

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 10, 2019/ 3:20 p.m./ 1230 [REDACTED] [REDACTED] [REDACTED]
Date/Time of COPA Notification:	September 10, 2019/ 5:34 p.m.
Involved Sergeant #1:	Denis O'Keefe, Star No. 1986, Employee ID No. [REDACTED], Date of Appointment: September 29, 2003, Sergeant, Unit of Assignment 006, DOB: [REDACTED], 1980, male, White
Involved Officer #1:	Alejandro Avila, Star No. 7524, Employee ID No. [REDACTED], Date of Appointment: August 16, 2017, PO, Unit of Assignment, 006 DOB: [REDACTED], 1988, male, Hispanic
Involved Officer #2:	Lucas Goutos, Star No. 10036, Employee ID No. [REDACTED], Date of Appointment: August 16, 2017, PO, Unit of Assignment 006, DOB: [REDACTED], 1988, male Hispanic
Involved Officer #3:	Kristian Nikolic, Star No. 19041, Employee ID No. [REDACTED], Date of Appointment: December 12, 2016, PO, Unit of Assignment 006, DOB: [REDACTED], 1989, male, White
Involved Officer #4:	Steven Ill, Star No. 11534, Employee ID No. [REDACTED], Date of Appointment: June 29, 2015, PO, Unit of Assignment 006, DOB: [REDACTED], 1992, male, White
Involve Officer #5	Renee Gardner, Star No. 16385, Employee [REDACTED], Date of Appointment: August 25, 2014, PO, Unit of Assignment 006, DOB: [REDACTED], 1991, female Black
Involved Officer #6	James Kinney, Star No. 17082, Employee ID. No. [REDACTED], Date of Appointment: March 15, 2013, PO Unit of Assignment 006, DOB: [REDACTED], 1985, male, White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1994, male, Black
Case Type:	Improper search and detainment

I. ALLEGATIONS

Officer	Allegation	Finding
Sergeant Denis O'Keefe (Search Detention)	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Sergeant Denis O'Keefe committed misconduct by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification. 2. Searching the vehicle of [REDACTED] without justification. 3. Damaging the vehicle of [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
Officer Alejandro Avilla	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer Alejandro Avilla committed misconduct by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification 	Exonerated
Officer Lucas Goutos	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer Lucas Goutos committed misconduct by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification 2. Handcuffing [REDACTED] without justification 3. Searching the vehicle of [REDACTED] without justification 4. Damaging the vehicle of [REDACTED] without justification 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
Officer Kristian Nikolic	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer Kristian Nikolic committed misconduct by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification 2. Searching the vehicle of [REDACTED] without justification 3. Damaging the vehicle of [REDACTED] without justification 	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>

<p>Officer James Kinney</p>	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer James Kinney committed misconduct by:</p> <ol style="list-style-type: none"> 1. Searching the vehicle of [REDACTED] without justification 2. Damaging the vehicle of [REDACTED] without justification 	<p>Exonerated</p> <p>Unfounded</p>
<p>Officer Steven Ill</p>	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer Steven Ill committed misconduct by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification 2. Searching the vehicle of [REDACTED] without justification 3. Damaging the vehicle of [REDACTED] without justification 	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p>
<p>Officer Renee Gardner</p>	<p>It is alleged that on or about September 10, 2019, in the vicinity of 1230 [REDACTED] [REDACTED] Officer Renee Gardner committed misconduct by:</p> <ol style="list-style-type: none"> 1. Failing to provide an Investigative Stop Receipt to [REDACTED] 	<p>Unfounded</p>

II. SUMMARY OF EVIDENCE¹

On September 11, 2019, [REDACTED] accompanied by his fiancé, [REDACTED] provided a statement to COPA investigators at COPA offices. In sum, [REDACTED] stated that on September 10, 2019, Chicago Police Department (“Department”) members detained him, searched his vehicle, and damaged his vehicle without justification.²

[REDACTED] told COPA investigators that on the day of the incident, he went to Walmart on 95th Street and Western Avenue in Evergreen Park, to sell his old cellular phones. As [REDACTED] returned home and pulled across the street from his housing complex, two squad cars pulled up to

¹ As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

² Att. 20 (Audio).

his SUV and blocked him off. The officers had their guns drawn. ██████ was pulled out of the vehicle, handcuffed, and led to a police car. ██████ stated that he was not told that he or his vehicle fit the description of a shooting until after he was in the police car. An officer, now known to be Officer Goutos, asked ██████ if he was aware that there was a shooting in the area. ██████ replied that he heard no shots because he was coming from Western Avenue. ██████ told Goutos he lived across the street from where he was stopped. When the officers asked about the bullet holes in the SUV, ██████ explained that the SUV had bullet holes from a previous incident and that there was a blue sticker on the driver's side of the windshield that noted that was the case. ██████ told COPA investigators that she bought the car from a friend whose boyfriend got the car "shot up."

██████ stated that officers rummaged through the SUV and damaged the film on his sunroof when they pulled the shade portion of the sunroof back, causing more glass to fall into the interior. ██████ also said that the officers ripped the cover off the fuse box inside the vehicle and damaged it. He further claimed that officers went under the hood of the SUV and damaged a fan that prevented overheating of its engine, when they ripped off the cap to a sensor that kept the fan going under the hood.

██████ said that he was held for about 10 minutes. At the end of the stop, a female officer approached ██████ with an orange ticket in her hand. She told ██████ "Here, this is your ticket," but then turned around and walked away and did not give it to him. When ██████ was released by the officers, he went to his vehicle and saw the damage to the interior. The officers who detained and searched him left the scene. ██████ said that he mentioned the damage to the SUV to officers who were across the street, who told ██████ that they were not involved and then ignored him. ██████ and ██████ then went to the 6th District station and filed a complaint. At the station, Sergeant O'Keefe spoke with them and told them that ██████ was pulled over because his was the first white truck Department members saw. ██████ said Sergeant O'Keefe said that his BWC did not record anyone lifting the hood.

OEMC Dispatch Audio records a unit reporting 15 rounds shot in the vicinity of 7700 S. Paulina Steet, followed by 3 additional rounds shot in the vicinity of 7701 S. Paulina Street.³ It also broadcasts that a caller said several shots were fired from two different cars; a white truck heading toward 79th Street and a gold car moving in the opposite direction. A large male in a white tee shirt was a passenger in the truck.⁴ Beat 661, Sergeant O'Keefe, radios that he observed a white truck with bullet holes and a broken windshield heading northbound on Loomis Avenue and 77th Street. He then radios that the vehicle was travelling eastbound on 76th Street and that it is a white SUV.⁵ Beat 661A, Officer Nikolic and Officer Ill, responds and states that it is right behind the white SUV and that it will curb the vehicle by a skating rink.⁶ An officer calls in the license plate for the SUV. Dispatch runs the plate and reports that the plate is registered to ██████ at 3250 W. Maypole Avenue on a white, Nissan Utility vehicle.⁷ Another officer radios that there was a Chrysler with two bullet holes in the window on 76th Street and Paulina Street. Sergeant

³ Att. 64 at thirty-nine minutes.

⁴ Att. 64 at forty-one minutes and fifteen seconds.

⁵ Att. 64 at forty-three minutes and fifty seconds.

⁶ Att. 64 at forty-four minutes and fourteen seconds.

⁷ Att. 64 at forty-five minutes and thirteen seconds.

O'Keefe inquires if anyone in the vicinity reported as a victim of an Aggravated Assault.⁸ Dispatch responds that no one did.

COPA reviewed extensive body-worn camera ("BWC") footage of the incident and the events proceeding it.⁹ Officers are depicted receiving and responding to the OEMC flash message. Moments later, dispatch provides information that a witness saw a white truck involved in the shooting. Sergeant O'Keefe, and responding officers, Officer Nikolic, Officer Ill, Officer Avilla and Officer Goutos, curb [REDACTED] white SUV, with guns drawn. Officer Nikolic and Officer Ill are in plain clothes. Officer Avilla and Officer Goutos are in uniform. Sergeant O'Keefe removes [REDACTED] from his SUV. [REDACTED] asks what he did, and Sergeant O'Keefe tells [REDACTED] that there was a shooting involving a white truck. Officers pat down [REDACTED] and Officer Goutos handcuffs [REDACTED]. [REDACTED] is then placed in Officer Avilla's and Officer Goutos' marked vehicle. Officer Goutos questions [REDACTED] about the shooting and runs [REDACTED] driver's license. Sergeant O'Keefe, Officer Ill, and Officer Nikolic begin searching [REDACTED] SUV. Other officers arrive, including Officer Kinney, who assists with the search of the SUV. Officers search the interior of the SUV including the front and back seat areas, the glove compartment, side panels and the center console. A compartment under the center console is opened, searched, and shut.

The BWC shows extensive preexisting damage to [REDACTED] SUV, including damage to the sunroof, which is covered in plastic. Officers mention finding glass inside the vehicle. Bullet holes on the driver-side of the vehicle are observed by officers and Sergeant O'Keefe and are determined to be old. Officers on scene speculate that [REDACTED] let the shooter-passenger out of the vehicle. During the search, Sergeant O'Keefe states that the vehicle is smoking and gestures toward its front. Officer Nikolic asks [REDACTED] why his vehicle is leaking antifreeze and [REDACTED] replies that the car is just messed up.¹⁰ [REDACTED] also states that there is a blue paper in the car relating to the bullet holes. Several officers examine the damage at the front of the vehicle and Officer Goutos open its hood. Officer Goutos peers under the hood with a flashlight and does not touch anything. He then closes the hood.

BWC video also records Officer Renee Gardner handing [REDACTED] an ISR receipt. [REDACTED] takes the receipt, and Officer Gardner then walks away from him.¹¹ The BWC time stamp indicates that the detention and handcuffing of [REDACTED] lasted approximately twelve minutes.

An Investigative Stop Report ("ISR") relating to the incident was reported by Officer Nikolic and Officer Ill and was reviewed and approved by Sergeant O'Keefe. It is consistent with the action depicted in the BWC. The ISR states that [REDACTED] was stopped based on reasonable articulable suspicion.¹² The reasonable articulable suspicion was supported by [REDACTED] fitting the description of an offender as described by witnesses, [REDACTED] fitting the description of a flash message, his proximity to the location of the crime, and other reasons detailed in the narrative. The ISR indicates reasonable articulable suspicion existed for a protective pat down based on actions indicative of violent behavior, the suspicion of violent crime and other reasonable

⁸ Att. 64 at fifty-two minutes and fifty seconds.

⁹ Atts. 50, 51, 53, 56-58. The BWC videos largely record the same events and will be discussed collectively.

¹⁰ Att. 53 at T19:52:11Z.

¹¹ Att. 24 T20:00:04Z.

¹² Att. 17.

suspicion of weapons. The narrative specifies that a white Nissan SUV was observed by Sergeant O’Keefe, Officer Ill and Officer Nikolic travelling westbound on 79th Street and then northbound on Loomis Boulevard. At 79th Street and Loomis Boulevard, Officer Ill and Officer Nikolic also observed the SUV disobey a red light while turning northbound onto Loomis Boulevard from 79th Street. Officers curbed the vehicle; at which time they observed a bullet hole in the windshield and smoke and leaking fluid from the engine department of the SUV. They also noted multiple bullet holes on the driver’s side of the vehicle. The narrative further states that a pat down of [REDACTED] was conducted for weapons as well as a search of the vehicle for evidence of weapons and shots fired. The search revealed that the sunroof was shattered with broken glass inside of the vehicle. After a name check, [REDACTED] was released due to lack of cooperation among victims and a stop receipt was provided.

III. ANALYSIS AND CONCLUSION

Analytical summary and findings:

If unjustified, the detention and handcuffing of [REDACTED] and the search of his vehicle would be a violation of the Fourth Amendment of the U.S. Constitution¹³ and Department Rule 1, Rule 2, and Rule 6. However, a detention, due to an Investigatory Stop is permissible if it is based on reasonable articulable suspicion. Reasonable articulable suspicion requires that the member possesses “specific and articulable facts which, combined with rational inference from these facts, reasonably warrant a belief that the suspect is committing, is about to commit or has committed a criminal offense.”¹⁴

Here, verifiable evidence provides clear and convincing support that the accused officers’ detention and handcuffing of [REDACTED] as well as their search of his vehicle, was justified. With respect to the detention, [REDACTED] SUV was the same color of a vehicle that a caller observed involved in a shoot-out with another car. Although the suspect white vehicle was described as a truck, the term “truck” is used in common parlance to describe SUVs. Also, minutes after the shots were reported, Sergeant O’Keefe observed [REDACTED] vehicle, with multiple bullet holes, in the vicinity of 77th Street and Loomis Boulevard – less than a mile, and less than a five-minute drive, from where the shooting occurred. These facts provide sufficient reasonable articulable suspicion for [REDACTED] detention. These facts are also sufficient to provide independent support for the search of [REDACTED] vehicle. Specifically, the facts support reasonable articulable suspicion that justified a protective search of the interior of the SUV for weapons. Moreover, upon stopping the SUV, the same facts, combined with the observation of fluid leaking and smoke rising from the SUV’s hood, provided probable cause for the officers to extend their search to an examination under the hood, as those conditions could have reasonably been caused by bullet damage.

For the foregoing reasons, all members accused of detaining [REDACTED] and/ or searching his vehicle without justification are **Exonerated** with respect to those allegations.

Similarly, the handcuffing of [REDACTED] was justified under the circumstances. As a preliminary matter, traffic stops supported by probable cause that an offense occurred, even an

¹³ U.S. Const., amend. IV; accord Ill. Const.1970, art. I, § 6

¹⁴ S04-13-09 (II)(C)(1).

offense usually only punishable by a fine, constitute justification for officers to make an arrest.¹⁵ Based upon this justification, officers are also permitted to handcuff the subject.¹⁶ Here, Officer Nikolic and Officer Ill report in the ISR that they observed ██████ disobey a red light. If true, that alone would provide sufficient basis to handcuff ██████. However, based on the totality of the circumstances here – a targeted shooting in the vicinity involving a vehicle the same color and possible body-type of ██████ SUV – handcuffing was justified as a matter of safety. COPA, therefore, also finds Officer Goutos **Exonerated** of the allegation that he handcuffed ██████ without justification based on the clear and convincing evidence.

Destroying the property of a civilian without justification runs afoul of Department policy requiring members to behave in a professional manner and to safeguard life and property.¹⁷ It is therefore the type of behavior that violates Rule 2 and Rule 6. However, clear and convincing evidence shows that ██████ claim that the Department members caused unjustified damage to his car, specifically, with respect to damage to the sunroof, fuse box and cap sensor, is inaccurate. First, ██████ admits that prior to the stop his car was “messed up.” Second, no additional damage to the sunroof or the interior of the SUV can be seen on BWC. The BWC shows that any compartments opened during the search, were closed after the search. Glass in the car from the damaged sunroof is mentioned by officers during the search but there is no evidence that any additional glass fell inside of the car because of their search. With respect to the cap sensor, Officer Goutos is shown lifting the hood of ██████ SUV and shining a flashlight inside for a few seconds before closing the hood again. At no point does he reach into the hood and remove anything. In sum, BWC shows that the search of the interior of the car while thorough, was not destructive, and any additional damage to the car was de minimis. COPA finds this allegation to be **Unfounded**.

At the end of an investigatory stop, members are required to offer an ISR Receipt.¹⁸ Failure to do so would be a violation of Rule 6. Officer Gardner’s BWC provides clear and convincing evidence that refutes ██████ claim that he was not provided an ISR Receipt as it shows Officer Gardner placing the receipt in ██████ hand. ██████ then accepts the receipt as Officer Gardner walks away. Therefore, COPA finds this allegation to be **Unfounded**.

Approved:

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Angela Hearts-Glass
Deputy Chief Investigator

11-10-2021

Date

¹⁵ See id. at 1115.

¹⁶ See *People v. Flores*, 371 Ill. App. 3d 212, 222 (2007).

¹⁷ G02-01(III)(B).

¹⁸ S04-13-09 (VIII)(A)(3).

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	Vanessa McClinton-Jackson
Supervising Investigator:	Andrew Dalkin
Deputy Chief Investigator:	Angela Hearts-Glass