

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 1, 2020
Time of Incident:	1:45 pm
Location of Incident:	1621 South Ridgeway Avenue
Date of COPA Notification:	August 2, 2020
Time of COPA Notification:	4:15 pm

Two officers stopped the complainant for operating his vehicle without a front registration plate in violation of MCC § 9-76-160. The complainant provided the officers with his driver’s license. The officers’ police vehicle was not equipped with a portable data terminal (PDT), and they transmitted the complainant’s license number by radio to a police communications operator in the Office of Emergency Management and Communications (OEMC). The operator entered the license number into the Law Enforcement Automated Data System (LEADS). After viewing the relevant LEADS data, the operator concluded the complainant was the target of an active arrest warrant and informed the officers. They handcuffed the complainant and placed him in custody. The complainant disputed the validity of the warrant and informed the officers that he was a former member of the Illinois General Assembly. He also told officers his handcuffs were too tight. The officers inspected the handcuffs and determined they were properly fastened. The officers transported the complainant to the police station, where they discovered he was not in fact the target of a warrant and the information they had received from OEMC was incorrect. The officers immediately released the complainant. The next day, he wrote to the Civilian Office of Police Accountability (COPA) and raised allegations of prolonged detention and improper handcuffing.

II. INVOLVED PARTIES

Involved Officer #1:	Ashley McGhee, Star No. 15594, Employee No. [REDACTED], Appointed December 17, 2018, Police Officer, Unit 025, DOB: [REDACTED] 1993, Female, White
Involved Officer #2:	Mariah Rosito, Star No. 6732, Employee No. [REDACTED], Appointed December 17, 2018, Police Officer, Unit 008, DOB: [REDACTED], 1997, Female, Hispanic
Involved Individual #1:	[REDACTED] Born 1940, Male, Black



## V. INVESTIGATION

### a. Interviews

██████████—the complainant in this matter—gave a statement to COPA on August 11, 2020.<sup>1</sup> According to Mr. ██████████, shortly before 1:00 PM on August 1, 2020, he was traveling in his personal vehicle near the intersection of 18th Street and North Ridgeway Avenue. A police vehicle signaled for Mr. ██████████ to stop, and he did so. Two officers (Officer McGhee and Officer Rosito) exited the police vehicle and approached Mr. ██████████. The officers informed Mr. ██████████ that he did not have a front license plate. Mr. ██████████ immediately showed the officers the title to his vehicle, his registration papers, his insurance, and his driver's license. Mr. ██████████ told the officers that he knew his vehicle's front license plate was missing. He explained the front plate had come off and noted that the registration for his rear plate was current. He added that he was traveling to a dealership to purchase a new vehicle.

Officer McGhee stated she needed to conduct a check on Mr. ██████████'s license. She took his information and returned to the police vehicle with her partner. About five minutes passed. While he waited in his vehicle, Mr. ██████████ used his mobile phone to contact his wife. He asked her to bring the missing plate to the scene, as his residence was a short distance from where he stopped.

Around the time Mr. ██████████ ended the call to his wife, the officers reappeared and ordered him to exit his vehicle. Mr. ██████████ asked the officers to explain why they had asked him to exit his vehicle. Officer McGhee answered that she had discovered an active warrant for Mr. ██████████'s arrest. Mr. ██████████ protested, saying he had no warrants. The officer advised Mr. ██████████ that he had a traffic warrant for failure to appear. Mr. ██████████ stated that there were no outstanding traffic warrants against him and noted that he had not received any tickets for several years.

The officers again ordered Mr. ██████████ to exit his vehicle. He complied but continued to dispute the validity of the warrant. He also informed the officers that he is a former member of the Illinois General Assembly. Mr. ██████████ suggested the warrant may be for his son, whose name is similar to his own. He explained the younger Mr. ██████████ had succeeded him in the General Assembly and may have received a ticket in a down-state county while traveling between Chicago and the capital.

The officers instructed Mr. ██████████ to turn around and place his hands behind his back. Mr. ██████████ complied, and Officer McGhee placed him in handcuffs. The officers asked Mr. ██████████ if his vehicle contained any contraband or weapons. Mr. ██████████ answered that there was nothing illegal in his vehicle but volunteered that he had a concealed carry license. He also informed the officers he was carrying a small pocketknife. Officer McGhee conducted a pat-down and located the knife. She removed the knife from Mr. ██████████'s person and placed it in the glovebox of his vehicle. Around this time, Mr. ██████████'s mobile phone began to ring. Mr. ██████████ asked the officers to answer his phone. Officer McGhee removed the phone from Mr. ██████████'s person but refused to answer it. She advised Mr. ██████████ that she would return his phone to him at the station. She gave the phone to Officer Rosito and ordered her to drive Mr. ██████████'s vehicle to the station.

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<sup>1</sup> See att. 02, Statement of ██████████ (Aug. 11, 2020).

Officer McGhee placed Mr. ██████ in the rear of the police vehicle. As she did so, Mr. ██████ informed her at least twice that the handcuffs were painful. Each time, the officer responded that she would adjust the handcuffs at the station. The officer entered the police vehicle and began driving to the 10th District Police Station. Early in the trip, Mr. ██████ realized the officer was traveling away from the station and offered directions on how to reach it. Once the officer began traveling in the right direction, Mr. ██████ informed her that he “was going to just shut [his] mouth [and] remain silent because she[] [was] not hearing anything that [he] asked her to do.”<sup>2</sup> Mr. ██████ remained silent until he and the officer arrived at the station.

Once inside the station, Mr. ██████ demanded to speak to a watch commander and stated that he was a former State Representative. The officers escorted Mr. ██████ into the lockup area where Department personnel removed his handcuffs and took away his belt, his money clip, his wallet, and his shoes. The officers placed him in a jail cell and went through his belongings. While Mr. ██████ waited in the cell, he heard his mobile phone ring. Mr. ██████ believed the call was most likely from his wife and asked Officer Rosito to answer the phone. Officer Rosito ignored him. Mr. ██████ then asked a lockup keeper to answer his phone and inform his wife that he was in police custody. The lockup keeper did so.

Approximately fifteen minutes passed. Another officer, Lieutenant Hernandez, came into the lockup area. The lieutenant apologized to Mr. ██████ and informed him that he would be released. He told Mr. ██████ that the target of the arrest warrant shared Mr. ██████’s name but had different biographical identifiers. He explained the police vehicle assigned to Officer McGhee and Officer Rosito was not equipped with a portable data terminal (PDT), and, as a result, the officers were unable to compare Mr. ██████’s biographical identifiers with those of the target. He noted, however, that the officers would have learned of the discrepancy if they had asked OEMC operator to confirm that Mr. ██████’s personal identifiers matched those of the subject of the warrant. Lieutenant Hernandez returned Mr. ██████’s belongings and escorted him out of the lockup area. He then informed Mr. ██████ that he was free to leave. Mr. ██████ located his vehicle and left.

Mr. ██████ felt distressed by his experience and, later in the day, he returned to the station to get additional clarification about the incident. He again spoke with Lieutenant Hernandez, who explained Officers McGhee and Rosito did not have access to a PDT when they stopped Mr. ██████. Mr. ██████ also informed the lieutenant he was experiencing wrist pain as a result of being placed in handcuffs. The lieutenant offered to drive Mr. ██████ to a hospital, but Mr. ██████ declined the offer. The lieutenant then informed Mr. ██████ that, if he wished to make a complaint, he could do so through COPA. The following day, Mr. ██████ sought treatment for his wrist in the emergency room of a hospital. He also returned to the station for a third time to request the names and badge numbers of the officers who stopped him. A sergeant provided the information, and Mr. ██████ filed a complaint with COPA on August 2, 2020.

**Officer Rosito gave a statement to COPA on September 29, 2020, and Officer McGhee gave a statement to COPA on November 6, 2020.**<sup>3</sup> The statements of both officers were largely corroborative of Mr. ██████’s narrative of the incident, but they provided several clarifying details.

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<sup>2</sup> *Id.* at 08:45.

<sup>3</sup> *See* att. 14(a)–14(e), Statement of Officer Rosito, Parts 1–5 (Sept. 29, 2020); att. 15, Statement of Officer McGhee (Nov. 06, 2020).

According to the officers, on the date of the incident, they were on routine patrol and observed a vehicle with a missing front license plate. The officers stopped the vehicle and approached the driver, now identified as Mr. [REDACTED]. Officer McGhee informed Mr. [REDACTED] that his front plate was missing and asked for his driver's license and proof of insurance. Mr. [REDACTED] provided these materials, and she returned to her police vehicle.

Inside the police vehicle, Officer McGhee gave Officer Rosito Mr. [REDACTED]'s license number. However, the officers' police vehicle was not equipped with a functional computer or PDT. As a result, Officer Rosito used her radio to contact an OEMC operator. She provided the operator with the license number but did *not* provide Mr. [REDACTED]'s name. The operator conducted a search of the license number in the Law Enforcement Automated Data System (LEADS) and informed the officers that the driver had a warrant. Officer Rosito replied, "He has a warrant?"<sup>4</sup> The operator confirmed, "Yes. For failure to appear for [REDACTED]."<sup>5</sup> The officers then contacted their supervisor, Sergeant Spisak, to confirm they should place Mr. [REDACTED] in custody. The sergeant responded affirmatively.

At that point, the officers exited their police vehicle and approached Mr. [REDACTED]. They informed him that he was the target of an arrest warrant. Mr. [REDACTED] disputed the validity of the warrant and informed the officers he was a State Representative. The officers asked Mr. [REDACTED] to exit his vehicle, and he did so. They escorted him to their police vehicle, and Officer McGhee placed him in handcuffs. While placing Mr. [REDACTED] in handcuffs, Officer McGhee "was consciously aware of making sure [the handcuffs] weren't too tight."<sup>6</sup> Specifically, she inserted her pinky finger between the edge of the handcuffs and Mr. [REDACTED]'s wrist. Officer Rosito also inspected the handcuffs and, based on her training, believed there was enough space between Mr. [REDACTED]'s wrists and edges of the handcuffs to satisfy the pinky finger test.

The officers asked Mr. [REDACTED] if he had any weapons or contraband in his vehicle. Mr. [REDACTED] stated there was nothing illegal in his vehicle but disclosed that he had a concealed carry license. Upon learning of the concealed carry license, Officer Rosito conducted a search to ensure Mr. [REDACTED]'s weapon was not in his vehicle. She restricted the scope of her search to only those parts of the vehicle which were in plain view, and she did not open any of the vehicle's "compartments."<sup>7</sup>

Officer McGhee placed Mr. [REDACTED] in the rear of the police vehicle. Once Mr. [REDACTED] was seated, he asked Officer McGhee to loosen his handcuffs. Officer McGhee stated she would remove the handcuffs at the police station. Mr. [REDACTED] replied, "Okay."<sup>8</sup> Officer McGhee then drove Mr. [REDACTED] to the 10th District Police Station, and Officer Rosito followed her in Mr. [REDACTED]'s vehicle.

At the station, Officer McGhee accessed a computer and discovered that, although LEADS indicated there was an active arrest warrant for a person with Mr. [REDACTED]'s name, there were significant discrepancies between the personal identifiers of the target and those of Mr. [REDACTED]. In

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<sup>4</sup> Att. 15 at 12:45.

<sup>5</sup> *Id.* at 12:50.

<sup>6</sup> *Id.* at 17:00.

<sup>7</sup> Att. 14(b) at 12:00.

<sup>8</sup> Att. 15 at 18:10.

light of these discrepancies, Officer McGhee concluded that Mr. ██████ was not in fact the target of the warrant. The officer communicated this information to her colleagues and they released Mr. ██████.

### b. Documentary Evidence

**COPA obtained a copy of the Arrest Report from this incident.**<sup>9</sup> This document provides, in relevant part:

“[W]hile on patrol, [Officer McGhee and Officer Rosito] conducted a traffic stop on above vehicle due to mcc violation 9-76-160(d). [Officers] performed . . . driver’s license check on above subject via leads via radio. Dispatch confirmed ██████ had an active warrart [*sic*] for failure to appear. [Officers] arrested subject . . . and brought subject to 010 for further processing. Upon further investigation in 010, name check via LEADS confirmed warrant to be active under LEADS # ██████ on an individual with the same name, but different birth year. [Officers] released above subject without charging.”<sup>10</sup>

**COPA obtained copies of an “Event Query Report” and “Number Plate Search Results” from OEMC.**<sup>11</sup> **Officer Rosito also provided an “Event History Table” from the city’s automated dispatch system (PCAD).**<sup>12</sup> These documents establish that, at approximately 01:38 PM on the date of the incident, a police communications operator conducted a search of Mr. ██████’s driver’s license number. The search results reveal an active arrest warrant for a person with the name “██████████.” However, these same results also make clear that there are several discrepancies between the personal identifiers of the person named in the arrest warrant and those of the complainant: *i.e.*, the data shows the two men have different birthdates, heights, and weights.<sup>13</sup>

**COPA obtained a copy of Mr. ██████’s medical records.**<sup>14</sup> These documents establish that, on the day following the incident, Mr. ██████ admitted himself as a patient in the emergency room of Rush University Medical Center. Medical staff examined Mr. ██████’s wrist and performed X-rays. The radiologist found there was no acute fracture or dislocation of Mr. ██████’s hand or wrist but noted “degenerative changes.”<sup>15</sup> A physician’s assistant diagnosed Mr. ██████ with acute wrist pain and prescribed ibuprofen.

## VI. STANDARDS OF PROOF

For each Allegation COPA must make one of the following findings:

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<sup>9</sup> See att. 10, Arrest report of ██████ (Aug. 01, 2020).

<sup>10</sup> *Id.* at pg. 2.

<sup>11</sup> See att. 12, Name plate search results; att. 18, OEMC Event Query Report.

<sup>12</sup> See att. 17, PCAD printout from Officer Rosito (Aug. 01, 2020).

<sup>13</sup> See *id.* at pg. 2 (giving the complainant’s birth year as 1950, his height as 5’11”, and his weight as 170lbs, and giving the warrant target’s birth year as 1986, his height as 6’2”, and his weight as 186lbs).

<sup>14</sup> See att. 16, Medical records of ██████ (Sept. 25, 2020).

<sup>15</sup> *Id.* at pg. 9.

- (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.

**Preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>16</sup> 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 satisfied.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but less demanding than “proof-beyond-a-reasonable-doubt” that applies in criminal cases.<sup>17</sup> 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.”<sup>18</sup>

## VII. ANALYSIS AND CONCLUSION

### a. There Is Clear And Convincing Evidence That The Detention of Mr. ██████ Was Lawful.

Mr. ██████ claimed the accused officers subjected to him to a prolonged detention without justification. The facts underlying this allegation are not in dispute: the officers stopped Mr. ██████ for operating his vehicle without a front registration plate, and Mr. ██████ acknowledged the plate was missing. Operating a vehicle without a front registration plate violates local law; therefore, the officers had a lawful basis to initiate the stop. During the stop, the officers took Mr. ██████’s license to check whether there were any warrants for his arrest. Because the officers lacked access to a functional PDT, they transmitted the license number—a unique identifier that is associated with Mr. ██████ and no one else—to an OEMC operator and requested that she perform the appropriate check. The operator entered the license number in LEADS, examined the relevant data, and concluded Mr. ██████ was the target of an active arrest warrant. She informed the officers, who placed Mr. ██████ in custody and transported him to the nearest police station. At the station, the officers accessed a computer and discovered that, although Mr. ██████ and the person named in the arrest warrant shared the same name, the two men had different birthdates, heights, and weights. The officers concluded Mr. ██████ was not the same person as the target, and they immediately released him.

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<sup>16</sup> 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 is found to be more probably true than not).

<sup>17</sup> See, e.g., *People v. Coan*, 2016 Ill. App. 2d 151036 (2016).

<sup>18</sup> *Id.*, ¶ 28.

It is well established that police officers may not prolong the duration of a traffic stop beyond what is reasonably required to complete their “mission.”<sup>19</sup> However, courts have made clear that, in the context of a traffic-stop, the officers’ “mission” extends not only to the investigation of the precise traffic violation that precipitated the stop, but also a small range of “permissible, ordinary inquiries.”<sup>20</sup> These inquiries include “checking the driver’s license [and] determining whether there are outstanding warrants against the driver.”<sup>21</sup> Additionally, officers may expand the scope of a traffic detention to other criminal matters when “supported by reasonable suspicion.”<sup>22</sup>

The application of these standards to the conduct of Officers McGhee and Rosito weighs in favor of exoneration: the officers restricted the scope of their actions to addressing Mr. ██████’s traffic violation and checking his license for outstanding warrants. These actions are within the bounds of the category of police activities that courts have recognized as permissible in the traffic-stop context.

Finally, COPA finds the officers were not responsible for the initially erroneous determination that Mr. ██████ was the target of an arrest warrant. The officers provided a unique identifier to the OEMC operator who conducted the check. As a result, they had no reason to believe the operator might return information related to anyone other than the person associated with that identifier. While this incident raises troubling questions about the adequacy of Departmental protocols for conducting name-checks through OEMC, COPA concludes the officers acted reasonably in placing Mr. ██████ in custody based on the totality of the information that was available to them at the time. For these reasons, **Allegation #1 against Officer McGhee and Allegation #1 against Officer Rosito are exonerated.**

**b. There Is Insufficient Evidence To Determine Whether The Officers Properly Applied Handcuffs On The Complainant.**

Mr. ██████ claimed that, when he informed officers his handcuffs were causing him to experience pain, they failed to make appropriate adjustments. His medical records indicate that, while he did not sustain any fractures or other serious injuries from the handcuffs, he was still experiencing pain in his wrists the day after his arrest occurred.

For their part, both officers acknowledged that Mr. ██████ told them his handcuffs were too tight. However, they stated that, when Mr. ██████ spoke of his discomfort, they made a visual inspection and confirmed there was room for them to insert a pinky finger between the edge of the handcuffs and Mr. ██████’s wrists. The officers claimed this “pinky finger test” is the appropriate gauge for determining whether handcuffs are properly applied. However, COPA has been unable to confirm this point in any Departmental publications. Additionally, it does not appear the officers made any attempt to communicate to Mr. ██████ that they had inspected the handcuffs.

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<sup>19</sup> *People v. Cassino*, 2019 Ill. App. 1st 181510, ¶ 61 (2019)).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* (quoting *Rodriguez v. United States*, 135 S. Ct. 1609, 1615 (2005)).

<sup>22</sup> *Id.*



reflect this reality and minimize the extent to which officers defer to civilian staff in gathering or interpreting information that is ultimately used to justify police actions.

COPA’s investigation of the incident in this case has raised significant concerns about whether current directives adequately articulate how officers should conduct name-checks during traffic stops (especially when PDTs are unavailable).<sup>23</sup> The Department should consider changes to the relevant directives that more clearly (1) acknowledge the possibility that, even when officers use unique identifiers to conduct name-checks, law enforcement databases may return inaccurate warrant information; and (2) instruct officers to verify that a subject’s personal information (including his or her name, date of birth, and physical characteristics) corresponds to the information that appears in any warrants which are associated with the subject.<sup>24</sup>

Approved:



January 29, 2021

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Andrea Kersten  
*Chief of Investigative Operations*

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Date

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<sup>23</sup> See, e.g., Special Order S04-13-09; Special Order S04-14-05.

<sup>24</sup> COPA will continue to monitor its cases for related issues and—depending on their prevalence—may revive this matter and refer it to the Policy Research and Development team for further study.

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	06
<b>Investigator:</b>	Joshua Hock
<b>Supervising Investigator:</b>	Steffany Hreno
<b>Deputy Chief Administrator:</b>	Andrea Kersten