffs were removed, and he was released. They left and went back to the station to conduct their paperwork.

Officer ██████ denied the allegations made against him. Officer ██████ did not recall how long ██████ was handcuffed, did not recall him complaining that he was experiencing any pain or injury. Officer ██████ stated also that he nor Officer ██████ ever re-adjusted ██████'s handcuffs. Officer ██████ stated he was unable to issue an ISR receipt because after uncuffing ██████ he and the group that had gathered left the area. Officer ██████ added the scene had become hostile and was a contributing factor to not providing the ISR receipt or obtaining basic background information about ██████.

## **b. Digital Evidence**

A request for **In-Car Camera** and **Body-Worn Camera**<sup>26</sup> footage was made with negative results.

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<sup>22</sup> Attachment 32, 46.

<sup>23</sup> Officer ██████ stated that ██████ leaned against the front of the squad car with ██████'s back towards the squad car. ██████ was facing Officer ██████ Attachment 32, Page 27, Lines 5-10.

<sup>24</sup> Shortly after radioing for assistance, Officers ██████ and ██████ radioed to dispatch to disregard the request for assistance.

<sup>25</sup> Attachment 32, Page 12, Lines 8-9.

<sup>26</sup> Attachment 17.

**Video Footage**<sup>27</sup> from NBC 5 Chicago on June 5, 2018, depicts a two-minute news clip<sup>28</sup> of the incident involving ██████████ and Officers ██████████ and ██████████. The news clip shows ██████████ dressed in a navy-blue t-shirt, blue jogging pants, and blue and red gym shoes. The jogging pants appear to have a stain in the crotch area. ██████████ faces forward while leaning against a marked police vehicle with his arms and hands behind his back. The officers then uncuff ██████████ and an unidentified black male grabs ██████████ and starts to walk away. Officers ██████████ and ██████████ faces are blurred the entire time during the footage.

## Documentary Evidence

**Investigatory Stop Report (ISR)**<sup>29</sup> dated for May 31, 2018,<sup>30</sup> is materially consistent with the interview statements of Officers ██████████ and ██████████. The ISR added that there was reasonable articulable suspicion to stop ██████████ because he matched the description, blue t-shirt and blue shorts, from the flash message and the proximity to the reported crime location. The officers performed a protective pat-down, which was not based on consent, because there was a reasonable suspicion of weapons. There were no weapons recovered.

**OEMC Event Query Report**<sup>31</sup> documents that at 20:10:06 hours,<sup>32</sup> Beat ██████████ Officers ██████████ and ██████████ reported they had one juvenile, ██████████ detained in the area of ██████████. At 20:27:11 hours, the officers Cleared and Closed the incident.

**OEMC Radio Transmissions**<sup>33</sup> on May 31, 2018, document the following calls for the incident:

- At 20:04:54 hours, a female caller, who wished to remain anonymous, reported that she was at home, ██████████ looking out her window at three black boys, between the ages of ten to twelve years old, playing with a gun in front of her house. She stated that she did not know if the gun was real or fake. She also stated that the boy that had the gun had on a blue shirt and blue shorts.
- At 20:07:36 hours, a male caller reported that a child was wiping off a gun while sitting on a log with other kids in the parking lot of ██████████.<sup>34</sup> The caller stated that the child with the gun appeared to be thirteen or fourteen years old and was wearing navy blue.

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<sup>27</sup> Attachment 4.

<sup>28</sup> Attempts to obtain the raw video footage from NBC 5 Chicago were unsuccessful, Att. 23. In addition, ██████████ stated she no longer had the video footage of the incident.

<sup>29</sup> Attachment 36.

<sup>30</sup> The ISR was created and submitted on May 31, 2018, Attachment 37.

<sup>31</sup> Attachment 6.

<sup>32</sup> 8:10 pm.

<sup>33</sup> Attachment 22.

<sup>34</sup> The distance between ██████████ to ██████████ is 0.2 miles. The distance between ██████████ is 400 feet.



- At 20:16:46 hours, a female caller reported she requested the police ten to fifteen minutes ago regarding a little boy having a gun at [REDACTED]. She stated she did not know if the gun was real or fake, but by the way the boy was wiping it off she believed it was real. The female caller stated the boy was between ten to twelve years old wearing blue shorts. She further stated the boy had put the gun in a black bookbag.<sup>35</sup>
- At 20:23:16 hours, a male caller reported that he was calling about [REDACTED]. There was a little boy, between the age of ten to twelve years old, with a gun. The male caller stated the boy was just standing there, and the police rode past the boy. The male caller stated the boy was wearing navy blue shorts with a white stripe down the middle and a black bookbag. The male caller stated the gun was in the backpack.
- At 20:39:17 hours, a caller named [REDACTED] reported at [REDACTED] in the alley, an officer had cursed and handcuffed her ten-year-old nephew. Her nephew used the bathroom on himself because he was nervous. [REDACTED] stated she had a short video footage of the officers. She further stated that the officers did not call the parent, and the officers left. She also requested for a supervisor to come to the scene.
- At 20:56:54 hours, [REDACTED] called back and stated she had been waiting over forty-five minutes for a sergeant at Roosevelt Road and Kedzie Avenue. She stated she had to go to work and her child was traumatized.

Dispatch reported<sup>38</sup> three male blacks, between the ages of ten to twelve years old, seen with a gun and passing it around. The subject with the gun was described as a black male wearing all blue in the area of [REDACTED]. The dispatcher asked for a tact unit to respond to the call. Beat [REDACTED] responded to the call.<sup>40</sup> Approximately two to three minutes later, Beat [REDACTED] requested another car to the scene and reported having one juvenile detained on Fillmore Street in the alley. Beat [REDACTED] reported that the juvenile did not have a gun, but a crowd was forming. Beat [REDACTED] stated they would respond to the scene. Beat [REDACTED] then asked the dispatcher to disregard the request for assistance. Beat [REDACTED] cleared the scene at approximately 8:27 p.m.<sup>41</sup>

### c. Additional Evidence

**Civil Suit** [REDACTED],<sup>42</sup> Plaintiff's complaint provides the same information given in [REDACTED]'s interview. The case settled in April 2019 for [REDACTED] and was subsequently dismissed, prior to any depositions being taken.

<sup>35</sup> According to OEMC Event Query, Officers [REDACTED] and [REDACTED] were already on scene when this information was provided. The officers reported having one juvenile, [REDACTED] detained at 20:10 hours.

<sup>36</sup> Caller identified as [REDACTED] on OEMC. A Thompson Reuters search identified the caller as [REDACTED]. [REDACTED] stated she wanted to consult with an attorney before providing a statement. [REDACTED] never contacted COPA. Attempts to contact [REDACTED] to see if she would be willing to cooperate were unsuccessful.

<sup>37</sup> [REDACTED] was identified through OEMC Event Query.

<sup>38</sup> Starting at approximately 23:56 on the OEMC disc.

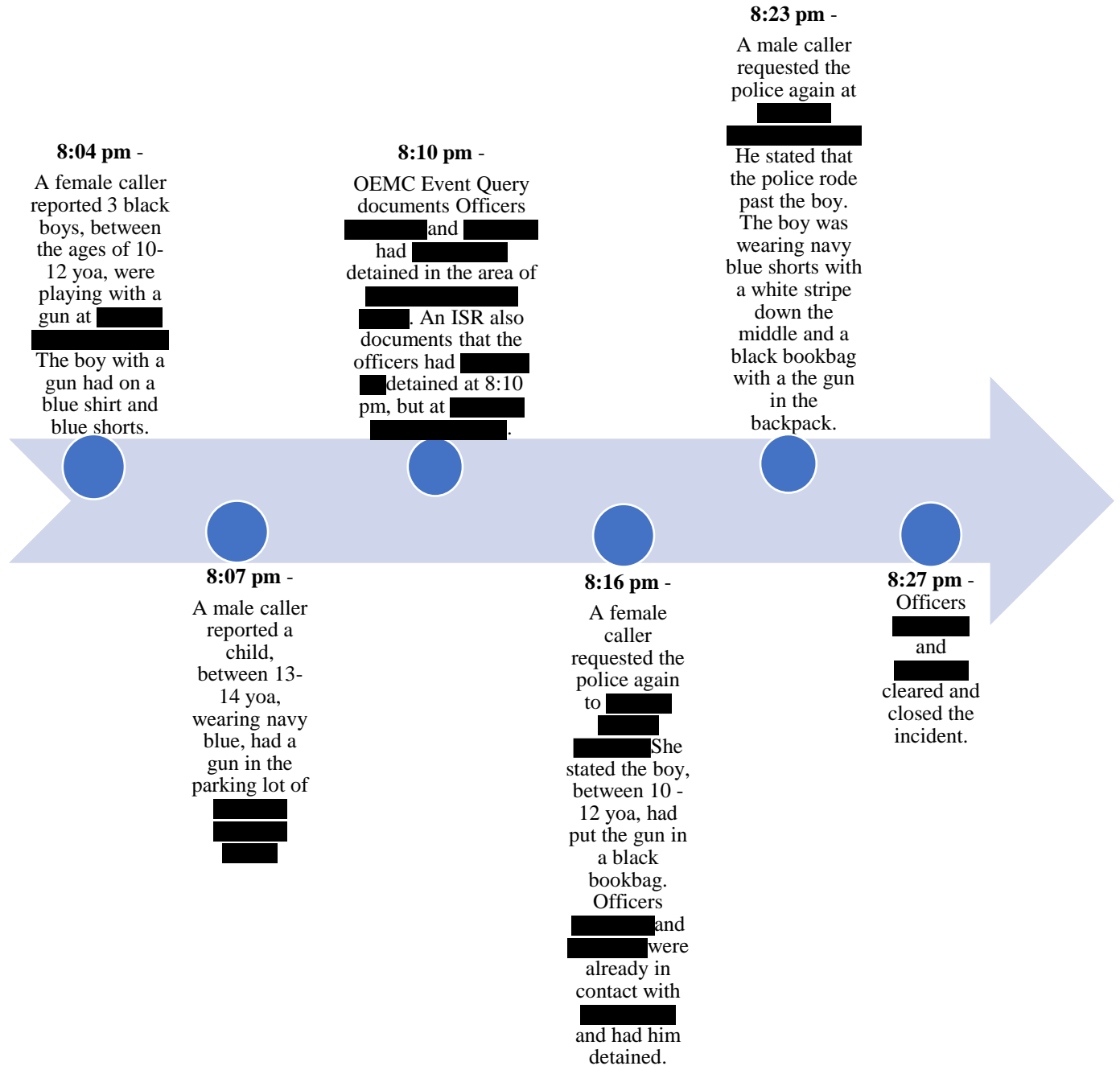
<sup>39</sup> Officer [REDACTED] and [REDACTED]

<sup>40</sup> According to an Event Query Report (Attachment 6), Beat [REDACTED] Officer [REDACTED] and [REDACTED] responded and detained [REDACTED] at approximately 8:10 p.m.

<sup>41</sup> Attachment 6, Page 3, Line 2.

<sup>42</sup> Attachment 29.

## Timeline of Events:



## V. 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 been 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

### b. Legal Analysis

COPA finds Allegation #1 against Officers ██████████ and ██████████ that ██████████ was detained without justification, to be **Exonerated**.

The Fourth Amendment of the United States Constitution and Article I, Section of the Illinois Constitution of 1970 guarantee the right of individuals to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Police-citizen encounters are categorized into three tiers: (1) an arrest of a citizen, which must be supported by probable cause; (2) a temporary investigative seizure conducted pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107-14, which must be supported by a reasonable, articulable suspicion of criminal activity; and (3) a consensual encounter, which does not implicate any constitutional interests. *People v. McDonough*, 239 Ill. 2d 260, 268 (2010).

A person is seized when a police officer “by means of physical force or show of authority, terminates or restrains [a person’s] freedom of movement through means intentionally applied.” *Brendlin v. California*, 551 U.S. 249, 254 (2007) (citations, emphasis, and internal quotation marks deleted); *See People v. Almond*, 2015 IL 113817, ¶ 57. A person is not seized unless they yield to

an assertion of authority or physical force is used to stop them. *Cal. v. Hodari D.*, 499 U.S. 621 (1991) (holding that a person who flees “upon a show of authority” is not seized).

A police officer may temporarily detain an individual for an investigatory stop when “the officer’s decision is based on specific, articulable facts which warrant the investigative stop intrusion.”<sup>43</sup> *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing *Terry v. Ohio*, 392 U.S. 1, 21, (1968)); *People v. Stewart*, 242 Ill. App. 3d 599, 605 (1993)). “The police officer must have an ‘articulable suspicion’ that the person has committed or is about to commit a crime. *Moore*, 286 Ill. App. 3d at 653 (citations omitted). An officer may not detain an individual based on mere hunches or unparticularized suspicions. *Id.* (citations omitted).

In the instant case, ██████████ was detained when Officer ██████████ grabbed ██████████’s arm. However, Officer ██████████ and ██████████ detention of ██████████ was justified as an investigatory stop under the totality of the circumstances. OEMC reports document that there was a child between the age of ten to twelve years old observed with a gun in the area of ██████████ wearing all blue. This information was communicated to Officers ██████████ and ██████████. It is unlawful for minors to possess guns in Illinois.<sup>44</sup> Furthermore, a child with a firearm clearly poses a danger to himself and others.

██████████ matched the description provided to Officers ██████████ and ██████████ by OEMC. Officers ██████████ and ██████████ observed ██████████ near the alley of ██████████, approximately 0.2 miles from ██████████ near the reported vicinity. He was wearing all blue as reported by the callers and was of the same age. In addition, COPA finds credible that ██████████ fled from a bike as Officers ██████████ and ██████████ exited their marked police vehicle and approached a group of eight to ten children. Officer ██████████ noted that the other children did not flee. ██████████ admitted that he ran from the officers. ██████████’s flight in conjunction with the report that a child between ten and twelve years old wearing all blue was recently observed with a purported gun in the area justified an investigatory stop. *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (“Headlong flight -- wherever it occurs -- is the consummate act of evasion: It is not necessarily indicative of wrongdoing, but it is certainly suggestive of such.”). Therefore, Officers ██████████ and ██████████ had reasonable, articulable suspicion that ██████████ was involved in criminal activity, and was justified under S04-13-09.

COPA finds Allegation #2 against Officers ██████████ and ██████████ that ██████████ was detained for an excessive amount of time, to be **Unfounded**.

“[A] *Terry* stop must be limited in scope and duration because it is an investigatory detention, which must be temporary and last no longer than necessary to effectuate the purpose of the stop.” *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2d Dist. 2010) (citing *Florida v. Royer*, 460 U.S. 491, 500 (1983)). Accordingly, “an arrest is distinguishable from an investigatory stop

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<sup>43</sup> See also Special Order S04-13-09.

<sup>44</sup> 720 ILCS 5/24-3.1 (“A person commits the offense of unlawful possession of firearms or firearm ammunition when: (1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person.”)

based on the length of detention and the scope of the investigation following the initial stop.” *People v. Maxey*, 2011 IL App (1st) 100011, ¶ 60 (citing *People v. Bennett*, 376 Ill. App. 3d 554, 565 (1st. Dist. 2007)).

Officers ██████ and ██████ stated that while trying to investigate if ██████ currently possessed or had possessed a firearm, they were also trying to calm a hostile crowd that had gathered upset because they had handcuffed ██████. ██████ stated the officers informed her of the reason for the stop, but she disagreed with the officers stopping ██████. ██████ stated that the incident lasted approximately thirty minutes or longer and ██████ was in handcuffs for five to ten minutes. ██████ stated he was in handcuffs for at least thirty minutes.

However, the OEMC Event Query documents that Officers ██████ and ██████ had detained ██████ at 20:10 hours and cleared and closed the incident at 20:27 hours. COPA finds the OEMC documentation to be most reliable indication of the length of the stop and thus concludes, ██████ was detained for no more than seventeen (17) minutes. Based upon the totality of the circumstances as uncovered during this investigation, COPA finds that the scope and duration of ██████’s detention was reasonable.

COPA finds Allegation #3 against Officers ██████ and ██████ that ██████ was handcuffed without justification, to be **Exonerated**.

“There are situations in which concerns for the safety of the police officer or the public justify handcuffing the detainee for the brief duration of an investigatory stop.” *People v. Arnold*, 394 Ill. App. 3d 63, 71 (2009). The critical question is whether “the use of such restraints is [] reasonably necessary for safety under the specific facts of the case.” *People v. Arnold*, 394 Ill. App. 3d 63, 71 (2d Dist. 2009). If not, “their use will indicate that the encounter should be viewed as an arrest.” *Id.*

It is undisputed that ██████ was handcuffed during the stop. Clearly, a minor with a firearm poses a genuine danger to officers, other community members, and themselves. Officers ██████ and ██████ stated that they handcuffed ██████ due to the nature of the call, ██████’s actions, and officer safety. COPA finds that handcuffing ██████ was reasonably necessary for safety under the facts of this case.

COPA finds Allegation #4 against Officers ██████ and ██████ that ██████ was handcuffed too tightly, to be **Not Sustained**. ██████ stated he never told the officers that the handcuffs were too tight. ██████ further stated that one of the officers loosened the handcuffs after he was placed in handcuffs. ██████ stated he was injured by the handcuffs, but there is no independent evidence to confirm or dispel the allegation such as medical records or photographs. Officers ██████ and ██████ denied the allegation. Therefore, there is insufficient evidence to prove the allegation by a preponderance of the evidence.

COPA finds Allegation #5 against Officers ██████ and ██████ that they directed profanities at ██████ to be **Not Sustained**. ██████ stated that one of the officers stated, “Hey bitch don’t move,” while ██████ stated the officers asked ██████ “Where the fuck are the guns at?” Officers ██████ and ██████ denied the allegation. ██████ denied hearing the officers use offensive language during the incident. The available video footage of the incident

does not capture any verbal abuse or profanities, and COPA did not find any other witnesses to corroborate or disprove ██████ and ██████'s allegations of profanity. Therefore, there is insufficient evidence to prove the allegation by a preponderance evidence.

COPA finds Allegation #6 against Officers ██████ and ██████ that ██████ was handcuffed for an excessive amount of time, to be **Sustained**. The Event Query Report documented that the incident with ██████ lasted no more than seventeen minutes. ██████ stated that ██████ was handcuffed for about five to ten minutes. As explained above, COPA finds that Officers ██████ and ██████ had discretion to handcuff ██████ during the stop while they conducted their investigation. However, once the officers failed to find a firearm after searching ██████ Jr., the officers should have quickly re-assessed and determined there was no longer a necessity to use the restraints for officer safety. Included in this re-assessment should have been the additional factor that ██████ had urinated on himself and was in public display while doing so. The officers could have displayed some level of empathy, considering the circumstances, to the fear and likely embarrassment from which ██████ was now suffering. In their interviews, the only justifications that either officer offered for using handcuffs were that it was a gun call and for officer safety. While the detention itself could have justifiably continued while the officers continued to investigate, the use of the handcuffs on a ten year-old boy was no longer reasonable and should not have continued.

COPA finds Allegation #7 against Officers ██████ and ██████ that ██████ was searched without justification, to be **Exonerated**. OEMC records document that the officers were responding to a call involving a minor with a gun. Officers ██████ and ██████ stated they conducted a protective pat-down of ██████. Therefore, Officers ██████ and ██████ searched ██████<sup>45</sup>

Officers are not permitted to conduct a limited search for weapons during every valid investigatory stop. *People v. Sorenson*, 196 Ill. 2d 425, 433 (2001). "The officer may subject the person to a limited search for weapons . . . only if the officer reasonably believes that the person is armed and dangerous." *Id.* (citation omitted). An officer's subjective belief is not determinative but is probative in determining the validity of the frisk. *Id.* Similarly, pursuant to Special Order S04-13-09 an officer "must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous and reasonably suspects that the person presents a danger of attack," before conducting a protective pat down.

As explained above, ██████ matched the description provided by dispatch of a minor with a gun. Under the circumstances, Officers ██████ and ██████ reasonably believed ██████ was armed and dangerous. Therefore, Officers ██████ and ██████ could conduct a limited protective pat-down of ██████'s person to search for weapons. There is no evidence that the search exceeded the scope of a limited protective pat-down.

COPA finds Allegation #8 against Officers ██████ and ██████ that they failed to complete an ISR for ██████ to be **Unfounded**. The officers completed an ISR and submitted the ISR on the date of the incident.

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<sup>45</sup> Officers ██████ and ██████ denied "searching" ██████ but a protective pat-down is a search.

COPA finds Allegation #9 against Officers [REDACTED] and [REDACTED] that they failed to provide [REDACTED] with an ISR receipt, to be **Not Sustained**. The officers stated they were unable to provide [REDACTED] with an ISR receipt due him leaving the scene and the hostile environment. There is no independent evidence, such as video evidence or independent witnesses, to confirm or dispel the officers' accounts. Therefore, there is insufficient evidence to prove the allegation by a preponderance evidence.

## VI. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	<ol style="list-style-type: none"> <li>1. Detained [REDACTED] without justification.</li> <li>2. Detained [REDACTED] for an excessive amount of time.</li> <li>3. Handcuffed [REDACTED] without justification.</li> <li>4. Handcuffed [REDACTED] too tightly.</li> <li>5. Directed profanities at [REDACTED]</li> <li>6. Handcuffed [REDACTED] for an excessive amount of time.</li> <li>7. Searched [REDACTED] without justification.</li> <li>8. Failed to complete an Investigatory Stop Report for [REDACTED]</li> <li>9. Failed to provide [REDACTED] with an Investigatory Stop Receipt.</li> </ol>	<p>Exonerated</p> <p>Unfounded</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Exonerated</p> <p>Unfounded</p> <p>Not Sustained</p>
Officer [REDACTED] [REDACTED]	<ol style="list-style-type: none"> <li>1. Detained [REDACTED] without justification.</li> <li>2. Detained [REDACTED] for an excessive amount of time.</li> </ol>	<p>Exonerated</p> <p>Unfounded</p>

	3. Handcuffed [REDACTED] without justification.	Exonerated
	4. Handcuffed [REDACTED] too tightly.	Not Sustained
	5. Directed profanities at [REDACTED]	Not Sustained
	6. Handcuffed [REDACTED] for an excessive amount of time.	Sustained
	7. Searched [REDACTED] without justification.	Exonerated
	8. Failed to complete an Investigatory Stop Report for [REDACTED]	Unfounded
	9. Failed to provide [REDACTED] with an Investigatory Stop Receipt.	Not Sustained

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer [REDACTED] # [REDACTED]

#### i. Complimentary and Disciplinary History

Officer [REDACTED] received: 1 2019 Crime Reduction Award, 1 Department Commendation, 13 Honorable Mention, 1 Joint Operations Award, and 1 Problem Solving Award.

Officer [REDACTED] has no disciplinary history in the past five years.

#### ii. Recommended Penalty, by Allegation

##### 1. Allegation No. 1:

COPA recommends a 30-day suspension for Officer [REDACTED]. While COPA finds officer safety sufficient justification to support the handcuffing of the child, once it was evident the child posed no threat to the officers, they should have re-assess the necessity to keep this child in restraints – had they done so, they would have removed the handcuffs. Once the officers became aware that the child was emotionally distraught and had urinated on himself, they should have removed the handcuffs. To the extent the officers were not aware of the emotional condition of the child, the psychological results he was experiencing, and/or lacked the requisite sensitivity thereto evidences a grave lack of judgement. Accordingly, COPA recommends a **30-day suspension**.



b. **Officer [REDACTED] # [REDACTED]**

**ii. Complimentary and Disciplinary History**

Officer [REDACTED] received: 1 2019 Crime Reduction Award, 1 Attendance Recognition Award, 1 Complimentary Letter, 1 Department Commendation, 2 Emblem of Recognition – Physical Fitness, 24 Honorable Mention, 1 Joint Operations Award, 1 Life Saving Award, 1 Problem Solving Award, and 1 Special Commendation.

Officer [REDACTED] has no disciplinary history in the past five years.

**iii. Recommended Penalty, by Allegation**

**2. Allegation No. 1:**

COPA recommends a 30-day suspension for Officer [REDACTED]. While COPA finds officer safety sufficient justification to support the handcuffing of the child, once it was evident the child posed no threat to the officers, they should have re-assess the necessity to keep this child in restraints – had they done so, they would have removed the handcuffs. Once the officers became aware that the child was emotionally distraught and had urinated on himself, they should have removed the handcuffs. To the extent the officers were not aware of the emotional condition of the child, the psychological results he was experiencing, and/or lacked the requisite sensitivity thereto evidences a grave lack of judgement. Accordingly, COPA recommends a **30-day suspension**.

**Training:**

COPA also recommends that both Officers [REDACTED] and [REDACTED] be subject to appropriate training to address not only how to interact and engage vulnerable individuals, but also proper police tactics associated with responding to a call for service involving a firearm. A call of a person with a gun, including one possessed by a child poses a danger to himself or herself and others. However, during the course of this investigation, there appears to be no indication that Officers [REDACTED] and [REDACTED] made any further investigative efforts to locate the gun after releasing [REDACTED]. COPA recommends the Department provide guidance to and/or additional training to Officers [REDACTED] and [REDACTED] on the importance of a thorough investigation when responding to similar matters in the future.

Approved:



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Angela Hearts-Glass  
*Deputy Chief Administration*

7-28-2020

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Date



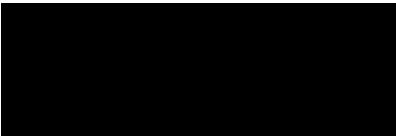
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Andrea Kersten  
*Chief Investigating Officer*

7-28-2020

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Date



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Sydney R. Roberts  
*Chief Administrator*

7-28-2020

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Date

**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Major Case Specialist:</b>	██████████
<b>Supervising Investigator:</b>	██████████
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass