

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 18, 2018
Time of Incident:	8:50 pm
Location of Incident:	8258 S. Vernon Avenue, Chicago, IL 60616
Date of COPA Notification:	November 13, 2018
Time of COPA Notification:	11:43 am

Officers Thomas Durkin and Robert Gleich (collectively “the Officers”) stopped a vehicle for failing to stop at a stop sign. As Officer Durkin approached the driver, [REDACTED] he observed a firearm in the hooded sweatshirt pocket of the rear passenger, [REDACTED] Officer Durkin requested [REDACTED] exit the vehicle. [REDACTED] complied with the request and was handcuffed. Officer Durkin informed Officer Gleich that [REDACTED] was in possession of a firearm. Officer Gleich requested [REDACTED] exit the vehicle, he refused. Officer Gleich opened [REDACTED] door and the Officers removed [REDACTED] from the vehicle. [REDACTED] was handcuffed and Officer Durkin recovered the firearm from [REDACTED] During the ensuing investigation, the Officers learned that [REDACTED] possessed a valid Firearm Owner Identification (FOID) card but did not possess a Concealed Carry License (CCL). The Officers arrested [REDACTED] and transported him to 006th District.

Once at the 006th District, Officer Durkin informed [REDACTED] of his Miranda Rights. [REDACTED] acknowledged his rights and elected to speak to Officer Durkin without an attorney. During his statement, [REDACTED] admitted ownership of the recovered firearm and that he did not possess a valid CCL.

During his statement to COPA [REDACTED] made the allegations detailed below. During the preliminary investigation, COPA identified the procedural allegations detailed below. COPA determined that the allegations [REDACTED] made were **exonerated** but that the procedural allegations were **sustained**.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Thomas Durkin / Star #2873 / Employee ID# [REDACTED] / DOA: April 1, 2013 / Unit: 006 / DOB: [REDACTED], 1979 / Male / White.
Involved Officer #2:	Officer Robert Gleich / Star #14432 / Employee ID# [REDACTED] / DOA: August 31, 2015 / Unit: 006 / DOB: [REDACTED], 1986 / Male / White.
Involved Individual #1:	[REDACTED] / DOB: [REDACTED], 1995 / Male / Black.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Thomas Durkin	1. Detained Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	2. Searched Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	3. Seized Mr. [REDACTED] firearm, without justification, in violation of Rule 6.	Exonerated.
	4. Arrested Mr. [REDACTED] without probable cause, in violation of Rule 6.	Exonerated.
	5. Failed to provide an Investigatory Stop Receipt to Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
	6. Failed to provide an Investigatory Stop Receipt to Mr. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
Officer Robert Gleich	1. Detained Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	2. Searched Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	3. Seized Mr. [REDACTED] firearm, without justification, in violation on of Rule 6.	Exonerated.
	4. Arrested Mr. [REDACTED] without probable cause, in violation of Rule 6.	Exonerated.
	5. Failed to provide an Investigatory Stop Receipt to Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
	6. Failed to provide an Investigatory Stop Receipt to Mr. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Prohibits disobedience to an order or directive, whether written or oral.

Special Orders

1. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

V. INVESTIGATION¹

a. Interviews²

In a **statement to COPA**³ on November 14, 2018, **Mr. ██████████** stated that he was seated in the rear passenger seat of ██████████ vehicle when it was stopped by the Officers. Once the vehicle was stopped, Officer Durkin initially explained that ██████████ ran a stop sign. Officer Durkin requested ██████████ driver's license and asked ██████████ to exit the vehicle. Once ██████████ exited the vehicle, he was pinned against the car, handcuffed and searched – including the officer searching inside ██████████ pockets. Simultaneously, Officer Gleich requested the front seat passenger, ██████████ exit the vehicle. Once she exited, she also was handcuffed. Officer Gleich asked ██████████ to open his door, and ██████████ refused. After his refusal, Officer Durkin pointed a firearm at him and ordered him to exit the vehicle. ██████████ then complied and was grabbed upon exiting the vehicle. Once handcuffed Officer Durkin searched ██████████ and recovered a firearm from his hooded sweatshirt pocket while explaining that the firearm was visible. Once the firearm was secured, ██████████ was asked if he possessed a FOID card and CCL. ██████████ explained that he had a valid FOID card and was in the process of obtaining his CCL. After speaking to ██████████ the Officers searched the vehicle. ██████████ was then transported to the 006th District Lockup. Upon arrival, Officer Durkin interviewed ██████████ During the interview ██████████ admitted he only possessed a valid FOID and did not have CCL.

██████████ explained that ██████████ vehicle did not have tinted windows. ██████████ added that he was not paying attention whether ██████████ stopped at the stop sign or not and only observed the CPD vehicle after its emergency lights were activated. ██████████ admitted that it was possible ██████████ may have missed the stop sign because it was a dark street, and the sign could be difficult to see. ██████████ insisted that there was no way Officer Durkin could have seen a firearm because it was being concealed by a cellphone and his arm.⁴ ██████████ explained that the interior

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² As detailed in the Case Log, neither ██████████ nor ██████████ responded to COPA's requests for a statement.

³ Att. 5. ██████████ did not know the names of the involved officers, but differentiated between them based on their location, actions, and physical characteristics; COPA named the officers based on ██████████ descriptions.

⁴ ██████████ also alleged that he requested a supervisor on several occasions; however, a review of BWC footage revealed ██████████ only requested a supervisor while refusing to exit the vehicle. Once ██████████ exited the vehicle, was handcuffed, and his weapon was secured, ██████████ did not request a supervisor. Based on the immediate officer safety issues and the appearance that ██████████ request for a supervisor was a stalling tactic, COPA elected not to serve the allegation.

of the vehicle, including glove boxes and compartments were searched, but the trunk was not searched.

In a **statement to COPA**⁵ on January 28, 2019, **Officer Thomas Durkin** stated that he and his partner Officer Gleich were on patrol. They stopped a white, 4-door vehicle failing to stop a stop sign at the intersection of 82nd and Vernon. Once the vehicle was stopped, Officer Durkin approached the driver [REDACTED] and observed the barrel of a firearm sticking out of the rear passenger [REDACTED] hooded sweatshirt pocket. Officer Durkin discretely informed Officer Gleich to request another unit and requested [REDACTED] to exit the vehicle, [REDACTED] complied and was handcuffed.. After securing [REDACTED] Officer Durkin drew his weapon and ordered [REDACTED] to show his hands. [REDACTED] complied. Officer Durkin informed Officer Gleich that [REDACTED] was armed. Officer Durkin unlocked the car doors. Officer Gleich attempted to remove [REDACTED] from the vehicle, by grabbing [REDACTED] hands, but he resisted by refusing to exit. Officer Durkin went around the vehicle and recovered a firearm from the pocket of [REDACTED] hooded sweatshirt. Officers Durkin and Gleich removed [REDACTED] from the vehicle and placed him in handcuffs. Once the firearm was recovered, Officer Durkin cleared the weapon to make it safe, including ejecting the magazine and a live round from the chamber. Officer Durkin asked [REDACTED] if he possessed a FOID card and CCL. [REDACTED] initially claimed he possessed both. Officer Durkin patted down [REDACTED] to ensure he did not possess a weapon. Additionally, Officer Durkin requested a female officer to complete a pat down of [REDACTED] to ensure she did not possess any weapons. Officer Durkin obtained [REDACTED] identification and conducted a LEADs inquiry on [REDACTED] which revealed that [REDACTED] only possessed a valid FOID card but was not issued a CCL. Once learning this, Officer Durkin determined that [REDACTED] would be arrested. Officer Durkin returned to the vehicle, and quickly searched the passenger compartment to ensure that [REDACTED] and [REDACTED] would not be able to access any weapons when they were released. [REDACTED] and [REDACTED] were released, and Officer Durkin believed that Officer Gleich had provided them with Investigatory Stop Receipts (Receipt); however, while completing the Investigatory Stop Reports (ISRs) at the district station he learned that Officer Gleich had not issued any Receipts. Officer Durkin explained this failure occurred because of a breakdown in communication with Officer Gleich. Officer Durkin was clear that both [REDACTED] and [REDACTED] were entitled to Receipts. Officer Durkin accepted responsibility for failing to issue Receipts to [REDACTED] and [REDACTED]

In a **statement to COPA**⁶ on January 28, 2019, **Officer Robert Gleich** stated essentially the same information as Officer Durkin. Additionally, Officer Gleich recalled that while seated in the rear seat, [REDACTED] appeared nervous – specifically he was breathing heavily and not making eye contact with anyone. Further, Officer Gleich explained that it is not uncommon to encounter multiple armed subjects and that once it was learned [REDACTED] was armed there was an increased concern that [REDACTED] or [REDACTED] may also be armed. Officer Gleich accepted responsibility for failing to issue Receipts to [REDACTED] and [REDACTED]

b. Digital Evidence

⁵ Att. 25.

⁶ Att. 29.

Body Worn Camera⁷ (BWC) depicts the Officers stopping a white vehicle for failing to stop at a stop sign. Officer Durkin speaks to ██████ requests a driver's license and instructs ██████ to exit the vehicle. ██████ complies with the requests. Officer Durkin handcuffs ██████ while telling him to relax. Officer Durkin then immediately draws his weapon and points it at ██████ in the rear seat while alerting Officer Gleich that ██████ has a firearm. Officer Gleich opens the rear passenger door and orders ██████ to exit the vehicle and grabs ██████ wrists. ██████ repeatedly argues and refuses to exit the vehicle and demands a supervisor. Officer Durkin walks around the rear of the vehicle and recovers the firearm from ██████ sweatshirt pocket. Both Officers then remove ██████ from the vehicle; Officer Gleich applied handcuffs while Officer Durkin held ██████ against the car Officer Durkin asks the front seat passenger ██████ to exit the vehicle. Once she exits the vehicle, she is handcuffed by a uniformed male officer and eventually patted down by a female officer.

After detaining all the occupants Officer Durkin explains to ██████ that ██████ was in possession of a firearm. Officer Durkin pats down ██████ while he is handcuffed. Officer Durkin then clears the firearm and discovers a live round in the chamber. Officer Durkin asks ██████ if he possessed a valid FOID card and CCL while explaining that he could see the firearm as he approached the vehicle. ██████ carried a FOID card in his pocket and told officers that his CCL must be at home. Officer Durkin explains that he saw the firearm sticking out of ██████ sweatshirt pocket; ██████ repeatedly argues that Officer Durkin could not have seen the weapon. Officer Gleich completes a name check on ██████ and discovers that he possesses a FOID card but does not have a CCL. ██████ explains to Officer Gleich that he had the firearm for protection purposes. Officer Gleich asks ██████ if there is anything in the vehicle that they should be concerned with. ██████ said no and gives permission to search the vehicle.⁸ The Officers proceed to search the passenger compartment of the vehicle, to include the containers within; however, they do not search beyond the passenger compartment.

After searching the vehicle, Durkin asks ██████ who owned the vehicle. ██████ explains that the vehicle is owned by an ██████. Officer Durkin explains to ██████ that he was being transported to the 006th District to further investigate his claim of possessing a CCL because they could not locate a record of it. ██████ is escorted to a marked vehicle and secured. The Officers release ██████ and ██████ but do not provide them with ISR Receipts.

Once at the 006th District, Officer Durkin advises ██████ of his Miranda Rights. ██████ acknowledges his rights, indicates that he understands his rights, and elects to speak to the Officers without an attorney present. During his statement ██████ admits that he only possesses a FOID card and does not have a CCL. Additionally, ██████ admits that he is the owner of the recovered firearm and was in possession of it for personal protection purposes.⁹

c. Documentary Evidence

⁷ Att. 16.

⁸ *Id.*, Durkin – 2 – AXON_Body_2_Video_2018-10-18_2219 at 05:57; Gleich – 3 – AXON_Body_2_Video_2018-10-18_2220 at 05:59.

⁹ *Id.*, Durkin – 3 – AXON_Body_2_Video_2018-10-18_2243 from 00:30 to 03:51.

██████████¹⁰ ██████████¹¹ and ██████████¹² ISRs detail that ██████████ was driving a white vehicle when it was stopped by the Officers for failing to stop at a stop sign. Once the Officers were at the vehicle, they observed ██████████ as the front seat passenger and ██████████ sitting in the rear passenger seat. The Officers observed ██████████ breathing heavily and appeared to be nervous. Additionally, the Officers observed a bulge in the pocket of ██████████ hooded sweatshirt and could see the muzzle of a firearm. The Officers detained all the occupants, patted them down, and completed a search of the vehicle. The Officers learned that ██████████ did not possess a CCL.¹³ All three ISRs detail a protective pat down each person and/or their effects were completed; however, neither ██████████ nor ██████████ reports indicate a Receipts was issued.

██████████' Arrest Report¹⁴ details essentially the same information as described in the ISRs and captured by the BWC. ██████████ was charged with aggravated unlawful use of a weapon.

VI. ANALYSIS

COPA finds that Allegations #1 to 4 against both Officers are **exonerated**. Citizens in Illinois are required to possess a valid FOID card to own a firearm.¹⁵ Additionally, citizens in Illinois are required to possess a valid CCL to carry a concealed or partially concealed firearm, whether loaded or unloaded, on their person.¹⁶ Additionally, Department members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.¹⁷ This detention was an Investigatory Stop. Further, a person who is lawfully detained can be subjected to a limited search – a protective pat down – for weapons if a Department member “develops additional [r]easonable [a]rticulable [s]uspicion that the [person] is armed and dangerous or reasonably suspects that the person presents a danger of attack.”¹⁸ And if during the limited search the Department member “touches an object which the [they] believe is a weapon, [they] may reach into that area of the clothing and recover the object.”¹⁹ Finally, an officer must have probable cause to arrest a subject.²⁰ “Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it.”²¹ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.²²

Here, after lawfully stopping the vehicle, Officer Durkin observed a firearm protruding from the pocket of ██████████ hooded sweatshirt and Officer Gleich observed the ██████████ was nervous and sweating. Based on these observations, it was reasonable for the Officers to infer that

¹⁰ Att. 11.

¹¹ Att. 9.

¹² Att. 10.

¹³ This information was confirmed via a LEADs Inquiry. Att. 17, pg. 2.

¹⁴ Att. 6.

¹⁵ 430 ILCS 65/2(a)(1).

¹⁶ 430 ILCS 66/10(g).

¹⁷ S04-13-09 II (A)

¹⁸ S04-13-09 VI (A)(1).

¹⁹ S04-13-09 VI(A)(2).

²⁰ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964).

²¹ S04-13-09 II(D).

²² S04-13-09 II(D).

██████████ may be engaged in criminal activity, specifically possession of a concealed firearm without a valid FOID card or CCL, and/or posed a danger to the officers' safety. Therefore they were reasonable to request ██████████ to exit the vehicle. When ██████████ refused to exit the vehicle, their concerns that ██████████ posed a danger increased. Officer Gleich grabbed both of ██████████ hands to prevent ██████████ access to the firearm, and Officer Durkin recovered the firearm from ██████████. The subsequent handcuffing and protective pat down of ██████████ were lawful and proper, due to valid officer safety concerns. During the protective pat down the readably visible firearm was lawfully and properly seized. Once the Officers secured all the vehicle occupants, a LEADS inquiry revealed that ██████████ did not possess a valid CCL. The lack of a CCL established probable cause to arrest ██████████ however, the Officers took the additional investigative step of interviewing ██████████. During a, post-Miranda, interview ██████████ admitted to owning and possessing the firearm without a valid CCL; therefore, the Officers' arrest of ██████████ was lawful and proper.

COPA finds that Allegations #5 and 6 against both Officers are **sustained**. Department members "are required to provide" an Investigatory Stop Receipt to any individual subjected to a "[p]rotective [p]at [d]own or any other search" during an Investigatory Stop.²³ Here, it is undisputed that ██████████ and ██████████ were detained during an Investigatory Stop, that they both were subjected to a protective pat down and/or search of their effects and were not provided Receipts. The Officers accepted responsibility of this failure and explained their failure was because of a breakdown of communication between the two of them.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Thomas Durkin

i. Complimentary and Disciplinary History

- 1. Complimentary:** 6 Superintendent's Honorable Mentions; 3 Department Commendations; 82 Honorable Mentions; and 1 Problem Solving Award.
- 2. Disciplinary:** None

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 5** – Violation Noted.
- 2. Allegation No. 6** – Violation Noted.

b. Officer Robert Gleich

i. Complimentary and Disciplinary History

²³ S04-13-09 VIII (A)(3).

1. **Complimentary:** 2 Life Saving Awards; 5 Superintendent’s Honorable Mentions; 40 Honorable Mentions; and 1 Problem Solving Award
2. **Disciplinary:** None

ii. Recommended Penalty, by Allegation

1. **Allegation No. 5** – Violation Noted
2. **Allegation No. 6** – Violation Noted

The Officers admitted that both [REDACTED] and [REDACTED] were subjected to a search and entitled Receipts. The Officers explained the failure to issue the Receipts was due to a breakdown of communication. COPA believes that the Officers’ failure was an isolated incident and is in part attributable to the stressful nature of the initial interaction with [REDACTED]

COPA notes that the Officers’ actions during this incident demonstrated sound tactical planning and a high level of professional police conduct.

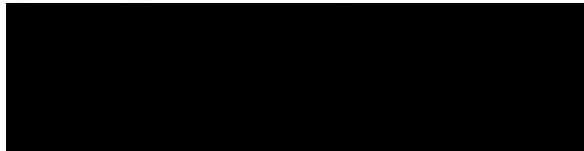
VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Thomas Durkin	1. Detained Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	2. Searched Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	3. Seized Mr. [REDACTED] firearm, without justification, in violation of Rule 6.	Exonerated.
	4. Arrested Mr. [REDACTED] without probable cause, in violation of Rule 6.	Exonerated.
	5. Failed to provide an Investigatory Stop Receipt to Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
	6. Failed to provide an Investigatory Stop Receipt to Mr. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
Officer Robert Gleich	1. Detained Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.

2. Searched Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
3. Seized Mr. [REDACTED] firearm, without justification, in violation on of Rule 6.	Exonerated.
4. Arrested Mr. [REDACTED] without probable cause, in violation of Rule 6.	Exonerated.
5. Failed to provide an Investigatory Stop Receipt to Ms. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.
6. Failed to provide an Investigatory Stop Receipt to Mr. [REDACTED] in violation of Rule 6.	Sustained / Violation Noted.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

6-30-2021

Date

Appendix A

Assigned Investigative Staff

Squad#:	8
Investigator:	Garrett Schaaf
Supervising Investigator:	Sherry Daun
Deputy Chief Administrator:	Angela Hearts-Glass