

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 3, 2019
Time of Incident:	5:06 p.m.
Location of Incident:	██████████ ██████, Chicago, Illinois
Date of COPA Notification:	June 21, 2019
Time of COPA Notification:	10:35 a.m.

On May 3, 2019, at approximately 5:06 p.m., in the vicinity of ██████████ ██████, Chicago, Illinois, ██████████ was stopped by officers of the Chicago Police Department (CPD) because he matched the description of suspects who had earlier been reported as being involved in criminal activity in the area of ██████████ ██████, Chicago, Illinois. ██████████ was detained, patted down by the officers, and then transported to ██████████, along with another individual who also had been detained, for the purpose of conducting a showup. The showup was negative, and ██████████ was released. ██████████ was provided an Investigatory Stop Receipt.¹

Subsequently, ██████████ complained to COPA that he had been illegally detained, searched, and transported to conduct a showup by the CPD.

INVOLVED PARTIES

Involved Officer #1:	Thomas Borucki, Star #3941, Employee ID# ██████████, Date of Appointment: June 3, 2013, Rank: Police Officer, Unit of Assignment: 008, DOB: ██████████, 1974, Male, White
Involved Officer #2:	Joohyun Suk, Star #6438, Employee ID# ██████████, Date of Appointment: October 16, 2017, Rank: Police Officer, Unit of Assignment: 008, DOB: ██████████, 1991, Male, Asian
Involved Individual #1:	██████████, DOB: ██████████, 1961, Male, Black
Involved Individual #2:	██████████, DOB: ██████████, 2001, Male, Black

II. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Thomas Borucki	1. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m.,	EXONERATED

¹ Attachment #8

	<p>at or near ██████████ ██████████, Chicago, Illinois, Officer Thomas Borucki, Star #3941, detained ██████████, without justification.</p> <p>2. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████████ ██████████, Chicago, Illinois, Officer Thomas Borucki, Star #3941, searched ██████████, without justification.</p> <p>3. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████████ ██████████, Chicago, Illinois, Officer Thomas Borucki, Star #3941, transported ██████████ to the vicinity of ██████████ ██████████, Chicago, Illinois, for the purpose of conducting a showup, without justification.</p>	<p>EXONERATED</p> <p>EXONERATED</p>
<p>Officer Joohyun Suk</p>	<p>1. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████████ ██████████, Chicago, Illinois, Officer Joohyun Suk, Star #6438, detained ██████████, without justification.</p> <p>2. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████████ ██████████, Chicago, Illinois, Officer Joohyun Suk, Star #6438, searched ██████████, without justification.</p> <p>3. It is alleged by ██████████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████████ ██████████, Chicago, Illinois, Officer Joohyun Suk, Star #6438, transported ██████████ to the vicinity of ██████████ ██████████, Chicago, Illinois, for the purpose of conducting a showup, without justification.</p>	<p>EXONERATED</p> <p>EXONERATED</p> <p>EXONERATED</p>

III. APPLICABLE RULES AND LAWS

Rules

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1. Rule 1: Violation of any law or ordinance.
 2. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 3. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
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Special Orders

1. Special Order S06-02: Live Lineups, Photo Lineups and Showups²
 2. Special Order S06-04: Processing of Juveniles and Minors under Department Control³
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Federal Laws

1. 4th Amendment to the United States Constitution
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State Laws

1. Constitution of the State of Illinois, Article I, Section 6

² Section V states: A showup is the presentation of a suspect to a witness in a short time frame following commission of a crime to confirm or eliminate the suspect as an offender. Use showups only when the suspect is detained within one hour of the offense.

³ Processing of Juveniles and Minors Under Department Control: It should be noted that there is nothing in this order that relates to showups; however, a showup is a temporary detention and, as such, the detainee is in Department control.

IV. INVESTIGATION⁴

a. Interviews

In his interview with COPA on June 21, 2019,⁵ Complainant ██████████ stated that on May 3, 2019, at approximately 5:00 p.m., in the vicinity of ██████████, Chicago, Illinois, he was walking alone from his home, ██████████, and was on his way to a friend's house. He observed a police vehicle, and an officer on foot, chasing another person through Durkin Park. The officers apprehended that person and put him in the police vehicle. At the time, ██████████ was carrying a bookbag, which contained his DJ equipment. ██████████ had been walking only 5-10 minutes when the same police vehicle pulled in front of him, and stopped him, and the officers began asking him questions concerning what he was doing and from where he was coming. He told the officers that he was going to a friend's house. The officers placed him in handcuffs and put him in the backseat of the police vehicle, along with another individual, described as a 19-year-old Black male. The officer who was driving the vehicle⁶ took his bookbag, searched it, and put it in the vehicle. ██████████ did not consent to the search of his bookbag. The officers then transported him to ██████████, which he understood to be the crime scene, where there were other police cars present.⁷ He was not given an opportunity to call his parents and indicated that his mother is a Chicago Police Officer. He told the officers that he did not know the other person who was in the backseat of the police vehicle. The other person who was in the backset told the officers that he did not know ██████████. A short time later, ██████████ was released; however, the unidentified Black male remained in the police vehicle and was not released.

██████████ was provided a CPD Investigatory Stop Receipt, which he had been given at the time of the incident, to COPA. The officer's name on the receipt was Officer Thomas Borucki, Star #3941. This is the officer who primarily questioned ██████████ and who had told ██████████ that ██████████ fit the description of the offender they were seeking. The second officer's name on the Investigatory Stop Receipt was Officer Joohyun Suk, Star #6348. At the time he was stopped, ██████████ was wearing an orange hat, a black hooded sweatshirt, black pants having a white stripe running down the leg and carrying a bookbag.⁸ ██████████ is approximately 5'9" and weighs 150 pounds.

When he was taken to ██████████, ██████████ was never presented to the woman whose house was allegedly broken into by the suspect. A female police officer, in uniform, was there at the time. ██████████ described her as a white female, 5'5", having a stocky build and having light brown hair. The crime scene location was approximately one block from where ██████████ had been initially detained. ██████████ was not injured during the incident, the duration of which was approximately 20 minutes.

⁴ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁵ Attachment #11: Also present during the interview was the father of ██████████, ██████████; ██████████ being a minor.

⁶ Subsequently identified as Officer Thomas Borucki, Star #3941.

⁷ Attachment #6: ██████████ was taken for a showup, which is confirmed by Event Query Report, May 3, 2019, at 17:07:09.

⁸ Attachment #6: This description is confirmed by Event Query Report, May 3, 2019, at 17:06:34.

In his interview with COPA on September 21, 2020,⁹ **Officer Joohyun Suk, Star #6438**, stated that relative to the incident which occurred on May 3, 2019, at approximately 5:06 p.m., in the vicinity of [REDACTED], Chicago, Illinois, he was on duty, and in uniform in a marked CPD unit. At the time of the incident, Officer Suk was a Probationary Police Officer (PPO). His partner at the time was Officer Thomas Borucki, Star #3491. Officer Suk identified both his name, and Officer Borucki's name, on the CPD A&A Sheet for May 3, 2019, Watch #3, 8th District, and confirmed that both officers were on duty on that day.¹⁰ Near [REDACTED] the officers had detained two individuals, who matched the description of four suspects involved in a burglary at [REDACTED], and who had been described in a flash message.¹¹ This occurred in close proximity to the burglary. Both of the individuals, one of whom was [REDACTED],¹² the complainant in this matter, were detained and handcuffed. They were then placed in the officers' vehicle and transported to the scene of the burglary, [REDACTED], for the purpose of conducting a showup. A patdown of [REDACTED] was conducted prior to transport, and his backpack was placed in their vehicle. Officer Suk did not recall if [REDACTED]'s backpack had been searched.

Officer Suk identified the CPD Investigatory Stop Receipt issued to [REDACTED] on May 3, 2019, which lists an address of [REDACTED], the location of the showup.¹³ He identified both his name, and Officer Borucki's name, listed on the receipt. He stated that the investigatory stop receipt refers to the detention of [REDACTED], who was eventually transported to [REDACTED] for the purpose of a showup. No witness, however, was present at the showup, but [REDACTED] was shown to the officer, who had initially responded to the burglary at [REDACTED], and who had observed several offenders running from the scene. Officer Suk identified this officer as Officer Kenneth W. Flaherty, Star #13584. Officer Flaherty's partner, Cara M. McSparron, Star # 19077, was also present. Officer Suk believes that the burglary was called in by an off-duty police officer who was in the area; and that this information had been communicated to Officer Flaherty.

After Officer Flaherty talked with the two detainees, he determined that [REDACTED] was not one of the suspects and advised Officer Suk and Officer Borucki to release [REDACTED]. [REDACTED] was subsequently released without incident, and given a contact card by Officer Borucki, who apologized to [REDACTED] for the mistake in detaining him. [REDACTED]'s backpack was then returned to him. The other offender remained in custody and was transported to the 8th District. He did not recall if a witness was present at the showup.

CPD Special Order S06-02 pertains to showups and states, "If practical, separate witnesses and not allow communications between them before or after the showup."¹⁴ Officer Suk was asked to explain why the two detainees were not separated but were taken to the scene of the burglary together. He stated that it was not practical to separate the detainees and leave one officer alone with one detainee. For officer safety they decided to transport both detainees together, as they were less than 10 minutes away from the crime scene, and it would have been difficult to transport one

⁹ Attachment #29

¹⁰ Attachment #2

¹¹ See Attachment #7: CPD Investigatory Stop Report No. [REDACTED]

¹² See Attachment #9: Officer Suk identified a photograph of [REDACTED] as one of the individuals who had been detained.

¹³ Attachment #8

¹⁴ Section V, Subsection B

at a time. He could not recall if he asked the detainees any questions during the transport. Further, CPD Special Order S06-02 also states, "Transport the witness to the location of the suspect whenever practical, rather than bringing the suspect to the witness."¹⁵ Officer Suk was asked to explain why the witness was not brought to the location of where ██████ had been detained. He stated that he did not know where the witness was located and that it would be more productive to simply transport the detainees to the crime scene. He believed that an off-duty CPD officer had called in the compliant, but he did not know the identity of the caller or the caller's location. He did not recall if Officer Flaherty had requested that they bring the detainees to the scene.

In his interview with COPA on September 30, 2020,¹⁶ **Officer Thomas B. Borucki, Star #3941**, stated that relative to the incident which occurred at On May 3, 2019, at approximately 5:06 p.m., in the vicinity of ██████ ██████, Chicago, Illinois, he was on duty with his partner, Officer Joohyun Suk, Star #6438. They responded to a flash message, transmitted by an officer on the scene of an alleged burglary, which described the suspects involved. The location of the crime scene was near ██████. The suspects were described as Black males, wearing all black clothing, and having backpacks. As a result, the officers had detained one person near Durkin Park, who had been fleeing from them. After being detained, the individual was compliant and not aggressive. The individual did not pose a threat to the officers. Then a few blocks from where the alleged burglary had occurred, they detained a second person, ██████ ██████, the complainant in this matter.

Both detainees were handcuffed, secured in the backseat of their police vehicle, and then transported to the crime scene. ██████'s backpack was placed in the trunk of their vehicle after being searched. No contraband was found. ██████ was patted down for officer safety, with negative results. The officers felt that it would be safer to transport both individuals together, rather than leave one detainee alone with one officer. Further, the responding officers were involved with the crime scene, and it was believed that one suspect had been apprehended. Thus, officer safety, and being only a short distance from the crime scene, dictated the officers' decision to transport both detainees to the crime scene.

In her interview with COPA on October 14, 2020,¹⁷ **Officer Cara M. McSparron, Star #19077**, stated that relative to the incident which occurred on May 3, 2019, at approximately 5:06 p.m., in the vicinity of ██████ ██████, Chicago, Illinois, she was located at ██████. She and her partner, Officer Kenneth Flaherty, had responded to a burglary at that location. Upon arriving there, three suspects, black males in their late teens or early twenties, were observed fleeing the area. Officer Flaherty pursued the suspects down an alley adjacent to the property. She remained at the house and entered the backyard where she observed a rear door to the house ajar. She inspected the garage, which was not locked, and observed nothing of importance. She entered the home, and no one was found. She then went back and walked around the premises and encountered a woman who had pulled up in front of the location in an automobile, white in color, believed to be a Chevrolet Monte Carlo. This individual told her that she had called in the burglary but had mistaken the address. She identified herself as a retired Chicago police

¹⁵ Section V, Subsection D

¹⁶ Attachment #38

¹⁷ Attachment #35

officer. She also told her that she had observed the suspects running from the premises and pointed toward the alley. Officer McSparron did not remember the woman's name.

As Officer Flaherty had chased the suspects down the alley, she remained at the premises. At that time, Officer Flaherty had the keys to their vehicle with him. As such, she was not able to relocate to another location where potential suspects had been detained. She believes that Officer Flaherty had transmitted via a flash message information describing these suspects, and that another CPD unit in the area had detained two individuals. Because she had to remain at the crime scene and could not relocate to the scene of the detention anyway because she did not have keys to their vehicle, the officers were requested to bring the two detainees to the scene of the burglary. She did not make the request but believes that Officer Flaherty had made the request.

Subsequently, Officers Thomas Borucki and Joohyun Suk arrived on the scene with two detainees, who were in custody in the rear of their vehicle. Upon Officer Flaherty's request, she opened the rear door and observed the detainees, but was unable to make a positive identification. Officer Flaherty then spoke with the detainees and made the determination that [REDACTED], the complainant in this matter, was not one of the individuals he had chased down the alley. As a result, [REDACTED] was unhandcuffed and subsequently released. She believes that Officer Flaherty made the decision to release [REDACTED].

In his interview with COPA on October 28, 2020,¹⁸ **Officer Kenneth W. Flaherty, Star #13584**, stated that relative to the incident which occurred at On May 3, 2019, at approximately 5:06 p.m., in the vicinity of [REDACTED] [REDACTED], Chicago, Illinois, he was located at [REDACTED], which was the location of a burglary. Officer Flaherty and his partner, Officer Cara McSparron, had responded to a 911 call from a citizen of a burglary in progress at [REDACTED]. Four suspects had broken into the backdoor of a house. Upon arrival, he exited his vehicle, and had observed these four individuals run out the backdoor, hop a fence, and run northbound down an alley adjacent to the property. He followed in pursuit and was able to apprehend one of the suspects. He returned to [REDACTED] in approximately ten minutes. He could not recall if he had the car keys to the police vehicle with him when he chased the subjects down the alley. A sergeant arrived in the area where he apprehended the suspect and Officer Flaherty subsequently drove the sergeant's unmarked vehicle back to the crime scene. Officer Flaherty believes that while he was chasing the suspects down the alley he issued a flash message, which described the suspects as four Black males in their late teens or early twenties. He does not recall the exact clothing that they were wearing but stated that he would have described the clothing in the flash message or messages that he had transmitted.

When he arrived back at the burglary scene, the officers who had detained [REDACTED] and another suspect had arrived. Officer Flaherty then opened the backdoor of their police vehicle and talked with both detainees. He visually determined that one of the detainees, who was wearing an orange hat, now known as [REDACTED], was not one of the suspects, and advised the officers that [REDACTED] should be released. [REDACTED] was unhandcuffed and released. There were no civilian witnesses on the scene to view the detainees. Officer Flaherty stated that it was not practical for him, or Officer McSparron, to go to the location where the other officers had detained [REDACTED] because Officer Flaherty had chased the suspects down an alley and did not have access to a

¹⁸ Attachment #39

vehicle. Further, Officer McSparron, at that time, was a probationary police officer and it would have been imprudent for her to leave the scene alone. He did not recall if either he, or Officer McSparron, had requested that the officers bring the detainees to the scene.

b. Digital Evidence

BWC of Officer Joohyun Suk, Star #6438, on May 3, 2019:¹⁹ Officer Thomas R. Borucki, Star #3941, is observed at the rear of his vehicle, #7254, while Officer Joohyun Suk, Star #6438, is placing backpack, black in color with gray stripes, into the vehicle. A second backpack, black in color, is observed in the back of the vehicle. The officers then enter the vehicle. Officer Borucki is driving as they depart the area. They drive down an alley and then enter Karlov Avenue and pull to a stop in front of [REDACTED]. Officer Cara M. McSparron, Star #19077, is observed standing by their vehicle. She opens the rear door of the vehicle, as Officer Kenneth W. Flaherty, Star #13584, comes into view. Two black males, teenagers, can be seen sitting in the back of the police vehicle. Officer Borucki then comes into view and begins to talk with Officer Flaherty and Officer McSparron. [REDACTED] is eventually removed from the vehicle and unhandcuffed. Officer Borucki apologizes to [REDACTED] and prepares a contact card for him. [REDACTED] is released.

BWC of Officer Thomas R. Borucki, Star #3941, on May 3, 2019:²⁰ This footage is similar to the footage in the BWC of Officer Joohyun Suk (above); however, it can be observed that Officer Kenneth W. Flaherty speaks with the detainees in the rear seat of their vehicle and appears to make a determination that [REDACTED] is not a suspect. [REDACTED] is released.

BWC of Officer Cara M. McSparron, Star #19077, on May 3, 2019:²¹ Officer McSparron and Officer Kenneth W. Flaherty, Star #13584, arrive on the scene, a house located at [REDACTED], Chicago, Illinois. Officer McCarron enters through a wooden gate to the rear of the house. Officer Flaherty is observed running toward an alley, which is next to the house, and then running down the alley chasing three young male subjects, possibly teenagers. Officer McCarron is observed following Officer Flaherty in the alley. Officer Flaherty says something to Officer McCarron, and she then returns to the front of [REDACTED] where she stops. She then enters the backyard of the residence through a wooden gate. The backdoor to the residence is observed fully opened. A bottle of whiskey, half-full, is observed inside and standing on a metallic stand. She then walks back to the front of the residence and down the sidewalk toward the alley. She looks down the alley. The alley is empty. She then walks back toward the front of the residence where her police vehicle, #9048, is parked. She then walks around the neighborhood on foot. She then returns to the rear of the residence and checks the garage door, which is shut, but not locked. She checks the garage, which is empty, and then returns to the front of the residence and encounters a white female driving a 2-door, Monte Carlo automobile, white in color, which has pulled in front of the residence. The woman says she had called the police but had gotten the address wrong. She says that she saw one kid running down the street, and points toward the alley. She describes the kid as a male Black teenager and wearing dark clothing. She says she's retired from the CPD for about five years. Officer McCarron then continues to walk

¹⁹ Attachment #26: 2019-05-03; Axon Body x81315489

²⁰ Attachment #28:

²¹ Attachment #33: 2019-05-03; Axon Body x81330498

around the residence. The woman in the white Monte Carlo then pulls away. Officer McCarron is then observed running down the sidewalk past the residence. She continues walking around the neighborhood. She then returns to the residence where Officer Flaherty is observed pulling up in a gray vehicle owned by a neighbor. He exits the vehicle and both officers walk toward the residence. They enter the backdoor of the residence and conduct a walk-through without incident. The officers return to the front of the residence and Officer Joohyun Suk, Star #6438, is observed exiting police vehicle #7254. Officer McCarron opens the backdoor of Officer Suk's vehicle. Two Black, teenage males are observed in the vehicle. One of whom is [REDACTED], complainant in this matter. They are both handcuffed. [REDACTED] is wearing a black-hooded sweatshirt and black running pants, with a white stripe running down the legs. He is wearing an orange stocking hat and has dreadlocks. Officer McCarron asks how old he is, and he answers 17. The other Black male, who is wearing black running pants, with a red stripe running down the legs, and a black-hooded sweatshirt, says he is 18. Officer Thomas R. Borucki, Star #3941, is observed on the scene talking with Officer Flaherty. Officer Flaherty then opens the backdoor of the vehicle and tells the two detainees that he had apprehended one of the suspects who had broken into the house. He talks with the other Black male and determines that [REDACTED] is not involved. [REDACTED] is removed from the vehicle and his handcuffs are removed. Officer Flaherty apologizes to [REDACTED] for the mistake. A sergeant appears on the scene and Officer Flaherty briefs him of the situation. Officer Borucki then prepares a contact card for [REDACTED]. [REDACTED]'s backpack is returned to him, and he is released without incident.

BWC of Officer Kenneth W. Flaherty, Star #13584, on May 3, 2019:²² This BWC confirms that Officer Flaherty speaks with the detainees who had been brought to the scene and appears to make the decision to release [REDACTED]. Earlier, Officer Flaherty is observed arriving on the scene and chasing several suspects down an alley, prior to returning to the scene.

c. Documentary Evidence

CPD A&A Sheet for May 3, 2019, District 008, Watch 3²³

OEMC²⁴ Event Query Report, No. 1912312190, for May 3, 2019 (16:43:42)²⁵

CPD Investigatory Stop Report, No. [REDACTED], May 3, 2019, 1706, at [REDACTED] Street, Chicago, Illinois, for [REDACTED]²⁶

CPD Investigatory Stop Receipt issued to [REDACTED] on May 3, 2019²⁷

Sworn Affidavit of [REDACTED] executed at COPA on June 21, 2019²⁸

²² Attachment #36

²³ Attachment #2

²⁴ OEMC is an acronym for the City of Chicago Office of Emergency Management and Communications

²⁵ Attachment #6: Suspected criminal activity was reported in the area of 84th Street and Karlov Avenue, Chicago, Illinois.

²⁶ Attachment #7

²⁷ Attachment #8

²⁸ Attachment #9

Consent for Juvenile Interview ([REDACTED]) executed at COPA by [REDACTED] (Father) on June 21, 2019²⁹

V. ANALYSIS

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 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.

Investigation in this matter has determined that [REDACTED], a minor,³⁰ had been stopped by Officer Thomas B. Borucki, Star #3941, and Officer Joohyun Suk, Star #6438, on May 3, 2019, at approximately 5:06 p.m., in the vicinity of [REDACTED], Chicago, Illinois. The reason for the stop of [REDACTED], according to the Investigatory Stop Report,³¹ was that [REDACTED] fit the description of suspects involved in criminal activity, an alleged burglary, which had taken place near [REDACTED], Chicago, Illinois.³² As [REDACTED] was in close proximity to the area of criminal activity at the time of his initial detention, and allegedly fit the description of the suspects, the officers felt the stop was warranted.

²⁹ Attachment #9

³⁰ [REDACTED] has a DOB of [REDACTED], 2001. The date of his detention is May 3, 2019. Thus, [REDACTED] was under 18-years old at the time of the stop.

³¹ Attachment #7

³² Attachment #6

With respect to the initial stop of ██████, there is no question that ██████ was seized by the officers. As such, that seizure must comply with the 4th Amendment to the U.S Constitution and with the Illinois Constitution, Article I, Section 6. 1970.³³ The justification for the initial stop of ██████, as described in the ISR,³⁴ was that ██████ fit the description of suspects that had been involved in criminal activity in close proximity to where ██████ was detained. The Event Chronology of the incident³⁵ reflects that a possible burglary was occurring at ██████ Avenue on May 3, 2019, at approximately 4:44 p.m., and involving 3-4 Black, teenage males with backpacks, and dressed in black. At approximately 5:06 p.m., ██████ was taken into custody for a showup. At that time, ██████, a Black, teenage male, was wearing black pants, and was carrying a backpack, and was in close proximity to where the alleged burglary had occurred. The threshold question then focuses on whether the officers had the requisite reasonable suspicion to stop and detain ██████.³⁶

According to *Terry v. Ohio*, 392 U.S. 1 (1968), a police officer, who observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot, may briefly stop the suspicious person and make “reasonable inquiries” aimed at confirming or dispelling his suspicions. This is called a *Terry* stop. A *Terry* stop must take into consideration time and location.³⁷ Further, a peace officer may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit, or has committed an offense.³⁸ Thus, reasonable suspicion is required on the part of the detaining officer in order to justify a *Terry* stop. Whether an officer has a reasonable suspicion is a fact-specific inquiry that looks at the totality of the circumstances in light of common sense and practicality.³⁹ In this case, the officers relied primarily on three factors in effectuating the stop of ██████: (1) the closeness in the description of ██████ to the suspects; (2) the closeness in time to the event; and (3) the near proximity of where ██████ was detained to where the alleged offense had occurred. Further, the officers were not required to be absolutely certain of the identification when they stopped ██████. “Sufficient probability, rather than certainty, is the touchstone of reasonableness under the 4th Amendment.”⁴⁰

³³ See *People v. Anthony*, 198 Ill. 2d 194, 201 (2001).

which stated, “This court has construed the search and seizure language found in Section 6 of the Illinois Constitution in a manner that is consistent with the Supreme Court’s 4th Amendment jurisprudence.”

³⁴ Attachment #7

³⁵ Attachment #4

³⁶ See *People v. Lake*, 2015 IL App. (4th) 130072, ¶ 28, 28 N.E.3d 1036; See *Terry v. Ohio*, 392 U.S. 1 (1968): “A police officer may conduct a brief investigatory stop of a person when the officer reasonably believes that the person has committed, or is about to commit, a crime.” Also, relative to temporary detentions of persons, see *People v. Timmsen*, 2016 IL 118181, 9, ¶ 50 N.E.3d 1092: “...the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.”

³⁷ *United States v. Tinnie*, 629 F.3d 749, 752 (7th Cir. 2011)

³⁸ Ill. Const.1970, Art. I, Section 6; 725 ILCS 5/107-14 (West 1998)

³⁹ *United States v. Tinnie*; 629 F.3d 749, 751 (7th Cir. 2011); *United States v. Sokolow*, 490 U.S. 1, 8 (1989); *United States v. Cortez*, 449 U.S. 411, 417 (1981)

⁴⁰ *People v. Safunwa*, 299 Ill.App.3d 707, 710, 701 N.E.2d 1202, 1204 (1998); Also see *Hill v. California*, 401 U.S. 797, 803-04 (1971).

Based upon these factors, Officer Thomas B. Borucki and Officer Joohyun Suk were justified in initially detaining [REDACTED]. As such, **Allegation #1** alleged against **Officer Thomas B. Borucki, Star #3941**, and **Officer Joohyun Suk, Star #6438**, respectively, should be deemed **EXONERATED**.

After being detained, [REDACTED] was patted down, and then transported to the vicinity of [REDACTED], Chicago, Illinois, for the purpose of conducting a showup.⁴¹ Another individual, who had also been detained, was transported to the showup along with [REDACTED]. [REDACTED]'s backpack, or bookbag, was searched and transported with him. Officers may detain a bag or luggage from a suspect when they have reasonable suspicion to believe that the bag contains contraband or evidence of a crime.⁴² Having concluded that the officers had reasonable suspicion to detain [REDACTED], they were justified in conducting a patdown of [REDACTED] for officer safety. Searching [REDACTED]'s bookbag, or backpack, prior to being transported to the showup, was likewise authorized. Police are not required to take unnecessary risks in performing their duties and are authorized to take such steps as are reasonably necessary to protect their personal safety and to maintain the *status quo* during the course of a *Terry* stop.⁴³ As such, **Allegation #2** alleged against **Officer Thomas B. Borucki, Star #3941**, and **Officer Joohyun Suk, Star #6438**, respectively, should be deemed **EXONERATED**.

With respect to the subsequent showup, [REDACTED] was initially detained at approximately 5:06 p.m., and the criminal activity in question had occurred at or about 4:43 p.m.⁴⁴ This is clearly within the one-hour window that Special Order S06-02 dictates for conducting a showup.⁴⁵ The order also states, "If practical, separate witnesses and not allow communications between them before or after the showup."⁴⁶ Both Officer Suk and Officer Borucki, in their respective statements to COPA, adequately explained that it was not practical to separate the two individuals who were transported to the showup. The location of the showup was only a short distance from where the suspects had been detained. Further, the order states, "Transport the witness to the location of the suspect whenever practical, rather than bringing the suspect to the witness."⁴⁷ Again, in their respective statements to COPA, the officers adequately explained why it was not practical to bring the witness to the suspects, as the identity and the location of the witness was not known to them.

As it turned out, there were no citizen witnesses. The witnesses were the first responding officers on the scene of the burglary. Further, in Officer McSparron's statement to COPA, she stated that it was not practical for her to leave the scene of the burglary, as she was alone. Officer

⁴¹ See *People v. Lippert*, 89 Ill.2d 171, 181-82, 59 Ill.Dec. 819, 432 N.E.2d 605 (1982): The transportation of a suspect for the purpose of an identification is not necessarily an unreasonable seizure under the fourth amendment. The Court held that after the defendant's arrest in a sparsely populated rural area late at night, the transportation of the defendant a short distance for the purpose of a showup was a legitimate investigatory procedure, even if one considers the grounds to have been less than probable cause to arrest.

⁴² *United States v. Place*, 462 U.S. 696, 708-09 (1983); *United States v. Ward*, 144 F.3d 1024, 1030-31 (1998)

⁴³ *United States v. Perdue*, 8 F.3d 1455, 1462 (10th Cir.1993); See also *United States v. Gama-Bastidas*, 142 F.3d 1233, 1240 (10th Cir. 1998)

⁴⁴ Attachment #6: Event Query at approximately 4:58 p.m.

⁴⁵ Special Order S06-02, Section V, in part, states: Use showups only when the suspect is detained within one hour of the offense.

⁴⁶ Special Order S06-02: Section V, Subsection B

⁴⁷ Special Order S06-02: Section V, Subsection D

Flaherty had pursued the suspects on foot down an alley and had left the area. Officer Flaherty had the keys to their police vehicle with him, so Officer McSparron could not have relocated to the scene where the two suspects had been detained by Officer Borucki and Officer Suk.

In Officer Flaherty’s statement to COPA, he had explained that he had pursued several suspects down an alley, eventually apprehending one suspect, and had left Officer McSparron alone at the crime scene. As such, the officers were separated, and it was impractical for them to go to where the other two officers had detained the complainant. It should be noted that there was no citizen witness in this matter. The witness was, in fact, Officer Flaherty, who had issued the flash notice; and, who had ultimately made the decision to release ██████ when ██████ was brought to the crime scene. Further, Officer Suk and Officer Borucki had been requested to bring the detainees to the crime scene.

As such, the officers were not in violation of Special Order S06-02. Further, transporting a suspect a few blocks to the scene of a crime for the purpose of a showup is permissible because it is minimally intrusive when compared to the benefit of the immediate investigation.⁴⁸ Likewise, the transportation of a suspect for the purpose of an identification is not necessarily an unreasonable seizure under the 4th Amendment. Transporting a suspect, a short distance for the purpose of a showup is a legitimate investigatory procedure.⁴⁹ As such, the transportation of ██████ for a showup was lawful, and **Allegation #3**, alleged against **Officer Thomas B. Borucki, Star #3941**, and **Officer Joohyun Suk, Star #6438**, respectively, should be deemed **EXONERATED**.

It should also be noted that there are no restrictions against transporting a juvenile to a crime scene for a showup.⁵⁰

VI. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Thomas Borucki	1. It is alleged by ██████ that on or about May 3, 2019, at approximately 5:06 p.m., at or near ██████ ██████, Chicago, Illinois, Officer Thomas Borucki, Star #3941, committed misconduct by detaining ██████, without justification.	EXONERATED

⁴⁸ *People v. Follins*, 196 Ill.App.3d 680, 693, 143Ill.Dec. 410, 554 N.E.2d 345 (1990)

⁴⁹ *People v. Lippert*, 89 Ill.2d 171, 181-182, 59 Ill.Dec. 819, 432 N.E.2d 605 (1982)

⁵⁰ See *In the Matter of William Vance Stallings, Juvenile*, 350 S.E.2d 327, 318 N.C. 565 (N.C. 1986), where the Court held that legitimate juvenile law enforcement objectives may be met through the use of showups. Although not an Illinois decision, this decision can be cited as persuasive authority.

	<p>2. It is alleged by [REDACTED] that on or about May 3, 2019, at approximately 5:06 p.m., at or near [REDACTED], Illinois, Officer Thomas Borucki, Star #3941, committed misconduct by searching [REDACTED], without justification.</p> <p>3. It is alleged by [REDACTED] that on or about May 3, 2019, at approximately 5:06 p.m., at or near [REDACTED], Chicago, Illinois, Officer Thomas Borucki, Star #3941, committed misconduct by transporting [REDACTED] to the vicinity of [REDACTED], Chicago, Illinois for the purpose of conducting a showup, without justification</p>	<p>EXONERATED</p> <p>EXONERATED</p>
<p>Officer Joohyun Suk</p>	<p>1. It is alleged by [REDACTED] that on or about May 3, 2019, at approximately 5:06 p.m., at or near [REDACTED], Chicago, Illinois, Officer Joohyun, Star #6438, committed misconduct by detaining [REDACTED], without justification.</p> <p>2. It is alleged by [REDACTED] that on or about May 3, 2019, at approximately 5:06 p.m., at or near [REDACTED], Chicago, Illinois, Officer Joohyun, Star #6438, committed misconduct by searching [REDACTED], without justification.</p> <p>3. It is alleged by [REDACTED] that on or about May 3, 2019, at approximately 5:06 p.m., at or near [REDACTED], Chicago, Illinois, Officer Joohyun Suk, Star #6438, committed misconduct by transporting [REDACTED] to the vicinity of [REDACTED], Chicago, Illinois for the purpose of conducting a show-up, without justification.</p>	<p>EXONERATED</p> <p>EXONERATED</p> <p>EXONERATED</p>

Approved:

[REDACTED]

11-30-2021

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	16
Investigator:	James L. Whitmer
Supervising Investigator:	Deborah Talbert
Deputy Chief Administrator:	Angela Hearts-Glass