

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 2, 2019
Time of Incident:	7:40 pm
Location of Incident:	10700 S Halsted St., Chicago, IL 60628
Date of COPA Notification:	January 3, 2019
Time of COPA Notification:	4:08 pm

Officers Nicholas Pocius and Brandon McDonald (collectively “the Officers”) conducted a LEADS inquiry on a white GMC van bearing Illinois license plate [REDACTED]. This inquiry revealed that the van was reported stolen to the Elk Grove Village Police Department (EGVPD) on December 7, 2018. The Officers stopped the van, arrested the driver ([REDACTED]) and transported him to 022nd District Lockup. Once at Lockup, [REDACTED] was informed of his Miranda Rights and elected to provide a statement to the Officers. During his statement, [REDACTED] explained that the van was rented by his employer. The Officers conducted further investigation. During this investigation Assistant State Attorney Chris Sullivan denied charges during Felony Review. [REDACTED] was released without charges.

On January 8, 2019, [REDACTED] provided a statement to COPA and made the allegations detailed below. COPA reviewed the related evidence and determined that allegations were **exonerated** and did not need to be addressed by the Officers.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Nicholas Pocius Star #11106 / Employee ID# [REDACTED] Date of Appointment: July 31, 2006 Unit: 007/022 Date of Birth: Male / White
Involved Officer #2:	Officer Brandon McDonald Star #19423 / Employee ID# [REDACTED] Date of Appointment: February 18, 2014 Unit: 022 Date of Birth: Male / Black
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1987 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Brandon McDonald	1. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	2. Failed to conduct a thorough investigation, in violation of Rule 6.	Exonerated.
Officer Nicholas Pocius	1. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	2. Failed to conduct a thorough investigation, in violation of Rule 6.	Exonerated.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Prohibits violation of any law or ordinance.
2. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

General Orders

1. Special Order: S06-03 – Felony Review by the Cook County State’s Attorney Office – effective April 14, 2015.

Federal Laws

- 1.

V. INVESTIGATION¹

a. Interviews

In a **statement to COPA²** on January 8, 2019, **Mr. [REDACTED]** stated he was driving a white Penske van, when he stopped by the Officers. The Officers escorted [REDACTED] from the van and handcuffed him. The Officers informed [REDACTED] he was being detained and was placed in the rear of the CPD vehicle. [REDACTED] requested to know why he was being detained; however, the Officers did not inform him why he was being detained. While in the rear of the CPD vehicle, [REDACTED] read the PDT screen and learned that the van had been reported stolen. [REDACTED] requested the Officers obtain the rental agreement from the van, but they ignored his request. [REDACTED] was transferred to a marked CPD vehicle and transported to the 022nd District.

Once at the 022nd District Station, [REDACTED] was placed in a holding cell. The Officers informed [REDACTED] of his Miranda Rights. [REDACTED] provided a statement to the Officers and denied

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 Att. 7.

the van was stolen. After speaking to the Officers, ██████ remained in the cell until 10:15 pm, when he was informed that he was being processed for theft of the van. After being processed ██████ remained in Lockup. At 2:30 am, ██████ was informed that the State Attorney's Office was conducting Felony Review. At approximately 10:15 am, ██████ was released without charges. ██████ complained that he was in custody of CPD for 15 hours and that the Officers failed to properly investigate his alleged theft of the van. ██████ acknowledged that the Officers had a job to do, but he believed they did not do it properly.

b. Digital Evidence

Body Worn Camera³ (BWC) footage depicts the Officers stopping the van ██████ was driving. Once the van was stopped, the Officers requested ██████ to exit the van and handcuffed him. The Officers explained that ██████ was being detained and asked where he obtained the van from. ██████ explains the van is used for his employment. Officer McDonald searched the van. Simultaneously, Officer Pocius searched ██████ and placed him in the rear of a CPD vehicle, while ██████ insisted the van is not stolen. Officer McDonald confirmed the Vehicle Identification Number (VIN) of the van matched the VIN listed in the LEADS inquiry of the stolen van. ██████ and the van were transported to the 022nd District Station.⁴

Once at the District, Officer Pocius advised ██████ of his Miranda Rights. ██████ acknowledged his rights and agreed to speak to the Officers without counsel. During his statement, ██████ informed the Officers that the van was rented by his employer from a Penske in Elk Grove Village and was being used for work. ██████ was insistent that he did not steal the van and requested the Officers investigate the matter.⁵

c. Documentary Evidence

Sgt. Flores' Initiation Report⁶ details that ██████ contacted CPD BIA to report an improper investigation and false arrest. Sgt. Flores' obtained this log number and provided the initiation report to COPA.⁷

A **LEADS inquiry**⁸ revealed that a white GMC truck bearing Illinois License Plate ██████ and VIN ██████ had been reported stolen on December 7, 2018 in Elk Grove Village, Illinois and entered in LEADS under tracking number V18I9035.

³ CPD provided 8 files of BWC footage, all of which depict interaction with ██████ Att. 23.

⁴ Relevant files are Pocius – 1 – AXON_Body_2_Video_2019-01-02_1942 and McDonald – 1 – AXON_Body_2_Video_2019-01-20_1942 of Att. 23.

⁵ Relevant files are Pocius – 2 – AXON_Body_2_Video_2019-01-02_2007 and McDonald – 2 – AXON_Body_2_Video_2019-01-02_2007 of Att. 23.

⁶ Att. 4.

⁷ Sgt. Flores' Initiation Report also detailed allegations from ██████ ██████ alleged that Sgt. Robert Larson was rude to him when he asked questions about ██████ arrest while at the 022nd District Station. BIA issued a separate Log Number 1092264 and retained jurisdiction. COPA's investigation is limited the facts and circumstances of ██████ arrest.

⁸ Pg. 9 of Att. 18 and Pg. 2 of Att. 17.

██████████ **Arrest Report**⁹ details that he was driving a white GMC van, bearing Illinois License Plate ██████████ and VIN ██████████, when the Officers conducted a LEADS inquiry on the license plate of the van and discovered it was stolen. The Officers stopped ██████████ arrested and transported him to the 022nd District. Upon arrival at the District, ██████████ was advised of his Miranda Rights, and agreed to speak to the Officers. While speaking to the Officers, ██████████ explained that the van was rented by his employer. The Officers contacted the Penske Agent ██████████ to confirm the van was in fact stolen. Agent ██████████ confirmed the van was stolen and that ██████████ was not listed as an authorized driver on the Rental Agreement. ██████████ was processed for receiving/possessing/selling a stolen vehicle. Further, the report details that at 9:33 am on January 3, 2019, during Felony Review, ASA Sullivan declined charges. Finally, the report details ██████████ was arrested at 7:45 pm, entered 022nd District Lockup at 10:10 pm, and was release from Lockup without charges at 9:50 am on January 3, 2019.

An **EGVPD Case Report**¹⁰ details that on December 7, 2018, Penske Rental reported a white GMC van bearing Illinois license plate ██████████ and VIN ██████████ as stolen. EGVPD entered the van as stolen into LEADS under tracking number V18I9035.

VI. ANALYSIS

COPA recommends a finding of **exonerated** for all the allegations made against the Officers. An officer must have probable cause to arrest a subject.¹¹ “Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest.”¹² The officer’s subjective belief is not determinative; rather probable cause is an objective standard.¹³ Additionally, S06-03 (V)(A)(1)(b), (3) in part, requires a “Department member conducting the preliminary investigation ... to notify and confer with an assistant state’s attorney assigned to the Felony Review Unit when seeking approval for a felony charge...” related to “Motor Vehicle Theft.”

Here, the Officers has probable cause to arrest ██████████ based on (1) EGVPD entering the van into LEADS as stolen; (2) the LEADS inquiry revealing the van was stolen; (3) confirmation that the VIN on the van matched the VIN on the LEADS entry and (4) ██████████ possession of the van. This information would lead any reasonable officer to believe that ██████████ was in possession of a stolen van. Additionally, after the Officers arrested ██████████ they contacted the ASA assigned to Felony Review, as required by policy and detailed in the arrest report; therefore, the Officers complied with department policy.

Because the Officers’ actions are clearly proper and lawful, there was no need for them to respond to any allegations.

⁹ Att. 10.

¹⁰ Att. 24.

¹¹ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

¹² *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517, 526 (1st Dist. 2003).

¹³ *People v. Chapman*, 194 Ill. 2d 186, 218-19, (2000).

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Brandon McDonald	1. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
	2. Failed to conduct a thorough investigation, in violation of Rule 6.	Exonerated.
Officer Nicholas Pocius	1. Arrested Mr. [REDACTED] without justification, in violation of Rule 1.	Exonerated.
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Ap [REDACTED]

9/30/20

James Murphy-Aguilu
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	2
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	James Murphy-Aguilu