

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	August 18, 2019 / 1:10 p. m. / ██████████
Date/Time of COPA Notification:	August 19, 2019 / 1:08 p.m.
Involved Officer #1: Benjamin DeYoung	Benjamin DeYoung, Star# 17199 / Police Officer / Employee Number ██████████ / Date of Appointment: August 31, 2015 / 6th District / White Male
Involved Officer #2: James Kinney	James Kinney, Star# 17082 / Police Officer / Employee Number ██████████ / Date of Appointment: March 15, 2013 / 6th District / White Male
Involved Individual #1: ██████████	██████████ / 36 year-old Black Male
Case Type:	Stop and Search

I. ALLEGATIONS

Officer	Allegation	Finding
Officer	It is alleged that on or about August 18, 2019, at or near 8300 S. Vincennes Ave, Officer Benjamin DeYoung	
	1. Stopped Mr. ██████████ vehicle without justification.	Unfounded
	2. Searched Mr. ██████████ vehicle without justification.	Unfounded
	3. Questioned Mr. ██████████ about the nature of his parole without justification.	Unfounded

II. SUMMARY OF EVIDENCE¹

¹COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

In a statement to COPA, the complainant, [REDACTED], told investigators that he was pulled over by the police at about 1:10 p.m. on August 18, 2019.² The officer (now known to be Officer Benjamin DeYoung) told Mr. [REDACTED] he was pulled over because they saw him on his cell phone while he was driving. Officer DeYoung asked for Mr. [REDACTED]'s driver's license and proof of insurance, which Mr. [REDACTED] provided, then went back to the police vehicle. Upon his return, Officer DeYoung asked Mr. [REDACTED] what he was on parole for. Mr. [REDACTED] told Officer DeYoung he didn't have to disclose that information to him. Officer DeYoung asked Mr. [REDACTED] to step out of his vehicle but then grabbed Mr. [REDACTED]'s left wrist and pulled him out of the vehicle. The two were facing each other and Mr. [REDACTED] said he had his hands up and Officer DeYoung Grabbed Mr. [REDACTED]'s right wrist and placed him in handcuffs. Mr. [REDACTED] asked Officer DeYoung why he was being detained. Officer DeYoung replied that he was being detained because he wouldn't answer Officer DeYoung's question about what he was on parole for.

Mr. [REDACTED] said Officer DeYoung continued to ask him why he was on parole and Mr. [REDACTED] repeated that he was not obligated to disclose that information. Officer DeYoung's partner informed Mr. [REDACTED] they were going to search his vehicle, Mr. [REDACTED] said he didn't give them permission to search his vehicle. Mr. [REDACTED] said he had additional conversation with the officers and Officer DeYoung implied that he was pulled over because of the neighborhood he was in, and Mr. [REDACTED] said he lives in that area and he shouldn't have to be concerned driving through particular neighborhoods.

Mr. [REDACTED] said Officer DeYoung searched the interior of his vehicle, including his glovebox and the armrest. Mr. [REDACTED] said he asked Officer DeYoung if he wanted to look in his trunk and told him there is a button in the armrest to pop the trunk. Officer DeYoung pressed the button to release the trunk latch and searched the vehicle's trunk. After Officer DeYoung searched the trunk, Mr. [REDACTED] asked if he was free to go and Officer DeYoung said he was writing him a ticket for driving while on his cell phone. Mr. [REDACTED] maintained that he was not on his cell phone when he was pulled over.

Bodycam footage from the incident shows Officers DeYoung and Kinney pulling over Mr. [REDACTED]'s vehicle.³ Immediately upon Officer DeYoung approaching the driver-side of the vehicle, Mr. [REDACTED] asks why he was pulled over. Officer DeYoung says he saw Mr. [REDACTED] on his cell phone and Mr. [REDACTED] says "no you didn't." Officer DeYoung asks what Mr. [REDACTED] had just been reaching into his lunch bag for, and Mr. [REDACTED] says he was reaching for his food. Officer DeYoung asks what is in the clear sandwich bag, and Mr. [REDACTED] says it is a cinnamon stick. Officer DeYoung says he mistook that for a blunt. Mr. [REDACTED] starts swearing and becoming agitated that he was pulled over and Officer DeYoung asks him to calm down. Mr. [REDACTED] apologizes, and Officer DeYoung goes back to the police vehicle to inspect Mr. [REDACTED]'s driver's license and insurance card.

² Attachment 8.

³ Attachment 6.

Upon his return to speak with Mr. ██████, Officer DeYoung asks him what he is on parole for. Mr. ██████ refuses to answer the question. Officer DeYoung directs Mr. ██████ to get out of the vehicle, which he does. Officer DeYoung directs Mr. ██████ to face away from him, which Mr. ██████ does not immediately comply with. Officer DeYoung has his left and then right hand on Mr. ██████'s left wrist while Mr. ██████ does not comply with the order to turn around, but starts an argument with Officer DeYoung, questioning why he is being detained. Officer DeYoung turns Mr. ██████ around and places him in handcuffs. Officer DeYoung searches the interior of the car, including the console, a backpack in the backseat, and the trunk of the vehicle after Mr. ██████ told Officer DeYoung he could pop the trunk from inside the vehicle and look inside the trunk. Officer DeYoung does not uncover any contraband as a result of the search, and once completed, Mr. ██████ is unhandcuffed while Officer DeYoung writes him a citation for driving while on his cell phone.⁴

III. 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 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 been 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.

⁴ Attachment 24.

IV. Analysis

The body-worn camera footage in this case is compelling evidence that the officers acted professionally and in accordance with Department Policy when they encountered Mr. [REDACTED]. Upon being pulled over by the police, Mr. [REDACTED] was immediately impatient and rude with Officer DeYoung, while Officer DeYoung maintained a professional demeanor. Officer DeYoung explained to Mr. [REDACTED] why he was pulled over and the citation he issued corresponds to what the officer said that he had seen Mr. [REDACTED] on his cell phone while driving. Officer DeYoung also mentioned that he saw Mr. [REDACTED] reaching into a bag and inquired as to what he was reaching for. Mr. [REDACTED] became increasingly annoyed by Officer DeYoung's questions and was argumentative for the duration of the stop.

After reviewing information on his PDT, Officer DeYoung returned to Mr. [REDACTED] and asked him what he was on parole for. Mr. [REDACTED] refused to answer the question and told the officer he didn't have to answer. Officer DeYoung asked Mr. [REDACTED] to step out of the vehicle, placed him in handcuffs, performed a protective pat down of Mr. [REDACTED], and searched the vehicle. Mr. [REDACTED] claimed in his statement to COPA that Officer DeYoung pulled him out of his vehicle; however, this is incorrect. Mr. [REDACTED] stepped out of his car on his own.

Under Illinois law, an individual who is on parole is subject to search by law enforcement personnel. *ILCS 5/3-3-7(10)*. Furthermore, once Officer DeYoung became aware that Mr. [REDACTED] was on parole and refused to answer why he was on parole, coupled with the fact that Officer DeYoung had seen him reaching into the backseat of the vehicle, Officer DeYoung had additional justification to search the vehicle. Once a search of the driver's compartment was done, Mr. [REDACTED] consented to have the officers search the trunk of his vehicle. Mr. [REDACTED] told the officers they could open the trunk from inside the vehicle and look inside his trunk, which they did. Officer DeYoung also documented this in his Investigatory Stop Report.⁵ As for Mr. [REDACTED]'s allegation that Officer DeYoung improperly questioned him about why he was on parole, Officers are not prohibited from questioning individuals on any subject matters. Mr. [REDACTED] did not respond to Officer DeYoung's questions about his parole. Mr. [REDACTED] was issued only one traffic citation for driving while he was on his cell phone, which was the original reason for the stop and which Officer DeYoung stated to Mr. [REDACTED] when he initially pulled him over.

Based on the preceding, COPA finds the allegations that Officers DeYoung stopped Mr. [REDACTED] without justification, searched his vehicle without justification, and asked him about his parole without justification are unfounded.

⁵ Attachment 20.

Approved:



June 21, 2021

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	16
Investigator:	Linda Wyant
Supervising Investigator:	Deborah Talbert
Deputy Chief Investigator:	Angela Hearts-Glass