

SUMMARY REPORT OF INVESTIGATION

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| Date/Time/Location of Incident: | September 13, 2018/at approximately 2:59 pm/at or near 630 E. 95 th St. |
| Date/Time of COPA Notification: | January 17, 2019/at approximately 4:33 pm. |
| Involved Officer #1: | Lawrence Kerr, star # 4871, employee ID# [REDACTED], Date of Appointment March 26, 2002, rank PO, Unit of Assignment 312 on date of incident, DOB [REDACTED], 1978, Male, White. |
| Involved Officer #2: | Enrique A. Delgado Fernandez, star # 6261, employee ID# [REDACTED], Date of Appointment October 31, 2012, rank PO, Unit of Assignment 312 on date of incident, DOB [REDACTED], 1984, Male, WWH. |
| Involved Individual #1: | [REDACTED] DOB [REDACTED], 1977, Male, Black. |
| Case Type: | False Arrest/False Charges-[REDACTED] |

I. ALLEGATIONS

| Officer | Allegation | Finding |
|-----------------------------------|---|----------------|
| Officer Lawrence Kerr | 1. It is alleged that on September 13, 2018, at approximately 2:59 pm, at or near 630 W. 95 th St., Officer Lawrence Kerr arrested [REDACTED] without justification. | UNFOUNDED |
| Officer Enrique Delgado Fernandez | 1. It is alleged that on September 13, 2018, at approximately 2:59 pm, at or near 630 W. 95 th St., Officer Enrique Delgado Fernandez arrested [REDACTED] without justification. | UNFOUNDED |
| | 2. It is alleged that on September 13, 2018, at approximately 2:59 pm, at or near 727 E. 111 th St., Officer Enrique Delgado Fernandez falsely charged [REDACTED] with U UW-Weapon-Felon, Possess/Use Firearm. | UNFOUNDED |

II. SUMMARY OF EVIDENCE

Narrative summary:

On December 26, 2018, Mr. ██████████ incarcerated at Cook County Jail, sent a letter to COPA asking for assistance.¹ On April 4, 2019, at approximately 2:00 pm, Mr. ██████████ was subsequently interviewed at the Cook County Jail. In his letter, during his interview, and in subsequent letters, he stated that he was charged with “Felon possession of a firearm” but would be absolved of the crime if the court would view the relevant body-worn camera and dash cam footage.² Mr. ██████████ alleged that he was falsely arrested and falsely charged. The evidence, however, told a different story and brought Mr. ██████████ credibility into question.

In his statement to COPA, Mr. ██████████ explained that on September 13, 2018, at approximately 2:59 pm, he was walking in an alley on his way to see a girl named ██████████³ Suddenly, a red vehicle pulled up behind him and a police vehicle pulled up in front of him, almost simultaneously. Then, a group of black male individuals, dressed in all black, exited the red vehicle with one holding a firearm.⁴ When investigators asked how many individuals were in the vehicle, he first said about a dozen, and when that number was questioned, he changed it to four or three, then finally decided on four.⁵ The men ran, as did Mr. ██████████ who claimed he was afraid of the firearm. Mr. ██████████ was chased by a police officer, captured, then handcuffed and put inside a police vehicle.

However, according to Officer Enrique Delgado Fernandez and Officer Lawrence Kerr, the officers became aware of a recent call of shots fired.⁶ CPIC (Crime Prevention and Information Center) relayed that they were monitoring the direction of flight of the of the offender’s vehicle using GPS trackers from stolen cell phones, and pinpointed them in a stopped position near 95th and Langley Ave.⁷ The officers entered an alley, observed a red vehicle and announced their office to a man, now known as ██████████ who hunched over the front of the vehicle while removing its front license plate.⁸ The startled Mr. ██████████ fled to the driver’s side door and attempted to get inside; but then pulled out a firearm, which he threw inside the open driver’s side door, discarded a screwdriver, and then fled. Officer Delgado Fernandez gave chase and captured Mr. ██████████ then recovered the firearm from inside the vehicle.⁹ It was later revealed that the vehicle and firearm were allegedly involved in an armed robbery and that there were two other subjects inside the vehicle who also fled when the police arrived. One of the two subjects was later captured.¹⁰ Stolen cash, cellphones, and personal items were also recovered from the red vehicle.

¹ Att. 8.

² Att. 8, 22, 31 and 32.

³ Att. 26.

⁴ Att. 26 at 16:39.

⁵ Att. 26 at 15:50.

⁶ Att. 5-Narrative.

⁷ Att. 13-Narrative.

⁸ Att. 13-Narrative

⁹ Att. 5-According to the police report, the firearm was recovered immediately due to the fact there were other offenders at large.

¹⁰ Att. 13-Narrative.

One of the personal items was a black Samsung cell phone (a smart phone) which contained personal photographs of Mr. [REDACTED]. Mr. [REDACTED] statement, however, was inconsistent with this evidence because he told COPA investigators that after he was taken to the police station, he told two detectives he only owned one phone, a flip phone, and did not own a smart phone.¹¹

Mr. [REDACTED] also claimed in no less than six letters and during his COPA interview that arresting Officers Lawrence Kerr and Enrique Delgado Fernandez wore BWCs on scene and should have BWC footage of his arrest. He asserted that if they did not have the footage, they either had no evidence against him, or they destroyed the evidence he felt would exonerate him and he should be set free.¹²

Despite repeated attempts by the CPD to locate BWC for Officers Kerr and Delgado Fernandez, sometimes under subpoena, and despite an attempt to locate footage by a COPA investigator, no BWC video was found for either officer.¹³ However, this would make sense because both officers were part of Gangs Unit 312 on the date of this incident; and because officers with the Gangs Units were not issued BWCs, they would not have been wearing them on the date in question.¹⁴

During his interview, COPA Investigators asked Mr. [REDACTED] about his relationship to the red vehicle alleged to have been used in an armed robbery.¹⁵ Mr. [REDACTED] claimed that he was never in the red vehicle and did not know who owned the red vehicle.¹⁶ He also claimed that he did not know a person named [REDACTED] who as it turned out, was the owner of the vehicle.¹⁷

Again, the evidence contradicted Mr. [REDACTED]. First, in an unrelated incident that took place on August 7, 2018, and was reported under RD# [REDACTED], this same vehicle, owned by [REDACTED] was reported stolen and then recovered. Mr. [REDACTED] was said to be the person who both reported the theft and as the last person who drove the vehicle.¹⁸

Furthermore, a Detective Patrick Kenah spoke with a woman who claimed to be [REDACTED] the owner of the red vehicle used in the robbery.¹⁹ She told the detective that [REDACTED] was her “on again off again” boyfriend to whom she lent her red 2015 Toyota. On September 13, 2018, Mr. [REDACTED] was supposed to pick her up from work but never showed. After Mr. [REDACTED] was arrested, the vehicle was impounded, and the related documents reported Ms. [REDACTED] as the owner of the vehicle and Mr. [REDACTED] as the driver.²⁰

¹¹ Att. 26 at 14:30.

¹² Att. 3, 12, 26 at 37:40, and 31.

¹³ Att. 18 and 32. It should be noted that Mr. [REDACTED] sent a copy of the BWC request response to COPA with his September 7, 2021, letter on which someone circled the names for Officers Delgado Fernandez and Kerr and wrote alongside the entry BWC-Not Found – “Had a Camera.”

¹⁴ Att. 10.

¹⁵ Att. 26 at 23:00.

¹⁶ Att. 26 at 14:04.

¹⁷ Att. 26 at 14:20.

¹⁸ Att. 34.

¹⁹ Att. 13-Narrative.

²⁰ Att. 35. This attachment includes documentation that indicates Ms. [REDACTED] was the registered owner of the vehicle used in the robbery.

III. ANALYSIS AND CONCLUSION

Based on the evidence and Mr. [REDACTED] diminished credibility, COPA finds that all allegations against Officer Delgado Fernandez and Officer Kerr are **Unfounded**.

According to 725 ILCS 5/107-2 (1)(a) a peace officer may arrest a person when he has reasonable grounds to believe that the person is committing or has committed an offense. In this case, Mr. [REDACTED] admitted that when police arrived, he was near the red vehicle believed to be involved in a very recent armed robbery, and admittedly ran from said police. Furthermore, evidence from the armed robbery of a T-Mobile store, to include cash, cellphones, and tracking devices, was recovered from the vehicle. With this, COPA finds the officers had adequate suspicion to reasonably believe Mr. [REDACTED] had committed an offense. Therefore, the arrest/detainment of Mr. [REDACTED] was justified.

According to 720 ILCS 5/24-1.1 *Unlawful use or possession of weapons by felons or persons in the custody of the Department of Corrections facility*, it is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction. In this case, Mr. [REDACTED] a convicted felon, allegedly pulled and, in full view of police officers, then threw a firearm into the driver’s side door of a vehicle that was believed to be involved in an armed robbery. Subsequently, Mr. [REDACTED] attempted to flee, but was very soon captured. The firearm was then immediately recovered from the driver’s side floorboard. Therefore, under these circumstances, it was reasonable that Mr. [REDACTED] was charged with this particular offense.

Approved:

[REDACTED SIGNATURE]

1/12/2022

Matthew Haynam
Deputy Chief Administrator

Date