

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 9, 2018
Time of Incident:	10:39 a.m.
Location of Incident:	The alley of [REDACTED]
Date of COPA Notification:	October 12, 2018
Time of COPA Notification:	1:57 p.m.

On October 9, 2018, the Complainant, [REDACTED] was driving her daughter’s car to the family home at [REDACTED] with her son, the Complainant, [REDACTED] as a passenger. [REDACTED] turned the car into the alley behind the home and stopped. They noted that a police vehicle was behind them. [REDACTED] and her son disregarded the police vehicle, and she tried to park the car. As [REDACTED] opened the gate to the parking spot, Officers Miguel Anderson, Adam Altenbach, and Edgar Del Olmo stopped in the police vehicle and questioned the [REDACTED]. The officers alleged that the car’s registration was expired, that the car did not have a valid city sticker, and that the car was illegally blocking the alleyway. PO Altenbach then began searching the vehicle while [REDACTED] and [REDACTED] were handcuffed to one another and standing at the hood of their vehicle.

During his search of the vehicle, PO Altenbach found blue pills in a bag that allegedly belonged to [REDACTED] who stated that the pills were Viagra and that they were legally obtained. PO Altenbach made several phone calls to his supervisors and subsequently arrested [REDACTED] for possession of a controlled substance. The vehicle was not impounded. Instead, the officers relinquished custody of the vehicle to [REDACTED] alleged that while he was in custody at the 5th District station, PO Del Olmo used excessive force against him in that the officer grabbed his throat, forced him against a wall, choked him out until he passed out, and bent his finger, causing injury.

II. INVOLVED PARTIES

Involved Officer #1:	Miguel Anderson, Star #6547, Employee ID # [REDACTED], Date of Appointment: February 19, 2013, Rank: Police Officer, Unit of Assignment: 5 th District, DOB: [REDACTED], 1979, Gender: Male, Race: Black
Involved Officer #2:	Adam Altenbach, Star #13832, Employee ID # [REDACTED], Date of Appointment: November 27, 2006, Rank: Police Officer, Unit of Assignment: 5 th District, DOB: [REDACTED], 1983, Gender: Male, Race: White
Involved Officer #3:	Edgar Del Olmo, Star #9653, Employee ID # [REDACTED], Date of Appointment: September 25, 2006, Rank: Police Officer,

Unit of Assignment: 5th District, DOB: ██████████, 1975,
Gender: Male, Race: Hispanic

Subject #1: ██████████ DOB: ██████████, 1981, Male, Black

Subject #2: ██████████ DOB: ██████████ 1961, Female, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officers Anderson	<p>It is alleged that on October 9, 2018, at or around 10:39 a.m., at or near the alley of ██████████ Chicago, IL, 60628, the Officers committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Stopping ██████████ without justification. 2. Detaining ██████████ without justification. 3. Failing to prepare an Investigative Stop Report (ISR) documenting the detention of ██████████ 4. Failing to issue ██████████ an Investigative Stop Report Receipt to ██████████ 5. Stopping ██████████ without justification. 6. Detaining ██████████ without justification. 7. Failing to prepare an Investigative Stop Report ('ISR') documenting the detention of ██████████ 8. Failing to issue an Investigative Stop receipt to ██████████ 	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Exonerated</p> <p>Exonerated</p>
Officers Altenbach	<p>It is alleged by ██████████ that on or about October 9, 2018, at approximately 10:39 a.m., at or near the alley of ██████████ ██████████ Chicago, IL, 60628, the Officers committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Stopping ██████████ without justification. 	<p>Exonerated</p>

	<p>2. Detaining ██████ without justification.</p> <p>3. Failing to complete an Investigative Stop Report (ISR) documenting the detention of ██████</p> <p>4. Failing to give ██████ an Investigative Stop Report Receipt to ██████</p> <p>5. Searching the vehicle used by ██████ and ██████ without justification.</p> <p>6. Searching ██████ backpack without justification.</p> <p>7. Seizing blue pills that belonged to ██████ without justification.</p> <p>8. Arresting ██████ without justification.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer Del Olmo</p>	<p>It is alleged by ██████ that on or about October 9, 2018, between the hours of approximately 11:00 a.m. to 2:55 p.m. at or near 727 E. 111th Street, Chicago, IL, 60628 that Officer Edgar Del Olmo, Star #9653, committed misconduct through the following acts or omissions, by:</p> <p>1. Stopping ██████ without justification.</p> <p>2. Detaining ██████ without justification.</p> <p>3. Failing to complete an Investigative Stop Report (ISR) documenting the detention of ██████</p> <p>4. Failing to give ██████ an Investigative Stop Report Receipt to ██████</p> <p>5. Searching the vehicle used by ██████ and ██████ without justification.</p> <p>6. Searching ██████ backpack without justification.</p> <p>7. Seizing blue pills that belonged to ██████ without justification.</p> <p>8. Arresting ██████ without justification.</p>	<p>Exonerated</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>

	9.Using a “chokehold” on ██████ without justification.	Not Sustained
	10.Forcefully moving ██████ against a wall without justification.	Not Sustained
	11.Forcefully bending one of ██████ fingers without justification.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance.
2. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
3. Rule 5: Any failure to perform any duty.
4. Rule 6: Disobedience of an order or directive, whether written or oral.
5. Rule 10: Inattention to duty.

General Orders

1. General Order G02-01¹
2. General Order G03-02²
3. General Order G03-02-01³

Special Orders

1. Special Order S04-13-09⁴

Federal Laws

1. 4th Amendment to the U.S. Constitution

State Laws

1. Illinois Constitution 1970, Art. 1, §6

¹ Protection of Human Rights

² De-Escalation, Response to Resistance, and Use of Force

³ Response to Resistance and Force Options

⁴ Investigatory Stop System

V. INVESTIGATION

a. Interviews

The audio-recorded interview of ██████ was conducted on October 15, 2018.⁵ ██████ began the interview by stating that she was picking up her son, ██████⁶ from her niece's house. While en route to their house, ██████ and ██████ stopped at a stop sign at 118th Street and Lowe Avenue. ██████ noticed a burgundy-colored police vehicle and told ██████ that the police "are looking for somebody to mess with." Once she turned into her alley, she noticed that the police also turned into the alley. She stated the police then passed her while she was located behind her house, but the police then reversed behind her vehicle. ██████ believed that the driver officer then exited the police vehicle, and he spoke with ██████ as she was waiting for her son to open the gate to their property. The same officer asked her whose car she was driving. ██████ replied it was her daughter's car. She then saw the other two officers approach her son and order him to the front of the vehicle and for him to place his hands on the hood.

█████ continued that while the driver officer told her that her tags were expired, another officer began searching the vehicle without asking for permission. One of the officers then handcuffed ██████ and ██████ together, with a single pair of handcuffs. ██████ asked the first officer why they were being detained, and he replied by saying he did not know and that it was one of the other officers who wanted to initiate the stop. ██████ stated that in their search, the officers found a bag with Viagra pills. One of the other officers approached her and ██████ to inquire about the pills. ██████ told this "second" officer to "google" it in order to verify that it was in fact Viagra and not an illegal substance. ██████ noted that this "second" officer seemed disappointed after he got off the phone with an unknown individual. He began searching the car again, this time including the trunk. The first officer then spoke with ██████ and told him that he was going to be taken to the station to be processed and given a court date. As ██████ was being placed in the back of a responding squadrol, the first officer took a picture of ██████ driver's license using his personal cell phone. When she asked why he was taking the picture, the first officer said that because the police were not impounding the vehicle, they needed proof of who retained custody of the vehicle.

On October 15, 2018, ██████ was interviewed by COPA investigators.⁷ ██████ stated that on the date of the incident, his mother, ██████ picked him up from his cousin's house. Near ██████ ██████, ██████ said, there was a maroon-colored police vehicle with three officers inside, and the officers were following them. His mother turned into the alley leading to their house, and the officers continued to follow. When the ██████ stopped at the rear of their house, the police kept driving but then stopped and reversed towards them. As ██████ was getting out of the car, the officer on the front passenger side and the officer on the rear passenger side got out of

⁵ Attachment #16

⁶ For this report, ██████ will be referred to as ██████" while ██████ will be referred to as ██████"

⁷ Attachment #14

the police vehicle and approached [REDACTED]. As this was happening, the driver officer also exited the police vehicle and approached [REDACTED] who was still in the driver's seat. [REDACTED] asked one of the officers why he was pulled over. [REDACTED] noted that this officer became belligerent and did not answer his question. [REDACTED] said he then saw the officer who had approached [REDACTED] open her driver door without permission.

[REDACTED] said he asked again what the reason for the stop was, but no answer was given. [REDACTED] alleged that the officers began searching the vehicle without consent. He then asked one of the officers, whom he described as the black officer,⁸ why he was being stopped. The black officer stated, not verbatim, "I have nothing to do with this. You have to ask one of the other officers." [REDACTED] told the officers he had a red backpack in the rear passenger seat. In that backpack were several medications he was taking, including Viagra. One of the officers took out the Viagra, examined it and then asked [REDACTED] if he had a prescription for the Viagra. [REDACTED] told him yes, but the prescription was inside the house.

[REDACTED] said the officers went back to the police vehicle and had a conversation among themselves. When they came back, one of the officers stated, not verbatim, that he ([REDACTED] should have kept his mouth shut and that now he was going to see how petty he (the officer) can be. The officer then made a phone call to his supervisor. After he spoke to the supervisor, the officer stated he could either toss the pills or take [REDACTED] in for processing and run the pills through a laboratory testing. One of the officers took pictures of [REDACTED] driver's license and license plate. [REDACTED] then asked what was going to happen next. One officer stated that [REDACTED] was going to be arrested but that she could retain possession of the vehicle and that he (the officer) would find an excuse to give to his supervisors as to why the vehicle was not impounded.

[REDACTED] added that, when he got to the district station, he started feeling abnormal. He cited his seizure disorder as a factor. He was brought to a room that he believed did not have any cameras and was located in front of an office used by "white shirts."⁹ [REDACTED] told one of the "white shirts" that he needed medical attention, but that officer told him that it was not his problem. [REDACTED] stated that after he shook the room's door, a black female officer came by. [REDACTED] told the black female officer about his need for medical attention. According to [REDACTED] that officer then went to tell one of the arresting officers. [REDACTED] said that the officer with whom he had argued at the arrest scene came in to speak with him. [REDACTED] related his medical concerns to this officer. The officer then asked why he never told any of the arresting officers, including him, about his need for medical attention. [REDACTED] said both he and the officer exchanged profanities and that the officer grabbed him by the throat, placed him against the wall, choked him, and bent a finger on his left hand. [REDACTED] further alleged that he was choked to the point of passing out. When he woke up, he yelled for a "white shirt," but no one responded to his yelling. [REDACTED] said two black officers he believed were detectives came in to bring someone else into the same room. [REDACTED] told the detectives of the excessive force

⁸PO Anderson

⁹ Supervisors

to which he had just been subjected. These detectives passed on the allegation of excessive force to the officer who had searched ██████ car. That officer came to the room, explained to him that if ██████ wanted to go to the hospital, the case would take longer. The officer then stated that all that was left to do was fingerprinting, and ██████ could then be released. ██████ stated the black arresting officer escorted him to the fingerprint processing station. While at that station, ██████ told the officer in charge of the booking process of the excessive force, in particular the broken finger. The booking officer refused to process him because ██████ kept requesting medical attention. He was eventually brought to the hospital by the officers who transported him from the scene of the incident to the district station. ██████ alleged that, while at the hospital, the transport officers were acting “racist”, but he did not specify in what manner. ██████ stated that he got into a verbal altercation with the officers in which profanities were exchanged.

██████ described the officer who physically abused him in the district station as Hispanic. As already mentioned in this report about his COPA interview, ██████ described the officer who referred him to the other two officers at the scene as black. Also in his COPA interview, ██████ described the third officer on the arrest scene as white.

The audio-recorded statement of PO Edgar Del Olmo was conducted on September 30, 2022.¹⁰ When asked to recall the incident, PO Del Olmo, who described himself as Hispanic, recalled that he was patrolling the area when he encountered a vehicle blocking an alley. When he approached the vehicle, PO Del Olmo noted that ██████ attempted to “separate himself” from the vehicle. PO Del Olmo asserted that as he detained ██████ he conducted a protective pat-down for his safety. When asked if there was anything in particular that concerned him about ██████ behavior from a safety standpoint, PO Del Olmo stated that ██████ was “bladed” away from the officers and had his hand wrapped. When asked to describe the term “blading,” PO Del Olmo stated that it is when a person favors one side and faces that side away from view. PO Del Olmo further stated that when suspects are attempting to hide a weapon from officers, they tend to blade away from the officers. PO Del Olmo said he presumed that was what ██████ was possibly doing. PO Del Olmo said that verbal commands were given to ██████ and he had ignored those commands. After conducting his pat-down search, PO Del Olmo ran a name-check on ██████. An out-of-state warrant was found for ██████ but the warrant was inactive. When asked if he searched the vehicle, PO Del Olmo stated that he did search the vehicle, but that was after his partner, PO Altenbach, had already found some suspected narcotics. Regarding the suspected narcotics, PO Del Olmo stated that inside of a medical pill bottle, there was a clear plastic bag containing five blue pills.

When asked if an Investigative Stop Report (ISR) was completed for ██████ PO Del Olmo stated that an ISR was not generated because a traffic stop card was generated instead. PO Del Olmo was asked why an ISR was not created, and he replied that it was because only ██████ car, and not her physical person, was searched.

¹⁰ Attachment #33

PO Del Olmo said he did not transport [REDACTED] but PO Del Olmo did go to the district station in order to start the necessary paperwork for processing. While at the station, PO Del Olmo did see [REDACTED] but did not recall the exact location. When asked about the excessive force allegations, PO Del Olmo did not recall any force being used. PO Del Olmo was asked if he received consent to search either [REDACTED] or [REDACTED] and he replied no, while stating that [REDACTED] was not searched during the incident.

The audio-recorded statement of PO Adam Altenbach was conducted on October 6, 2022.¹¹ Regarding the incident, PO Altenbach said he was conducting a routine patrol in an unmarked vehicle with Officers Del Olmo and Anderson in the 5th district as part of a tactical team. PO Altenbach first saw the [REDACTED] when they were parked in an alley. PO Altenbach said he decided to approach the [REDACTED] because the officers were patrolling in a high-crime area known for drug trafficking. When PO Altenbach approached the vehicle being used by the [REDACTED] he witnessed [REDACTED] exiting the vehicle. When asked if the patrol vehicle's emergency lights were on, PO Altenbach stated that based on his viewing of his body-worn camera video, the lights were activated. PO Altenbach recalled that he initially searched the vehicle to look for [REDACTED] driver's license. [REDACTED] assisted him in finding the license. After he found the license, PO Altenbach attempted to identify both [REDACTED]. At some point, PO Altenbach conducted a search of the vehicle because he suspected that [REDACTED] had something illegal in the vehicle based on the fact that [REDACTED] was walking away when approached by the officers.

PO Altenbach said he found suspected narcotics, which he believed could have been Ecstasy, because he saw five blue pills that were knotted in a clear plastic bag that was inside of a pill bottle. He said that in his experience as a tactical officer, he had seen that kind of packaging only when dealing with narcotics. PO Altenbach did not recall if anyone searched [REDACTED] but he did recall searching [REDACTED] as part of a custodial search after the officers decided to arrest him. PO Altenbach did not transport [REDACTED] but he did recall seeing [REDACTED] at the district station when he was being processed. When asked if he witnessed any excessive force being used against [REDACTED] PO Altenbach stated that he did not see any force being used on [REDACTED] either on the scene of the arrest or at the district station. When asked if he created an ISR for [REDACTED] PO Altenbach stated that he did not create an ISR because the officers created a traffic stop card. PO Altenbach was under the impression that an ISR was not needed.

The audio-recorded statement of PO Miguel Anderson was conducted on September 6, 2022.¹² PO Anderson said that on the day of the incident, he was working as part of a tactical unit with two other officers, Del Olmo and Altenbach. They were in uniform but not in a marked patrol vehicle. PO Anderson sat in the rear passenger seat while PO Altenbach drove the vehicle. PO Anderson stated that he witnessed a vehicle blocking an alley, which prompted the officers to conduct a field interview. When he approached the vehicle, PO Anderson saw [REDACTED] exit the vehicle

¹¹ Attachment #35

¹² Attachment #19

and walk away “very quickly.” This raised further suspicion in PO Anderson. When asked to explain why this raised his suspicion, PO Anderson said that normally, when police stop a vehicle, the occupants stay put. If the occupants try to leave the vehicle, it indicates to officers that they may be trying to hide something. PO Anderson stated that one of his partners asked if the vehicle occupants had anything in the vehicle. ██████ replied that he had “weed”¹³ in the vehicle. PO Altenbach then conducted a search of the vehicle revealing the suspected Ecstasy pills. ██████ assumed ownership of the pills but contended that the pills were Viagra. The three officers then placed him into custody. When asked why an ISR was not prepared for either ██████ Anderson replied that because the officers prepared an arrest report, a driver information card, and a case report, he was under the impression that he did not need to complete an ISR.

b. Digital Evidence

The video from the body-worn camera (BWC) assigned to PO Del Olmo was reviewed.¹⁴ The recording begins at 10:27:53 a.m. At that time, PO Del Olmo was riding in the passenger seat of the police vehicle. That vehicle turns left and comes to a stop before briefly reversing, then turns right into the alley. At 10:28:26 a.m., PO Del Olmo exits the police vehicle and commands ██████ to show his hands and to “come here.” (10:28:28 a.m.). ██████ can be seen standing in the front of a dark-colored Saturn sedan. PO Del Olmo walks to ██████ and begins a pat-down search (10:28:40 a.m.). ██████ speaks with PO Altenbach (10:28:55 a.m.). At 10:29:10 a.m., PO Altenbach asks ██████ if there’s anything in the car. She replies, “Not that I know of” (10:29:15). At 10:38:18 a.m., ██████ asks the officers if they had their cameras on. PO Del Olmo says, “Yeah, we got them on.” PO Anderson appears to turn on his BWC at 10:30:24 a.m., and a beep can be heard apparently coming from the BWC confirming that the camera was activated.

As the video continues at 10:31:50 a.m., PO Del Olmo goes to the police vehicle with the ██████ IDs in hand. PO Del Olmo then exits the police vehicle, and PO Altenbach takes out a bag from the ██████ vehicle (10:34:20 a.m.). The prescription bottle, noted in the Inventory Report,¹⁵ which contained the blue pills inside of clear plastic wrapping, can be seen in PO Altenbach’s hands (10:34:45 a.m.). PO Altenbach and PO Del Olmo discuss what the pills could be. PO Del Olmo then searches the back seat of the car (10:35:47 a.m.). POs Altenbach and Del Olmo return to the police vehicle, begin a name check on ██████ and conduct a further inspection of the pill bottle and its contents (10:40:00 a.m.). POs Altenbach and Del Olmo discuss ██████ criminal history and whether or not they should arrest him. At 10:45:45 a.m., ██████ contends that the pills are Viagra and that he has a prescription for the pills. At 10:49:40 a.m., PO Del Olmo states that in his experience, when the police stop a car and someone is seen walking away from the car, it could indicate one of two things: either the person is about to flee, or they are about to toss something. ██████ replies, “That’s true.” At 11:02:30 a.m., the handcuffs are taken off of ██████ and her son,

¹³ Street term for marijuana

¹⁴ Attachment #4

¹⁵ Attachment #25

and ██████ is told he is being placed under arrest. ██████ is then escorted to a transport van that responded to the scene (11:04:00 a.m.).

The video from the BWC assigned to PO Altenbach was reviewed.¹⁶ The video begins at 10:30:05 a.m., and PO Altenbach is looking into the ██████ car. The BWC audio is activated at 10:30:35 a.m. PO Altenbach asks ██████ where her license is, and she directs him to the car's center console. At 10:32:11 a.m., PO Altenbach finds a bag in the back seat and asks, "Whose bag is this?" to which ██████ can be seen apparently saying "mine." PO Altenbach goes through the bag and asks if there is anything inside, including weed. ██████ says that there is no weed, to which PO Altenbach responds, "We ain't the weed police." ██████ can then be heard stating that there is a "blunt"¹⁷ in one of the shoes that are in the bag (10:32:50 a.m.). At 10:33:44 a.m., PO Altenbach signals to ██████ to step over to him, at which point she is handcuffed to ██████ PO Altenbach states that he found a pill bottle containing suspected narcotics. At 10:36:47 a.m., PO Altenbach opens the trunk of the vehicle and searches it, but nothing relevant is found during this search. At 10:48:34 a.m., PO Altenbach steps away towards the back of his police vehicle and makes a phone call apparently to a supervisor in order to talk about the incident. After ending the phone call, PO Altenbach speaks with PO Del Olmo and tells him that the apparent supervisor said to take ██████ into custody and let the lab figure out what the suspect narcotics is.

The video from the BWC of PO Anderson was reviewed.¹⁸ The video depicts substantially the same images found in the videos from POs Altenbach and Del Olmo's BWCs.

c. Physical Evidence

██████ medical records from MetroSouth Medical Center¹⁹ indicate that on October 9, 2018, at approximately 2:55 p.m., he was examined at that Center, located in Blue Island. ██████ complained of pain in his chest and left hand, as well as a cough. ██████ was still in police custody at this time. The records indicate that his left-hand injury allegedly occurred after he had punched someone during an unrelated altercation. Furthermore, the records indicate he was to be treated for pneumonia. He was discharged on October 9, 2018, at approximately 6:35 p.m. In the medical records, ██████ did not allege that his injuries were caused by his interaction with the accused officers.

d. Documentary Evidence

The Arrest Report for ██████ was prepared by PO Altenbach on October 9, 2018, at 12:20 p.m. The report asserts that ██████ was arrested on that same date for possession of a controlled substance. The report states that the officers witnessed a vehicle stopped in the alley. After the

¹⁶ Attachment #4

¹⁷ Street term for marijuana cigarette/cigar

¹⁸ Attachment #4

¹⁹ Attachment #9

²⁰ Attachment #10

officers approached, [REDACTED] exited the vehicle and attempted to walk away. The officers interviewed [REDACTED] who said he had “weed” in the vehicle. In the car, the officers found five blue pills they believed to be ecstasy or MDMA in a bag. The officers noted that the pills were “packaged in the form in which narcotics are often sold.” No injury was noted in the visual check of [REDACTED]

An Investigatory Stop Report was prepared by PO Del Olmo under ISR #000665877.²¹ The ISR narrative is substantially similar to that of the Arrest Report and Original Case Incident Report. PO Del Olmo indicated that he had reasonable articulable suspicion to stop the vehicle when he saw the front passenger of the vehicle “quickly” exit the vehicle and start to walk away from the officers. PO Del Olmo noted that a protective pat-down was conducted due to a suspicious bulge. Consent was not given for the search. PO Del Olmo went on to conduct searches beyond a protective pat down, to include a personal search on [REDACTED] and his effects. Suspect MDMA/Ecstasy was found in the search.

The Original Case Incident Report,²² RD # [REDACTED], prepared by PO Altenbach, is substantially similar to the Arrest Report.

An Event Query Report was generated under Event # [REDACTED].²³ The report establishes that on October 9, 2018, at [REDACTED] a stop was conducted by unit 563A. A license plate check was conducted for license plate number [REDACTED] by [REDACTED].²⁴

An Event Query Report was generated under Event # [REDACTED].²⁵ The report establishes that at about 1:53 p.m. on October 9, 2018, Unit 572 transported [REDACTED] to MetroSouth Hospital. Unit 531 relieved Unit 572 at approximately 3:52 p.m.

A Driver Information Card, Stop #20732918, was completed for [REDACTED]²⁶ The information on the card states that Unit 0563A noted a violation for alley blocking (MCC 9-64-130-B) at approximately 10:39 a.m. on October 9, 2018. The report was prepared by PO Del Olmo.

The relevant Inventory Report, # [REDACTED],²⁷ documents the five blue pills and the prescription bottle recovered from [REDACTED]

An additional Inventory Report was created, Inventory # [REDACTED]²⁸. Only one item is listed in this report, one black T-shirt.

²¹ Attachment #30

²² Attachment #11

²³ Attachment #5

²⁴ This PC number is assigned to PO Altenbach.

²⁵ Attachment #6

²⁶ Attachment #7

²⁷ Attachment #'s 12 & 25

²⁸ Attachment #24

The **Attendance and Assignment record for October 9, 2018, for the 5th District**²⁹ lists POs Altenbach, Anderson, and Del Olmo as being with different designations of Beat 563, on the 4th Watch (Tactical). PO Anderson was shown as being off duty. POs Altenbach and Del Olmo were assigned car 4834.

Court Documents under Case # [REDACTED] People of the State of Illinois vs. [REDACTED] indicate the criminal case was heard in court Branch 38. Ultimately, the case was dismissed by prosecutors, through a Nolle Prosequi, on October 30, 2018.

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 a proposition is proved. *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.

VII. ANALYSIS

- a. **Allegations #1 and #12, that Officers Altenbach, Anderson, and Del Olmo improperly stopped [REDACTED] and [REDACTED] are EXONERATED.**

²⁹ Attachment #17

³⁰ Attachment #26

“For a valid *Terry* stop: (1) The officer’s actions at the inception of the stop must be lawful; and (2) and must be related in scope to the circumstances which justified the interference in the first place.”³¹ “Relatively minor offenses, including offenses which solely impose monetary punishments, still allow law enforcement official to temporarily stop someone for the purposes of investigating.”³²

As noted by the BWC video analyzed by COPA investigators, it is clear that the vehicle being used by the ██████ is parked in the middle of the alley such that there is no room left for other vehicles to pass by the parked vehicle. This is further confirmed by the testimony given by all three accused officers. Pursuant to City of Chicago Municipal Code, it is “unlawful to park a vehicle in an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic or to block the entrance to any abutting property.”³³ Although blocking an alley is a relatively minor traffic offense, the accused officers were justified in stopping the ██████

Therefore, Allegation #1 against Officers Altenbach, Anderson, and Del Olmo and Allegation #12 against Officer Anderson for stopping ██████ and ██████ without justification are **EXONERATED**.

b. Allegations #2 and #13, that Officers Altenbach, Anderson, and Del Olmo improperly detained Don and ██████ are SUSTAINED.

The temporary detention of passengers and drivers during a vehicle stop constitutes a "seizure" of "persons" within the meaning of the fourth amendment.³⁴ Vehicle stops are, therefore, subject to the fourth amendment's requirement of reasonableness.³⁵ The reasonableness of a traffic stop is analyzed under *Terry* principles.³⁶ A *Terry* analysis involves a dual inquiry: "(1) 'whether the officer's action was justified at its inception,' and (2) 'whether it was reasonably related in scope to the circumstances which justified the interference in the first place.'"³⁷ To determine whether a traffic stop was unreasonably prolonged, the totality of the circumstances should be evaluated, including the brevity of the stop and whether the police acted diligently during the stop.³⁸ The lawfulness of the officers’ conduct following the initial stop determines whether the detention and seizure of a person was justified.³⁹ To be justified, the officers’ conduct must have been related in scope to the circumstances which justified the interference in the first place.”⁴⁰ The officers’ investigative detention therefore must have been “temporary” and lasted “no longer than is necessary to effectuate the purpose of the stop,” and the investigative methods employed should

³¹ *People v. Bunch*, 207 Ill.2d 7, 14 (2003).

³² *Wren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996); *United States v. Shields*, 789 F.3d 733, 744-46 (7th Cir. 2015).

³³ 9-64-130(b)

³⁴ *People v. Bunch*, 207 Ill. 2d 7, 13 (2003).

³⁵ *People v. Bunch*, 207 Ill. 2d 7, 13 (2003).

³⁶ *People v. Bunch*, 207 Ill. 2d 7, 13 (2003).

³⁷ *People v. Bunch*, 207 Ill. 2d 7, 14 (quoting *People v. Gonzalez*, 204 Ill. 2d 220 (1996)).

³⁸ *People v. Barreiro*, 2012 IL App (1st) 111724-U, P30

³⁹ As discussed previously above, the initial stop was likely justified at its inception. First prong is therefore not at issue here.

⁴⁰ *People v. Bunch*, 207 Ill.2d 7, 14 (2003).

have been “the least intrusive means reasonably available to verify or dispel the officer’s suspicion in a short period of time.”⁴¹

The totality of the circumstances in this case indicates that the officers unlawfully prolonged the stop of [REDACTED] and [REDACTED] beyond the time necessary to issue the appropriate traffic citations. The justification for the stop provided by the officers consisted of their observation of the vehicle blocking the alleyway and lacking a city sticker.⁴² Officer Del Olmo ran [REDACTED] name through the PDT and found no outstanding warrants or any information that her license was invalid. At this point in time, the officers should have issued the appropriate traffic citations and ended the stop.⁴³

Instead, the officers detained [REDACTED] further while they searched the vehicle, [REDACTED] backpack, and the trunk of the car. The officers, however, had no separate justification to further detain [REDACTED] and their failure to either release her or issue tickets to her impermissibly prolonged the traffic stop. Officer Anderson stood by [REDACTED] while she was handcuffed to [REDACTED]. Even once the officers returned [REDACTED] driver’s license to her,⁴⁴ she remained handcuffed. Consequently, the totality of the circumstances indicates that the detention of [REDACTED] was unreasonably prolonged. Officer Anderson stood by as [REDACTED] detention continued. Officer Anderson’s failure to intervene in the illegal detention of [REDACTED] violated Department policy. Officer Anderson had the opportunity and the ability to ensure that [REDACTED] was treated in a constitutionally sound manner but had failed to do so.⁴⁵ **Allegation #13** against Officer Anderson is **SUSTAINED**.

Likewise, the detention of [REDACTED] was unreasonably prolonged, violated the Fourth Amendment, and lacked justification. The officers told [REDACTED] and [REDACTED] to place their hands on the hood of the car. When [REDACTED] asked why they had been stopped, Officer Del Olmo became verbally combative, told [REDACTED] that the vehicle lacked a city sticker and was blocking the alley, and threatened to issue [REDACTED] a ticket if [REDACTED] did not comply with the officers’ directions. Only after this exchange did Officer Del Olmo request [REDACTED] ID. Once provided, Officer Del Olmo went to the squad car to run [REDACTED] name through the PDT. During this time, Officer Altenbach searched the car and [REDACTED] backpack. Once Officer Del Olmo determined that [REDACTED] had no active warrants, any further detention of [REDACTED] who was merely a passenger in the car, lacked legal justification. The officers’ claim that they had reasonable articulable suspicion to believe that [REDACTED] was committing or was about to commit a crime is without support and based on a mere hunch. The officers’ conduct violated Department policy. Consequently, **Allegation #2** against Officers Del Olmo, Altenbach and Anderson is **SUSTAINED**.

⁴¹ *People v. Bunch*, 207 Ill. 2d 7, 14.

⁴² Officer Del Olmo also mentioned “trees over here” as one of the justifications, but it is unclear to what he was referring.

⁴³ *People v. Barreiro*, 2012 IL App (1st) 111724-U, P32

⁴⁴ Att. 4 at 29:46 minutes.

⁴⁵ See, e.g., *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994) (stating that a police officer may be held liable for his failure to intervene in a constitutional violation); *Lanigan v. Village of E. Hazel Crest*, 110 F. 3d 467, 476 (7th Cir. 1997).

c. Allegations #3 and #4, that Officers Altenbach, Anderson, and Del Olmo failed to create an Investigatory Stop Report and Failed to Issue an ISR Receipt to ██████████ are SUSTAINED.

Investigatory Stop Reports are governed by CPD Special Order S04-13-09. Officers are tasked with creating an ISR when an investigatory stop is conducted. An ISR receipt is to be issued to any person who is stopped and searched, regardless of whether the search was of the person or their effects. An exception exists for the issuance of a receipt. If the subject of the stop is arrested and an arrest report is generated, officers do not have to provide the arrestee with an ISR receipt, but an ISR still has to be generated.

Prior to conducting the interview of the accused officers, COPA investigators attempted to retrieve an ISR for ██████████ but were unable to find one. In her interview with COPA investigators, ██████████ asserted that the accused officers searched her vehicle but did not provide her with any documents reflecting this. During the interviews with the three accused officers, the officers asserted that they did not create an ISR for ██████████ because a Driver Information Card⁴⁶ was created. All of the accused officers asserted that they did not recall conducting a search of ██████████ person but there was a search of the vehicle. This is confirmed by the BWCs reviewed. Pursuant to the special order governing ISRs, officers are tasked with creating an ISR and giving the subject of the search a receipt for the ISR. The order does not state that the creation of a Driver Information Card will absolve officers from the need to generate an ISR and issuing the receipt. Because no exemptions are present and the officers failed to create an ISR and give a receipt to ██████████ **Allegations #3 and #4** against Officers Altenbach, Anderson, and Del Olmo are **SUSTAINED**.

d. Allegations #14 and #15, that Officer Anderson failed to create an Investigatory Stop Report and Failed to Issue an ISR Receipt to ██████████ are EXONERATED.

As already noted, Investigatory Stop Reports are governed by CPD Special Order S04-13-09. Officers are tasked with creating an ISR when an investigatory stop is conducted. An ISR receipt is to be issued to any person who is stopped and searched, regardless of whether the search was of the person or their effects. An exception exists for the issuance of a receipt. If the subject of the stop is arrested and an arrest report is generated, officers do not have to provide the arrestee with an ISR receipt, but an ISR still has to be generated.

In this case, it is clear and undisputed by the evidence presented that the officers generated an ISR for ██████████. Since ██████████ was subsequently arrested and an arrest report was generated, an ISR receipt was not necessary.

Therefore, **Allegations #14 and #15** against PO Miguel Anderson for not creating an ISR and not issuing a receipt for the ISR are **EXONERATED**.

⁴⁶ Attachment #7

⁴⁷ Attachment #30

- e. **Allegations #8, #9, #10, and #11 that Officers Altenbach and Del Olmo searched the vehicle and ██████ backpack, seized ██████ pills, and arrested ██████ without justification, are SUSTAINED.**

The fourth amendment of the United States Constitution and the Illinois Constitution guarantee the "right of individuals to be free from unreasonable searches and seizures."⁴⁸ "Reasonableness under the fourth amendment generally requires a warrant supported by probable cause."⁴⁹ Narrow exceptions to the warrant requirement exist when a search of a vehicle is involved incident to arrest.⁵⁰ A warrantless search of a vehicle incident to the arrest of a driver or recent occupant, is constitutionally permissible only if: (1) the arrestee is within reaching distance of the passenger compartment at the time of the search;⁵¹ or (2) the officers have probable cause to believe the vehicle contains evidence of the offense of arrest.⁵²

First, the officers lacked consent to search the car. Second, neither ██████ nor ██████ was within reaching distance of the passenger compartment at the time that Officer Altenbach searched the interior of the vehicle and the trunk. Third, the officers lacked probable cause to believe the vehicle contained evidence of the offense of arrest. The officers stopped ██████ and ██████ for minor traffic violations, including blocking the alley and lacking a city sticker. The evidence of either of these offenses could not reasonably have been found inside of the vehicle. The search of the vehicle violated Fourth Amendment and Department policy.

Likewise, the search of ██████ backpack violated Fourth Amendment and Department policy. Officer Altenbach opened and began searching ██████ backpack prior to ██████ admission that there was a "blunt" inside one of the shoes and prior to Officer Del Olmo having completed an ID check. When Officer Altenbach began his search, he had no warrant, no probable cause, and no consent to search the backpack. The search of the backpack violated the Fourth Amendment as well as Department policy. Thus, the narcotics found in the backpack stemmed directly from the Fourth Amendment violation and were obtained illegally.⁵³ Furthermore, because the evidence against ██████ was obtained in violation of the Fourth Amendment and was the sole justification on which his arrest rested, his arrest lacked probable cause. **Allegations #8, #9, #10 and #11** against Officers Altenbach and Del Olmo are **Sustained**.

- f. **Allegations #5, #6, and #7 against Officer Del Olmo, that he used excessive force against ██████ are NOT SUSTAINED.**

⁴⁸ *People v. Colyar*, 2013 IL 111835, ¶ 31 (citing U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6).

⁴⁹ *People v. Flowers*, 179 Ill. 2d 257, 262 (1997).

⁵⁰ *People v. Contreras*, 2014 IL App (1st) 131889, ¶ 28 (One exception to the fourth amendment's warrant requirement is the "'automobile exception,' which is based on the understanding that automobiles may be readily driven away often rendering it impossible for officers to obtain warrants for their search.").

⁵¹ *Arizona v. Gant*, 556 U.S. 332, 335 (2009).

⁵² *Arizona v. Gant*, 556 U.S. 332, 335, 351 (2009); *People v. James*, 163 Ill. 2d 302, 312 (1994).

⁵³ "The fruit-of-the-poisonous tree doctrine is an outgrowth of the exclusionary rule providing that 'the fourth amendment violation is deemed the "poisonous tree," and any evidence obtained by exploiting that violation is subject to suppression as the "fruit" of that poisonous tree.'" In re K.M., 2019 IL App (1st) 172322, P36.

The legal standard needed to sustain an allegation is by a preponderance of evidence. That is to say that the evidence more likely than not proves that the alleged conduct occurred.⁵⁴ In this case, the only evidence that tends to prove that excessive force occurred is the testimony given by ██████ in which he alleged that the “Hispanic” officer was the one who slammed him against the wall, bent his finger, and choked him to the point where he passed out.

The medical records reviewed in this case do not reflect that ██████ was injured in any type of way, other than the injuries he stated were unrelated to his interactions while in police custody and sustained well before the date of the incident. Although PO Altenbach and PO Del Olmo acknowledge that they interacted with ██████ at the police station, the officers assert that the interaction was limited to standard processing protocols. PO Del Olmo denied any use of force, and PO Altenbach denied witnessing any use of force. Because the only evidence of the excessive force is the assertion made by ██████ the allegation cannot be sustained. Moreover, the evidence presented does not clearly and convincingly prove that the allegation did not occur.

Therefore, **Allegations #5, #6, and #7**, that Officer Del Olmo used excessive force against ██████ are **NOT SUSTAINED**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Miquel Anderson

i. Complimentary and Disciplinary History

Officer Miguel Anderson complimentary history consists of the following: 2 Attendance Recognition Awards, 3 Department Commendations, 85 Honorable Mentions, 1 2019 Crime Reduction Award and 1 Complimentary Letter.

As of September 29, 2022, there is no SPAR history or any other Disciplinary or Sustained Complaints History.

ii. Recommended Penalty

COPA recommends that Officer Anderson receive between 15 to 25 days of Suspension with training in the areas of Searching and Detention.

b. Officer Adam Altenbach

i. Complimentary and Disciplinary History

Officer Adam Altenbach complimentary history consists of the following: 4 Attendance Recognition Awards, 1 Presidential Election Deployment Award 2008, 2 Special Commendations,

⁵⁴ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

263 Honorable Mentions, 13 Department Commendations, 1 Complimentary Letter, 1 2019 Crime Reduction Award, 3 Honorable Mention Awards, 1 Life Saving Award, 1 Nato Summit Service Award, Superintendent’s Award of Tactical Excellence, Joint Operations Award, Arnold Mireles Special Partner Award, Top Gun Arrest Award, Unit Meritorious Performance Award.

As of September 29, 2022, there is no SPAR history or any other Disciplinary or Sustained Complaints History.

ii. Recommended Penalty

COPA recommends that Officer Altenbach receive between 25 to 30 days of Suspension with training in the areas of Searching and Detention.

c. Officer Del Olmo

i. Complimentary and Disciplinary History

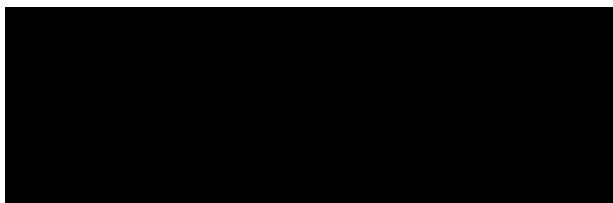
Officer Del Olmo complimentary history consists of the following: 1 Other Awards, Attendance Recognition Award, Special Commendation, Department Commendation, 2019 Crime Reduction Award, Nato Summit Service Award, Superintendent’s Award of Tactical Excellence, 3 Complimentary Letters and 73 Honorable Mentions.

As of September 29, 2022, there is no SPAR history or any other Disciplinary or Sustained Complaints History.

ii. Recommended Penalty

COPA recommends that Officer Del Olmo receive between 25 to 30 days of Suspension with training in the areas of Searching and Detention.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

12-29-2022

Date