

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 11, 2018
Time of Incident:	8:41 p.m.
Location of Incident:	1113 North Harding Avenue, Chicago, Illinois 60651.
Date of COPA Notification:	August 21, 2018
Time of COPA Notification:	12:51 p.m.

██████████ alleged that he was stopped and detained while in his vehicle, which was parked at or near 1113 N. Harding Avenue, by Officers Joseph Cunningham, Joel Lopez, Matthew Patruno, and Cody Maloney (collectively “The Officers”). According to ██████████ one of the officers, Officer Joel Lopez allegedly approached him while pointing his gun in his direction and forcibly removed him from his vehicle. ██████████ stated that he was stopped and detained, handcuffed, searched, and his vehicle was searched by all the officers without justification. ██████████ also alleged that Officer Lopez and his partners stopped him in the past.

I. INVOLVED PARTIES

Involved Officer #1:	Joseph Cunningham, Star #9871, Employee ID# ██████████, Date of Appointment: February 18, 2014; Rank: Police Officer, Unit of Assignment: Unit 011 – Detailed to 716; 1985; Gender: Male, Race: White.
Involved Officer #2:	Officer Joel A. Lopez, Star #7613, Employee ID# ██████████, Date of Appointment: March 15, 2013; Rank: Police Officer, Unit of Assignment: Unit 193 – Detailed to 640, Gender: Male, Race: Hispanic.
Involved Officer #3:	Officer Matthew C. Patruno, Star #11814, Employee ID# ██████████, Date of Appointment: November 24, 2014, Rank: Police Officer, Unit of Assignment: Unit 180 – Detailed to 630, Gender: Male, Race: White.
Involved Officer #4:	Officer Cody C. Maloney, Star #13032, Employee ID# ██████████, Date of Appointment: February 23, 2015, Rank: Police Officer, Unit of Assignment: Unit 180 – Detailed to 716, Gender: Male, Race: White.
Involved Individual #1	██████████ Gender: Male, Race: Black.

II. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Joseph Cunningham	<p>It is alleged that on or about August 11, 2018, at approximately 8:41 pm, at or near 1113 N. Harding, Chicago, IL 60651, PO Cunningham committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Stopped and detained [REDACTED] without justification. 2. Searched [REDACTED] vehicle, without justification. 3. Violation of Special Order S03-14, failure to activate body worn camera during your interaction with [REDACTED] 4. Violation of Special Order S04-13-09, failure to complete an Investigatory Stop Report regarding your contact with [REDACTED] 5. Violation of Special Order S04-13-09, failure to provide an Investigatory Stop Receipt to [REDACTED] after your contact with him. 	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
Officer Joel A. Lopez	<p>It is alleged that on or about August 11, 2018, at approximately 8:41 pm, at or near 1113 N. Harding, Chicago, IL 60651, PO Lopez committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Stopped and detained [REDACTED] without justification. 2. Pointed a gun at [REDACTED] without justification. 3. Grabbed [REDACTED] by his arm and escorting him out of his vehicle, without justification. 4. Handcuffed [REDACTED] without justification. 	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

	<p>5. Searched [REDACTED] including his genital area, without justification.</p> <p>6. Searched [REDACTED] vehicle, without justification.</p> <p>7. Violation of Special Order S03-14, failure to activate your body worn camera during your interaction with [REDACTED]</p> <p>8. Violation of Special Order S04-13-09, failure to complete an Investigatory Stop Report regarding your contact with [REDACTED]</p> <p>9. Violation of Special Order S04-13-09, failure to provide to [REDACTED] an Investigatory Stop Receipt after your contact with him.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
<p>Officer Matthew C. Patruno</p>	<p>It is alleged that on or about August 11, 2018, at approximately 8:41 pm, at or near 1113 N. Harding, Chicago, IL 60651, PO Patruno committed misconduct through the following acts or omissions:</p> <p>1. Stopped and detained [REDACTED] without justification.</p> <p>2. Searched [REDACTED] vehicle, without justification.</p> <p>3. Violation of Special Order S03-14, in that you failed to activate your body worn camera during your interaction with [REDACTED]</p> <p>4. Violation of Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report regarding your contact with [REDACTED]</p> <p>5. Violation of Special Order S04-13-09, in that you failed to provide to Jawon [REDACTED] and Investigatory Stop Receipt after your contact with him.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
<p>Officer Cody C. Maloney</p>	<p>It is alleged that on or about August 11, 2018, at approximately 8:41 pm, at or near 1113 N. Harding, Chicago, IL 60651, PO Maloney</p>	

	<p>committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Stopped and detained [REDACTED] without justification. 2. Searched [REDACTED] vehicle, without justification. 3. Violation of Special Order S03-14, in that you failed to activate his body worn camera during your interaction with [REDACTED] 4. Violation of Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report regarding your contact with [REDACTED] 5. Violation of Special Order S04-13-09, in that you failed to provide to [REDACTED] an Investigatory Stop Receipt after your contact with him. 	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
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III. INVESTIGATION

a. Interviews

In his interview with COPA on August 22, 2018, [REDACTED]¹ stated that on August 11, 2018, at approximately 8:40 p.m., at or near 1113 N. Harding Ave., he was unlawfully detained by the Officers. The Officers jumped out of their vehicles and Officer Lopez approached [REDACTED] vehicle with his gun drawn and pointed at his direction. Officer Lopez informed [REDACTED] that he recognized him and requested his name while opening the door to his vehicle and telling [REDACTED] to exit. As [REDACTED] exited the vehicle, Officer Lopez grabbed him, escorted him to the rear of his vehicle, and searched him, including inside his underwear and groin area. Officer Lopez then handcuffed [REDACTED] as he and the other officers ordered his passengers, [REDACTED] and [REDACTED]² to the rear of the vehicle. Officer Lopez and the other officers searched [REDACTED] vehicle, without justification. Nothing was recovered as a result of this search.

Officer Lopez told [REDACTED] that he knew his vehicle and that he would catch him, as he yelled out to other bystanders that [REDACTED] was a well-known drug dealer in the area and near Loyola University. [REDACTED] stated that all of the officers at the scene searched his vehicle, his passengers and failed to provide them with any documentation for the stop or any traffic citations.

¹ Att. 12.

² COPA learned [REDACTED] real name is [REDACTED] COPA was unable to interview [REDACTED] See Att. 73.

In his interview with COPA on November 3, 2020, **Officer Joseph Cunningham**,³ stated that on August 11, 2018, at approximately 8:30 p.m. he was on duty and working with Officer Patruno. Officer Cunningham stated that he was assigned a body worn camera (BWC) on that date and believes it was activated throughout the day. He recalled that he made an arrest on that date and activated his BWC. With respect to ██████████ members of his team arrested ██████████ in the past for a firearms-related offense and possession of ecstasy.

Officer Cunningham stated that to the best of his knowledge, he did not stop, nor did he arrest, ██████████ prior to or after August 11, 2018. Officer Cunningham could not recall stopping ██████████ on August 11, 2018. Officer Cunningham did not recall searching ██████████ or searching ██████████ vehicle or witnessing of the Officers doing such an action. He did not recall if any of the Officers stopped, detained, handcuffed, or pointed a gun at ██████████ on that date. Officer Cunningham did not recall if an ISR was completed for the stop of ██████████ on that date. He did not recall Officer Lopez forcibly removing ██████████ from his vehicle or searching ██████████ genital area on August 11, 2018. Relative to the OEMC Event Query concerning a name check and license plate check for ██████████ on that date under Officer Cunningham's name, he did not recall the facts and circumstances that precipitated the query. To the best of his recollection, he did not recall making a traffic stop of ██████████ on that date. With respect to why ██████████ would make allegations against him and his team members, he stated that he believes that ██████████ has an ongoing criminal case involving several of his team members. Officer Cunningham denied all of the allegations against him in this matter.

In his interview with COPA on November 3, 2020, **Officer Joel A. Lopez**,⁴ stated that on August 11, 2018, at approximately 8:30 p.m. he was on duty and believed that he was wearing a BWC on that date. He did not recall if his BWC was activated throughout his shift. With respect to ██████████ he stated that he had arrested ██████████ on March 23, 2018, for a stolen firearm and narcotics and the case was still pending. He did not recall having any other interactions with ██████████ and does not know why ██████████ made allegations against him. With respect to the alleged incident involving ██████████ he did not recall stopping or making a traffic stop of ██████████ on that date anywhere in the City of Chicago. He does not know ██████████ or ██████████ and does not recall stopping them along with ██████████ Officer Lopez did not recall if any of the Officers committing any of the alleged misconduct. Officer Lopez denied pointing a gun at ██████████ forcibly removing ██████████ from his vehicle or handcuffing ██████████ He did not recall if he, or any members of his tactical team, had an interaction with ██████████ on August 11, 2018, and did not recall if any reports were prepared relative to the alleged incident by either himself or any members of his tactical team. Officer Lopez did not recall conducting a name check for ██████████ or running a license plate query for ██████████ vehicle on August 11, 2018; nor, does he recall if any of the Officer, with whom he was working on that date did so. He stated that officers routinely use each other's assigned computers. He denied all of the allegations made against him in this matter.

In his interview with COPA on November 17, 2020, **Officer Cody C. Maloney**,⁵ stated a similar account as all of the Officers. Officer Maloney could not recall stopping, searching, or

³ Att. 44.

⁴ Att. 48.

⁵ Att. 60.

having any interaction with ██████ on August 11, 2018. He denied all of the allegations alleged against him and the other named officers in this matter.

In his interview with COPA on December 16, 2020, **Officer Matthew C. Patruno**,⁶ stated a similar account as the rest of the Officers involved in this investigation. Officer Patruno was equipped with a BWC and it was activated during his shift when it needed to be activated. Relative to ██████ he stated that he had never stopped ██████ nor arrested him. Sometime in 2018 his team members arrested ██████ and that case was still pending. With respect to the alleged stop of ██████ on August 11, 2018, he did not recall stopping ██████ or being near the alleged location. Officer Patruno did not recall having any interaction with ██████ however, he participated in an arrest in the area of 600 N. Monticello Avenue at that time but did not recall ██████ being present. He did not recall if any of the Officers interacted with ██████ at that location. He does not recall having any interactions with either ██████ or ██████ Williams. Relative to the name check run on Officer Cunningham's computer for Javone ██████ he could not recall who ran the name check or why it was run. He denied all of the allegations alleged against him and the Officers in this matter.

b. Documentary Evidence

The **Attendance and Assignment (A&A) Sheet**⁷ for Unit 011, Watch 4, for August 11, 2018 were obtained and it identified Officers Lopez and Maloney working Beat 1161A and Officer Josephs Cunningham and Patruno working Beat 1161D.

A **Canvass**⁸ of the area where ██████ claimed that he had been detained failed to reveal any potential witnesses or video evidence relative to the alleged incident.

The **Event Query**⁹ report reflects that on August 11, 2018, at 20:36:34 hours, a name check was run for ██████ ██████ DOB: ██████-88, by ██████.¹⁰ This was in response to reports of narcotics being sold in the vicinity of 600 N. Central Park Avenue. The report also documented that ██████ license plate ██████ was ran under the same PC number for PO Cunningham.

IV. LEGAL STANDARD

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;¹¹

⁶ Att. 64.

⁷ Att. 7.

⁸ Att. 16.

⁹ Att. 5.

¹⁰ PCOAQ77 is assigned to Officer Cunningham.

¹¹ 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.

- 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 convincing¹² 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.

V. ANALYSIS AND CONCLUSION

COPA finds all of the allegations against all officers are **Not Sustained**. Here, COPA was unable to locate any evidence, beyond ██████████ and the Officers’ statements, that corroborate or refute the allegations or any evidence showing that any interaction between ██████████ and the Officers even occurred. While Officer Cunningham did complete an inquiry on ██████████ name and license plate, there is no indications that this was directly related to a traffic stop. In fact, COPA was unable to determine why the inquiry occurred.¹³ Additionally, a search for and review of BWC footage showed no interaction between ██████████ or the Officers. It is for these reasons that COPA is unable to determine if the incident occurred as alleged.

Approved:

██████████

Sharday Jackson
 Deputy Chief Administrator – Chief Investigator

July 29, 2022

Date

¹² **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.

¹³ Given the reported history of ██████████ and the knowledge of his history possessed by the Officers, combined with the nature of the dispatched reports of narcotic sales, it is possible that query was conducted direct knowledge of rather than contact with ██████████