

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date/Time/Location of Incident:	August 29, 2020/ 10:49 a.m./ 6700 S. Halsted Street August 30, 2020/ 10:10 a.m./ 729 W. 66 th Place
Date/Time of COPA Notification:	August 30, 2020/ 1:00 p.m.
Involved Officer #1:	Andrew Kutella; Star #14005; Employee ID# [REDACTED]; Date of Appointment: February 29, 2016; Police Officer; Unit of Assignment: 007; DOB: [REDACTED], 1984; Male; White.
Involved Officer #2:	Jessica Gutschow; Star #18914; Employee ID# [REDACTED]; Date of Appointment: May 16, 2019; Police Officer; Unit of Assignment: 005; ¹ DOB: [REDACTED], 1987; Female; White.
Involved Individual #1:	[REDACTED], 1988; Female; Black
Case Type:	Unlawful Detention/ Civil Rights Violation

Officers Kutella and Gutschow responded to a Criminal Damage to Vehicle call where [REDACTED] reported that [REDACTED] slashed his vehicle’s tires. Officers Kutella and Gutschow subsequently conducted a traffic stop of [REDACTED] and she denied slashing [REDACTED] tires. The officers discovered [REDACTED] was driving on a suspended license. The officers opted not to arrest [REDACTED] and issued [REDACTED] a warning about driving on a suspended license. The following day, Officers Kutella and Gutschow observed [REDACTED] driving and impounded her vehicle. [REDACTED] subsequently went to the police station alleging Officer Kutella was harassing her.

II. ALLEGATIONS

Officer	Allegation ²	Finding
Officer Andrew Kutella	1. It is alleged that on or about August 29, 2020, at approximately 10:49 a.m., at or near 6700 S. Halsted Street, Officer Andrew Kutella detained [REDACTED] without justification.	Exonerated
	2. It is alleged that on or about August 29, 2020, at approximately 10:49 a.m., at or near 6700 S.	Unfounded

¹ Officer Gutschow was detailed to the 7th District at the time of incident.

² No allegations were served on any officers and the officers were not interviewed. COPA was able to determine that no violations occurred based on a review of Department reports and Body Worn Cameras.

Officer Jessica Gutschow	Halsted Street, Officer Andrew Kutella was overly aggressive with [REDACTED]	Exonerated
	3. It is alleged that on or about August 29, 2020, at approximately, 10:49 a.m., at or near 6700 S. Halsted Street, Officer Andrew Kutella searched [REDACTED] vehicle without justification.	Exonerated
	4. It is alleged that on or about August 30, 2020, at approximately 10:10 a.m., at or near 729 W. 66 th Place, Officer Andrew Kutella impounded [REDACTED] vehicle without justification.	Exonerated
	5. It is alleged that on or about August 30, 2020, at approximately 10:10 a.m., at or near 729 W. 66th Place, Officer Andrew Kutella failed to provide his name upon [REDACTED] request.	Unfounded
	1. It is alleged that on or about August 29, 2020, at approximately 10:49 a.m., at or near 6700 S. Halsted Street, Officer Jessica Gutschow searched [REDACTED] without justification.	Exonerated

III. SUMMARY OF EVIDENCE

In a **statement to COPA on September 1, 2020**, [REDACTED] was driving home with her six-year-old son when officers pulled her over and detained her without justification. During the traffic stop, Officer Andrew Kutella had her exit the vehicle, placed her against the trunk of the car, and handcuffed her. Officer Gutschow searched [REDACTED] and Officer Kutella searched [REDACTED] vehicle. Officer Kutella was “aggressive” with her, which [REDACTED] described as him being mean, talking down to her, and looking at her as if she was less than him. The officers told [REDACTED] they received a report that [REDACTED] had flattened her ex-boyfriend’s tires, which [REDACTED] denied. [REDACTED] admitted that she did not have a valid driver’s license.

On the following day, Officers Kutella and Gutschow saw [REDACTED] outside of her vehicle, standing in front of her cousin’s house. Officer Kutella told [REDACTED] she should not be driving her car after he gave her a warning the previous day. [REDACTED] denied driving the vehicle and said she never had the keys in her hand. [REDACTED] added that her cousin was going to drive her and her son to the hospital for a return appointment. [REDACTED] admitted that she drove the vehicle earlier in the day, but said she was not driving when she encountered the officers. Officer Kutella impounded [REDACTED] vehicle without justification and gave her a ticket and an I-bond for driving on a suspended license. [REDACTED] initially said her license was suspended, but later said she never had a driver’s license. [REDACTED] added that Officer Kutella failed to provide his name upon [REDACTED] request.

COPA obtained and reviewed all Department reports, Body Worn Camera, and Office of Emergency Management and Communications (OEMC) Event Queries. This investigation revealed that on August 29, 2020 at approximately 9:35 a.m., [REDACTED] dialed 911 and reported that his ex-girlfriend, [REDACTED] slashed all four of his vehicle’s tires with a steak knife and fled northbound in a 2015 white Chevy Sonic. [REDACTED] provided [REDACTED] license

plate number and address—adding that [REDACTED] lives down the street. Officers Kutella and Gutschow immediately responded to the call and located [REDACTED] vehicle but were unable to contact [REDACTED]. On the same date, at 10:49 a.m., Officer Kutella and Gutschow conducted a traffic stop of [REDACTED]. Body Worn Camera video depicts that the officers explained to [REDACTED] the reason for the stop. The officers handcuffed [REDACTED]. Officer Gutschow performed a protective pat down of [REDACTED] and Officer Kutella searched [REDACTED] vehicle for possible weapons. [REDACTED] denied slashing [REDACTED] tires, but acknowledged that she busted his windows and slashed his tires in the past. Further investigation revealed that [REDACTED] driver's license was suspended. Officer Kutella told [REDACTED] that he would not place her into custody as he did not want [REDACTED] son placed into custody. Officer Kutella informed [REDACTED] he would not take her vehicle as long as [REDACTED] vowed not to drive it. [REDACTED] agreed to walk home and have someone pick up her vehicle. [REDACTED] said she understood that she would be arrested if officers observed her driving the vehicle again without a valid license. Officer Kutella was not verbally or physically aggressive with [REDACTED].

A Traffic Citation documents that on August 30, 2020 at 10:10 a.m., Officer Kutella observed the same Chevy Sonic turn eastbound from Halsted onto 66th Street. Recognizing the driver, [REDACTED] from the previous day's stop, Officer Kutella impounded [REDACTED] vehicle due to [REDACTED] having a suspended driver's license and no insurance. Body Worn Camera video depicts [REDACTED] standing at the driver's side of her vehicle, with the door open and car keys in hand. Officer Kutella told [REDACTED] that he watched her drive up. [REDACTED] acknowledged that she drove but said it was an emergency. [REDACTED] added that she was merely picking up her cousin so he could drive [REDACTED] and her son to the hospital. [REDACTED] acknowledged that she was wrong and admitted that her vehicle was uninsured. The entire encounter is captured on Body Worn Camera. [REDACTED] does not ask Officer Kutella his name.

Based on the allegations and the available evidence, interviews of the involved Department members were not conducted as COPA found that the allegations were not factual, and/ or the Involved Department Members' conduct was proper and within Department policy.

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;
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 reviewed complied with 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 conduct complied with Department policy than that it did not, 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.

V. ANALYSIS AND CONCLUSION

COPA finds that **Allegation #1** against **Officer Kutella** is **Exonerated**, that he detained [REDACTED] without justification. Officer Kutella's detention of [REDACTED] was within policy. [REDACTED] ex-boyfriend, [REDACTED] signed complaints and positively identified [REDACTED] as the person who slashed his vehicle's tires with a steak knife. [REDACTED] provided [REDACTED] name, vehicle type, license plate number, and address. Upon observing [REDACTED] driving the vehicle matching the description provided by [REDACTED] Officer Kutella detained [REDACTED] and questioned her about the incident, and further discovered that [REDACTED] was driving on a suspended license. Rather than arrest [REDACTED] who was with her young child, and impound her vehicle, Officer Kutella gave [REDACTED] a break and allowed [REDACTED] to walk home with her son. There is clear and convincing evidence that these facts do not constitute a colorable violation of [REDACTED] Fourth Amendment rights, and Officer Kutella was justified in detaining [REDACTED]

COPA finds that **Allegation #2** against **Officer Kutella** is **Unfounded**, that he was aggressive with [REDACTED] The entire encounter was captured on Body Worn Camera. Body Worn Camera video disputes [REDACTED] claim that Officer Kutella was aggressive with her. There is no evidence to suggest that Officer Kutella was verbally or physically aggressive with [REDACTED] in any way. In fact, Officer Kutella showed compassion for [REDACTED] and her son by not arresting [REDACTED] or impounding her vehicle.

COPA finds that **Allegation #3** against **Officer Kutella** is **Exonerated**, that he searched [REDACTED] vehicle without justification. Officer Kutella stopped [REDACTED] after [REDACTED] positively identified [REDACTED] as just having slashed his tires with a steak knife. [REDACTED] reported that [REDACTED] fled the scene in her vehicle. Upon detaining [REDACTED] Officer Kutella looked around in [REDACTED] vehicle in search of a weapon.

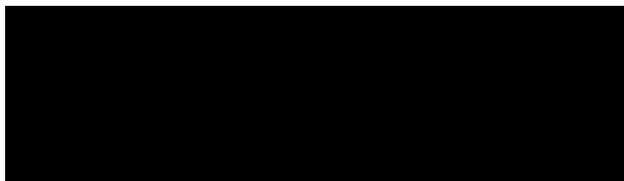
COPA finds that **Allegation #4** against **Officer Kutella** is **Exonerated**, that he impounded [REDACTED] vehicle without justification. This investigation revealed that Officer Kutella observed [REDACTED] driving her vehicle on a suspended driver's license and no insurance, after he gave [REDACTED] a break and warned her not to drive the day before. [REDACTED] acknowledged that she drove the vehicle in defiance of Officer Kutella's previous warning and did not have insurance. Officer

Kutella’s decision to impound [REDACTED] vehicle does not constitute misconduct and his actions were within Department policy.

COPA finds that **Allegation #5** against **Officer Kutella** is **Unfounded**, that he failed to provide his name upon [REDACTED] request. [REDACTED] lacks credibility. The entire encounter was captured on Body Worn Camera, which disputes [REDACTED] claim that Officer Kutella failed to provide his name upon [REDACTED] request. There is no evidence to suggest that [REDACTED] asked Officer Kutella his name. Additionally, Officer Kutella’s name badge is visible on his uniform in the Body Worn Camera video.

COPA finds that **Allegation #1** against **Officer Gutschow** is **Exonerated**, that she searched [REDACTED] without justification. [REDACTED] was wanted for slashing [REDACTED] tires with a steak knife. The officers detained [REDACTED] shortly after the alleged incident occurred, and Officer Gutschow performed a protective pat down of [REDACTED] in search of possible weapons. Based on the facts of the case, Officer Gutschow’s actions were within Department policy and do not constitute a colorable violation of [REDACTED] Fourth Amendment rights.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

3-23-2021

Date

Appendix A

Assigned Investigative Staff

Squad#:	Twelve
Major Case Specialist:	Theresa Merritt
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass