

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 5, 2018
Time of Incident:	5:19 PM
Location of Incident:	7700 S. Carpenter St.
Date of COPA Notification:	August 16, 2018
Time of COPA Notification:	12:22 PM

On August 5, 2018, the complainant, [REDACTED] (“[REDACTED]”) was pulled over by Officer Jordan Smith (“Officer Smith”) and Officer Kristian Nikolic (“Officer Nikolic”) for failing to use a turn signal. [REDACTED] alleged that the officers used excessive force in removing him from his car, and that Officer Smith engaged in an unnecessary verbal altercation. COPA also brought allegations that the officers improperly searched [REDACTED] vehicle. Following an investigation, COPA sustained allegations related to the use of force and the search of [REDACTED] vehicle.

II. INVOLVED PARTIES

Involved Officer #1:	Kristian Nikolic, Star #19041, Employee ID # [REDACTED] Date of Appointment: December 12, 2016, Police Officer, 6 th District, Date of Birth: [REDACTED] 1989, Male, Unknown Race
Involved Officer #2:	Jordan Smith, Star #17346, Employee ID # [REDACTED] Date of Appointment: December 14, 2015, Police Officer, 6 th District, Date of Birth: [REDACTED] 1989, Male, White
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1992, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Nikolic	1. Grabbed [REDACTED] neck, in violation of Rule 9.	Sustained / 45-Day Suspension
	2. Scratched [REDACTED] neck, in violation of Rule 9.	Sustained / 45-Day Suspension
	3. Failed to complete a Tactical Response Report (TRR), in violation of Rule 6.	Exonerated

	4. Improperly searched the vehicle that was being driven by ██████ in violation of Rule 6.	Sustained / 45-Day Suspension
	5. Removed the car's seat cushions without justification, in violation of Rule 6.	Sustained / 45-Day Suspension
	6. Searched under the car's hood without justification, in violation of Rule 6.	Sustained / 45-Day Suspension
	7. Removed the center console around the stick shift without justification, in violation of Rule 6.	Sustained / 45-Day Suspension
	8. Removed a portion of the car around the steering wheel column without justification, in violation of Rule 6.	Sustained / 45-Day Suspension
Officer Smith	1. Repeatedly asked ██████ if he was sorry, in violation of Rule 8.	Sustained / 5-Day Suspension
	2. Improperly searched the vehicle that was being driven by ██████ in violation of Rule 6.	Sustained / 45-Day Suspension
	3. Removed the center console around the stick shift without justification, in violation of Rule 6.	Sustained / 45-Day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

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- Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
 - Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.
 - Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

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- G02-01:** Human Rights and Human Resources.
 - G03-02-02:** Incidents Requiring the Completion of a Tactical Response Report.

Special Orders

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- S07-03-06:** Seizure and Forfeiture of Vehicles, Vessels, and Aircraft.
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Federal Laws

1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

V. INVESTIGATION¹

a. Interviews

██████████

COPA interviewed ██████████ on August 23, 2018.² ██████████ told investigators that on August 5, 2018, ██████████ was at a park speaking with ██████████ (“██████████ asked ██████████ to move his vehicle because ██████████ license was suspended. When ██████████ moved the car, the police pulled him over. Officer Nikolic told ██████████ he did not use a signal when leaving a parking spot, to which ██████████ admitted. ██████████ stated that he had a valid driver’s license and insurance. ██████████ had his phone in one hand and placed it face down on his lap to get the insurance from the glove box. The officer then told ██████████ to exit the vehicle. ██████████ asked why, and the officer unlocked and opened the car door. The officer had his hand on ██████████ neck and told him to stop resisting. While ██████████ was still seated in the car, Officer Smith pointed a taser at ██████████ denied doing anything to warrant a taser. ██████████ claimed that Officer Smith discharged the taser but missed.³ Officer Nikolic gripped ██████████ neck with one hand. The officer’s nails also scratched the back of ██████████ neck. An officer then turned off ██████████ phone. As, ██████████ had his hands behind hands back, Officer Nikolic attempted to separate ██████████ hands and the officers told ██████████ to stop resisting. ██████████ was then handcuffed and sat in the back of the squad car. According to ██████████ he was seated with his legs outside the door and Officer Nikolic kicked his legs into the vehicle.⁴ ██████████ denied resisting and said he was compliant. The officers taunted ██████████ in the squad car and at the police station. Specifically, Officer Smith repeatedly asked ██████████ if he was “sorry yet.”⁵ The officers searched the vehicle but never searched ██████████ did not know why he was charged with resisting arrest.

██████████ also submitted an online complaint on August 15, 2018.⁶ ██████████ reported Officer Nikolic ordered him out of his car without a valid reason. Officer Nikolic then opened ██████████ door, grabbed ██████████ phone, and scratched and choked ██████████ further alleged Officer Nikolic kicked ██████████ into the squad car. ██████████ wrote that his neck was scratched and swollen after this incident.

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 Att. 5

³ No allegations were brought related to Officer Smith’s use of a taser, as available evidence refutes ██████████ assertion that a taser prong was ever discharged. Instead, BWC shows Officer Smith holding taser and that his radio fell off. COPA believes ██████████ saw the radio cable and thought it was a taser wire.

⁴ An allegation was not served related to Officer Nikolic pushing ██████████ into the squad car, as BWC depicted ██████████ arguing with the officers and not wanting Officer Nikolic to close the door. No excessive or unwarranted force was used.

⁵ Approximately 8:59 minute mark of Att. 5.

⁶ Att. 4

Officer Kristian Nikolic

COPA interviewed Officer Nikolic on November 20, 2018.⁷ On August 5, 2018, Officer Nikolic performed a traffic stop after [REDACTED] failed to signal leaving from a parked position. Officer Nikolic did not recall seeing [REDACTED] before [REDACTED] got into the car, if [REDACTED] was at Martin Luther King Park, or if [REDACTED] was speaking to anyone before the traffic stop. Officer Nikolic did not know whose car [REDACTED] was driving at the time of the stop. Officer Nikolic approached [REDACTED] and asked for his license and insurance. Officer Nikolic heard [REDACTED] engine rev and thought [REDACTED] was going to drive off. Officer Nikolic attempted to control [REDACTED] "hands so he couldn't reach for anything in the vehicle."⁸ [REDACTED] was asked to exit his car because he made furtive movements. Officer Nikolic had a handcuff on one of [REDACTED] hands and attempted to remove [REDACTED] from the car. Officer Nikolic elaborated that he performed a straight arm bar on [REDACTED]. Officer Nikolic did not recall grabbing [REDACTED] neck. After reviewing his BWC at the approximately 5:23 PM minute mark, Officer Nikolic stated he was grabbing [REDACTED] hand while the hand was near [REDACTED] neck. Officer Nikolic related that if he grabbed [REDACTED] neck, it was unintentional, and he had no recollection of scratching [REDACTED] neck. Officer Nikolic denied restricting [REDACTED] airflow. Once [REDACTED] was out of the vehicle, he was handcuffed with assistance from Officer Smith. [REDACTED] resisted the officers by stiffening his arms. Officer Nikolic denied kicking [REDACTED] into the squad car. Officer Nikolic did not see any injuries on [REDACTED] and related [REDACTED] did not complain of any injuries. Officer Nikolic did not complete a tactical response report ("TRR") upon the advisements of Lieutenants Lisa Chibe and James Baier.

COPA interviewed Officer Nikolic a second time, on January 29, 2020, after serving allegations related to an improper search of [REDACTED] car.⁹ Officer Nikolic reiterated that he did not recall seeing [REDACTED] speaking with [REDACTED] prior to stopping [REDACTED] or knowing that [REDACTED] was driving [REDACTED] vehicle. After reviewing a CPD report in which Officers Nikolic and Smith ran [REDACTED] information shortly before stopping [REDACTED]. Officer Nikolic did not recall performing this computer search, or seeing [REDACTED].¹⁰ Officer Nikolic speculated that Officer Smith may have seen [REDACTED] and ran the name. When asked why this same report showed that the officer ran the license for the vehicle driven by [REDACTED] before [REDACTED] was stopped, Officer Nikolic did not recall performing this search. Officer Nikolic related that, per his training, officers run plates before making a stop. Officer Nikolic searched the vehicle driven by [REDACTED] on August 5, 2018 because [REDACTED] was arrested and "the vehicle was searched subsequent to arrest."¹¹ Officer Nikolic elaborated that, "You search an arrestee prior to when you bring them to the station to make sure they don't have any inventory items, any personal property that the can't have in lockup. The same is done with the vehicle when it's brought into the station. You want to make sure there's no personal property in that vehicle that needs to be inventoried."¹² Officer Nikolic stated that this search is of the entire vehicle. While searching he identified "prior manipulation" in the back seat and "the shift knob."¹³ ¹⁴ Officer Nikolic then made a "a more extensive search because those are areas where possible inventory

⁷ Att. 22

⁸ Approximately 5:55 minute mark of Att. 22.

⁹ Att. 39

¹⁰ Att. 32

¹¹ Approximately 8:06 minute mark of Att. 39.

¹² Approximately 8:15 minute mark of Att. 39.

¹³ Approximately 10:48 and 10:52 minute marks of Att. 39, respectively.

¹⁴ Officer Nikolic clarified that by shift knob, he meant the area around the gear shift (see approximately 12:20 minute mark of Att. 39).

items could be located.”¹⁵ Per Officer Nikolic, he was looking for personal property, not weapons. Officer Nikolic believed an officer drove [REDACTED] vehicle to the police station. Officer Nikolic intended to impound the vehicle, but it was ultimately returned to the owner instead. Officer Nikolic did not recall who the owner was. Officer Nikolic asserted that it was appropriate to search the vehicle, even without it being impounded, for safety and so [REDACTED] property did not get lost. Officer Nikolic specifically stated he wanted to ensure there was not a bomb in the vehicle that could detonate at the police station.¹⁶

Officer Jordan Smith (“Officer Smith”)

Officer Smith was interviewed by COPA on November 20, 2018.¹⁷ On August 5, 2018, Officer Smith was on patrol when he and Officer Nikolic performed a traffic stop on [REDACTED]. Officer Smith saw [REDACTED] enter his vehicle while it was parked on 77th St. Officer Smith did not recall if [REDACTED] was speaking with anyone before getting into the car. Officer Smith was not aware that [REDACTED] was driving [REDACTED] car. Once [REDACTED] vehicle stopped, Officer Smith approached the passenger side. Officer Smith heard Officer Nikolic tell [REDACTED] to exit the vehicle, and then he heard an engine rev. Officer Nikolic attempted to stop [REDACTED] from driving the vehicle and Officer Smith attempted to assist Officer Nikolic in removing [REDACTED] from the car. Officer Smith then ran to the squad car and got a taser. Officer Smith denied discharging or activating his taser. When Officer Smith went to get the taser, he missed a portion of the encounter between his partner and [REDACTED]. Officer Smith stated that when he returned, [REDACTED] exited the vehicle with Officer Nikolic’s assistance. [REDACTED] was difficult to handcuff because he stiffened his body and would not put his hands behind his back. Officer Smith eventually assisted Officer Nikolic in cuffing [REDACTED]. Officer Smith did not see his partner kick [REDACTED] into the squad car. Officer Smith asked if [REDACTED] was sorry because the situation “could’ve been avoided if he just gave license and insurance.”¹⁸ Officer Smith denied that he was trying to be disrespectful towards [REDACTED]. Officer Smith related there was concern [REDACTED] was going to run over either officer and [REDACTED] escalated the situation. Officer Smith did not recall [REDACTED] having any injuries and did not hear [REDACTED] complain of any injuries.

COPA interviewed Officer Smith a second time, on January 29, 2020, after serving him with allegations related to an improper search of [REDACTED] car.¹⁹ Officer Smith again related he did not recall seeing [REDACTED] with [REDACTED] before stopping [REDACTED] and he did not know who owned the vehicle [REDACTED] was driving. After reviewing a CPD report, Officer Smith related he saw [REDACTED] on scene, knew [REDACTED] from previous encounters, and ran [REDACTED] name via in-car computer.²⁰ When asked why this same report revealed that the officers ran the license plate for the vehicle driven by [REDACTED] before [REDACTED] was stopped, Officer Smith stated “we run plates in traffic or if we’re behind the car, we run plates.”²¹ Officer Smith also recalled that the car was parked and people may have been standing around it, making it suspicious and prompting them to run the plates. Officer Smith stated that he searched the vehicle operated by [REDACTED] as an inventory search, after [REDACTED] arrest. Per Officer Smith, they were “making sure there wasn’t [sic] any valuables in the car,” and related, “There’s

¹⁵ Approximately 10:57 minute mark of Att. 39.

¹⁶ Approximately 10:10 minute mark of Att. 39.

¹⁷ Att. 27

¹⁸ Approximately 10:08 minute mark of Att. 27.

¹⁹ Att. 45

²⁰ Att. 32

²¹ Approximately 7:50 minute mark of Att. 45.

been past history of people being under arrest who, once the car is towed, they make allegations that they're missing stuff from the vehicle."²² Thus, the officers wanted to inventory anything valuable in [REDACTED] car. When asked why he removed a piece from around the stick shift, Officer Smith explained, "That stick shift was manipulated prior. It didn't take any force of mine to lift that up."²³ Officer Smith stated that was part of the inventory search and added that sometimes vehicles have hidden contraband in areas with previous manipulation. Officer Smith stated that because of [REDACTED] erratic behavior and his revving of the engine, he believed [REDACTED] may have been concealing something. Per Officer Smith, the car was driven to the station by an officer. The officers decided not to have it towed or impounded, and it was retrieved by the owner.

b. Digital Evidence

Body Worn Camera (BWC)^{24 25}

- *Officer Kristian Nikolic*

Officer Nikolic's BWC began at about 5:18 PM. Shortly after, Officer Nikolic approaches [REDACTED] on the driver's side and asks for license and insurance. The officer tells [REDACTED] he failed to signal from a parked position. [REDACTED] responds that the officers were "riding [his] ass" and he was trying to get out of their way. [REDACTED] states he has a license and insurance and seems to be removing something from his pocket. Officer Nikolic then states [REDACTED] seems nervous and orders [REDACTED] out of the vehicle. [REDACTED] then places the vehicle in park and asks why he needs to exit the vehicle as he turns his right palm upward and as his left holds his I.D. card and car keys. Officer Nikolic then repeatedly tells [REDACTED] to step out of the vehicle, as Officer Nikolic increasingly raises his voice. Officer Nikolic reaches into the vehicle and grabs [REDACTED]. A struggle ensues, and Officer Nikolic continues to grab [REDACTED] as [REDACTED] is screaming and appears to pull his arm away from the officer. Officer Nikolic puts his left hand near [REDACTED] neck. Officer Nikolic then grabs [REDACTED] right arm while [REDACTED] is screaming. Officer Nikolic gets a right cuff on [REDACTED] exits the car while the officer pulls on the handcuff. [REDACTED] struggles with Officer Nikolic as the officer attempts to fully handcuff him. Officer Smith is also seen wrapping up his radio's cable. At about 5:21 PM, Officer Smith is seen holding his taser. Officer Nikolic continues trying to get [REDACTED] right arm cuffed as [REDACTED] moves his wrist around.

Officer Nikolic gets [REDACTED] into handcuffs at about 5:21 PM and brought him to the squad car. [REDACTED] is sitting with his legs out of the door. Officer Nikolic pushes on [REDACTED] torso and legs, with his hands, to get [REDACTED] into the car before closing the door. Officer Nikolic returns to [REDACTED] vehicle and begins searching, at roughly 5:22 PM. The officer's search includes: the glove box; under seats; the center console compartment(s); the back seat area, including lifting the seat cushions; under the hood; removing a portion of the steering column area; removing a portion of the gear shift area; pushing knobs and buttons; and the trunk, including lifting and moving objects. At about 5:31 PM, Officer Smith asks [REDACTED] if he was "very sorry."

²² Approximately 9:26 minute mark of Att. 45.

²³ Approximately 10:01 minute mark of Att. 45.

²⁴ Att. 17

²⁵ In Car Camera (ICC) footage provided by CPD did not include any relevant content (Att. 17).

At roughly 5:38 PM, Officer Nikolic, Officer Smith, and ██████ are standing in 6th District parking lot. ██████ asks what he did, and the officers said he did not get out of the car. ██████ asserts he did. Officer Smith again asks ██████ if he was sorry.

- *Officer Jordan Smith*

Officer Smith's BWC initiated at about 5:18 PM and Officer Smith approaches on the passenger's side of ██████ vehicle. An engine noise is heard at approximately 5:20 PM. ██████ is ordered out of the car at approximately 5:20 PM. Officer Smith joins his partner on the driver's side, as Officer Nikolic struggles with ██████. Officer Smith goes to his squad car and retrieves a taser. Officer Smith tells ██████ to step out of the car. ██████ remains screaming and struggling with Officer Nikolic. Officer Nikolic appears to be pulling ██████ out of the vehicle. ██████ exits the vehicle at about 5:21 PM and continues pulling his wrist away, trying to walk off, and shouting toward bystanders before he was cuffed. After ██████ is cuffed, Officer Smith searches under ██████ driver's seat. ██████ is secured in a squad car and assisting officers arrived. Officer Smith continues searching the vehicle including: under the front seats, in compartments near the driver's seat, removing a portion of the gear shift, and possibly also a brief search of the back seat area.²⁶ At roughly 5:30 PM, Officer Smith gets into the front passenger's seat of the squad car, and he asks ██████ if he has calmed down and if he is sorry. Officer Smith asks ██████ if he was sorry several times while on scene. Once at the police station, Officer Smith again asks ██████ if he is sorry for his actions. Officer Smith tells ██████ that he knew what he did was wrong. ██████ questioned what he was sorry about and denied doing anything wrong.

c. Documentary Evidence

██████████ - *Arrest Report*²⁷

██████████ was charged with misdemeanor resisting/obstructing a peace officer and operating an uninsured motor vehicle. He also received a traffic citation for operator signal while changing lane. Officers Nikolic and Smith observed ██████ "fail to signal leaving from a parked position." ██████ provided his license, but no insurance. ██████ then "placed the vehicle in drive and attempted to leave the scene of the stop." Officer Nikolic told ██████ to exit the car and he refused. Officer Nikolic "attempted to stop arrestee from driving away from the scene by grabbing arrestee's hands." ██████ responded by "flailing his hands wildly and screaming." The officers got one handcuff on ██████ and "guided him from the vehicle." A TRR was not completed.

Office of Emergency Management and Communications ("OEMC") Event Query Reports

At roughly 5:06 PM, Beat 681 (Officers Smith and Nikolic) made a street stop at 7700 S. Racine Ave.²⁸ About a minute later, the officers searched ██████ name. The officers ran license

²⁶ The BWC angle is unclear as to if Officer Smith was searching in the backseat, or if he was performing a plain-sight inspection.

²⁷ Att. 11

²⁸ Att. 32

plate [REDACTED] at about 5:07 PM, 5:12 PM, and 5:13 PM. They also searched the name [REDACTED]
[REDACTED]. The event ended at approximately 5:22 PM.

Beat 681 (Officers Smith and Nikolic) reported at traffic stop near 7700 S. Carpenter at approximately 5:22 PM.²⁹ Beats X602 and 612 assisted. Beat 681 ran [REDACTED] name at roughly 5:30 PM. Beat 681 went to the 6th District with one transport at about 5:35 PM. The officers ran license plate [REDACTED] at approximately 6:08 PM and 8:32 PM.

*Tow Documents*³⁰

A request to the City of Chicago's Department of Streets and Sanitation revealed that there was no impounded of [REDACTED] vehicle following his arrest.

VI. 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 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.

²⁹ Att. 13

³⁰ Att. 36

VII. ANALYSIS³¹

Allegations 1 & 2

Allegations 1 and 2 against Officer Nikolic are sustained. ██████ alleged that Officer Nikolic grab and scratched his neck. While ██████ alleged perception of force is not entirely inclusive of the force used, it is clear from the BWC evidence that Officer Nikolic grabbed ██████ hands/arms and grabbed near ██████ neck. When interviewed, Officer Nikolic did not deny his use of force, explaining that his goal was to gain control of ██████ hands because he believed ██████ was attempting to flee the traffic stop and/or made furtive movements. COPA finds this explanation unreasonable.

Notwithstanding the reasonableness of Officer Nikolic's perception that ██████ was attempting to flee, COPA finds it unreasonable that a trained officer in Officer Nikolic's position would reach into an open window of a possibly fleeing vehicle to restrain or extract a driver stopped for a *minor traffic violation*. Such an act to further detain ██████ constituted an unreasonable safety risk to ██████ and Officer Nikolic.

Second, CPD reports completed by Officer Nikolic and the officer's interview with COPA referenced furtive movements by ██████ however, no specific furtive movements were articulated by the officer. Additionally, COPA finds a review of the BWC not suggestive of furtive movements by ██████ – none are observed on the BWC, nor did the BWC capture Officer Nikolic taking issue with ██████ hand movements while the officer was at the driver's side door. In sum, COPA lends little credit to Officer Nikolic's assertion that ██████ made furtive movements.

Finally, COPA finds Officer Nikolic's perception that ██████ was fleeing to be questionable. In fact, BWC shows ██████ as compliant. Officer Nikolic asked ██████ for his license and insurance info and ██████ acquiesced by reaching into his back pocket to retrieve his license. Officer Nikolic then asked ██████ to step from the vehicle. In response, ██████ immediately placed the vehicle in park, something ██████ would have had to do to exit the vehicle. While COPA does not doubt ██████ vehicle's engine was running, COPA cannot agree with Officer's Nikolic's statement that ██████ vehicle's engine "revved" or was "revving," as BWC evidence does not support this.

In Sum, is not implausible that Officer Nikolic misperceived ██████ shifting the vehicle into "park" as ██████ shifting the vehicle to "drive" in an attempt to flee. However, COPA finds such a determination moot. Officer Nikolic either unreasonably reached into the vehicle that he reasonably believed was fleeing and grabbed ██████ or unreasonably perceived ██████ was attempting to flee. Regardless, either finding renders Officer Nikolic's use of force unreasonable. Accordingly, allegations 1 and 2 against officer Nikolic are sustained.

³¹ COPA did not bring allegations against Officer Smith for discharging a taser. The evidence shows that Officer Smith retrieved but never discharged or arced his taser. First, there was no notification of a taser discharge from this incident, moreover Officer Smith stated that he never discharged the taser and the BWC shows that Officer Smith did not discharge his taser. Additionally, COPA did not bring allegations against Officer Nikolic for kicking ██████ into the car. BWC shows ██████ refusing to put his legs in the car and Officer Nikolic push ██████ into the car with his hands.

Allegation 3, that Officer Nikolic failed to complete a TRR, is Exonerated. Officer Nikolic related that he followed the direction of two lieutenants, who instructed him not to complete a TRR. Based on BWC, Officer Nikolic's physical engagement with ██████ included trying to grab ██████ hands, handcuffing, and an armbar to pull ██████ out of his vehicle. This is consistent with Officer Nikolic's COPA interview. Per G03-02-03, a TRR is not required when "the subject's only action of resisting is fleeing," and "the member's actions did not extend beyond verbal commands and/or control holds utilized in conjunction with handcuffing." Further, officers do not need to complete a TRR following "Control holds, wristlocks, and armbars utilized in conjunction with handcuffing [...]." As all available evidence indicates Officer Nikolic was attempting to cuff ██████ he complied with the general order. Since Officer Nikolic was within policy and following direct orders from supervisors, this allegation is Exonerated.

Allegation 1 against Officer Smith, that he repeatedly asked ██████ if he was sorry, is Sustained. Officer Smith denied that he was trying to disrespect ██████ with this question. Nevertheless, COPA finds that Officer Smith repeatedly taunted ██████ by asking if he was sorry, which created the impression the officers arrested ██████ punitively, whether this is true or not. Per General Order G02-01, "Members will not exhibit a condescending attitude [...] toward any person in any manner." Officer Smith came across as disrespectful and condescending in how he addressed ██████. Accordingly, this allegation is Sustained.

Vehicle Search Allegations

Allegation 2 against Officer Smith and Allegation 4 against Officer Nikolic, that they improperly searched the vehicle that was being driven by ██████ is Sustained. Allegation 3 against Officer Smith, and the remaining allegations against Officer Nikolic, are also Sustained.

Both officers asserted that they were doing an inventory search. However, the vehicle was not impounded or towed, so an inventory search was inappropriate. While the officers told COPA that they intended to impound it, the officers were not seen collecting or documenting any items during said search. Furthermore, the officers' search could not possibly have uncovered additional evidence of the crimes for which ██████ was arrested (resisting arrest, not using a turn signal, and not having vehicle insurance).

Additionally, for Allegations 5, 7, and 8 against Officer Nikolic and Allegation 3 against Officer Smith, the officers related they looked for hidden compartments. However, Special Order S07-03-06 specifically states that when officers discover "a false or secret compartment or '[t]rap,'" they will, "under no circumstances, open or attempt to open the trap compartment," and instead are required to request a supervisor. In addition to the officers violating 4th Amendment Rights, as discussed above, they violated the S07-03-06 in performing these specific searches. This extensive searching also calls into question whether the officers were performing an inventory search. Accordingly, all allegations related to the search of the vehicle are sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**a. Officer Kristian Nikolic****i. Complimentary and Disciplinary History:**

Officer Nikolic has no relevant disciplinary history. Officer Nikolic has received thirty-seven (37) honorable mentions, one (1) attendance recognition award, two (2) department commendations, one (1) 2019 crime reduction award, and one (1) Life Saving Award. No applicable past disciplinary history.

i. Recommended Penalty, by Allegation

- 1. Allegation No. 1: 45-Day Suspension**
- 2. Allegation No. 2: 45-Day Suspension**
- 3. Allegation No. 4: 45-Day Suspension**
- 4. Allegation No. 5: 45-Day Suspension**
- 5. Allegation No. 6: 45-Day Suspension**
- 6. Allegation No. 7: 45-Day Suspension**
- 7. Allegation No. 8: 45-Day Suspension**

b. Officer Jordan Smith**i. Complimentary and Disciplinary History**

Officer Smith has no relevant disciplinary history. Officer Smith has received eighteen (18) honorable mentions, four (4) department commendations, and two (2) complimentary letters. No applicable past disciplinary history.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1: 5-Day Suspension**
- 2. Allegation No. 2: 45-Day Suspension**
- 3. Allegation No. 3: 45-Day Suspension**

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Nikolic	<ol style="list-style-type: none"> 1. Grabbed [REDACTED] neck, in violation of Rule 9. 2. Scratched [REDACTED] neck, in violation of Rule 9. 3. Failed to complete a Tactical Response Report (TRR), in violation of Rule 6. 4. Improperly searched the vehicle that was being driven by [REDACTED] in violation of Rule 6. 5. Removed the car’s seat cushions without justification, in violation of Rule 6. 6. Searched under the car’s hood without justification, in violation of Rule 6. 7. Removed the center console around the stick shift without justification, in violation of Rule 6. 8. Removed a portion of the car around the steering wheel column without justification, in violation of Rule 6. 	<p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p> <p>Exonerated</p> <p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p>
Officer Smith	<ol style="list-style-type: none"> 1. Repeatedly asked [REDACTED] if he was sorry, in violation of Rule 8. 2. Improperly searched the vehicle that was being driven by [REDACTED] in violation of Rule 6. 3. Removed the center console around the stick shift without justification, in violation of Rule 6. 	<p>Sustained / 5-Day Suspension</p> <p>Sustained / 45-Day Suspension</p> <p>Sustained / 45-Day Suspension</p>

Approved:



2/24/2021

Matthew Haynam
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	Three
Investigator:	Kelsey Fitzpatrick, #61
Deputy Chief Investigator	Matthew Haynam