

SUMMARY REPORT OF INVESTIGATION

I. INVOLVED PARTIES

Date/Time/Location of Incident:	September 29, 2018/ 1:45 p.m., 1441 W. 79 th St., Chicago, IL.
Date/Time of COPA Notification:	October 22, 2018/ 12:13 p.m.
Involved Officer #1:	Gabriel Rodriguez , Star #12737, Employee ID # [REDACTED], Date of Appointment: April 6, 2015, Police Officer, 5 th District, DOB: [REDACTED] 1991, M, Hispanic.
Involved Officer #2:	Renee Gardner ¹ , Star #16385, Employee ID # [REDACTED], Date of Appointment: August 25, 2014, Police Officer, 6 th District, DOB: [REDACTED] 1991, F, Black.
Involved Officer #3:	Kyle Bernaciak , Star #15051, Employee ID # [REDACTED], Date of Appointment: April 25, 2016, Police Officer, 6 th District, DOB: [REDACTED], 1993, M, Caucasian.
Involved Officer #4:	Benjamin DeYoung , Star #17199, Employee ID # [REDACTED], Date of Appointment: August 31, 2015, Police Officer, 6 th District, DOB: [REDACTED], 1992, M, Caucasian.
Involved Officer #5:	Keith Crot , Star #11624, Employee ID # [REDACTED], Date of Appointment: July 2, 2012, Police Officer, 6 th District, DOB: [REDACTED], 1983, M, Caucasian.
Involved Officer #6:	Samuel Flores , Star #17305, Employee ID # [REDACTED], Date of Appointment: November 25, 2013, Police Officer, 6 th District, DOB: [REDACTED], 1988, M, Hispanic.
Involved Officer #7:	Jerald Williams , Star #N/A, Employee ID # [REDACTED], Date of Appointment: August 26, 2013, Police Officer, 2 nd District, DOB: [REDACTED] 1987, M, Black.
Involved Individual #1	Complainant-Victim , [REDACTED] 32, M, Black, [REDACTED].

¹ Officer Renee Gardner is sometimes referred to as Officer Renee Rodriguez but will be referred to as Officer Gardner throughout this report.

Involved Individual #2

Complainant-Victim, ██████████ 29, F, Black, ██████████
██████████

Case Type:

Unjustified vehicle stop, search, and arrest(s).

II. ALLEGATIONS

Officer	Allegation	Finding
Officer Gabriel Rodriguez Star #12737	<p>It is alleged that on or about September 29, 2018, at approximately 1:45 PM, at or near 1431 W. 79th Street, Chicago, IL, Officer Rodriguez:</p> <ol style="list-style-type: none"> 1. Detained ██████████ when Officer Gabriel Rodriguez stopped the vehicle ██████████ was driving, without justification. 2. Arrested ██████████ without justification. 	<p>Unfounded</p> <p>Exonerated</p>
Officer Renee Gardner Star #16385	<p>It is alleged that on or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Renee Gardner:</p> <ol style="list-style-type: none"> 1. Detained ██████████ when she stopped the vehicle ██████████ was driving, without justification. 2. Failed to inform ██████████ that her Body Worn Camera had been activated to record. 3. Failed to activate her body worn camera during her interactions with ██████████ 4. Searched ██████████ without justification. 5. Searched ██████████ purse without justification. 6. Arrested ██████████ without justification. 	<p>Unfounded</p> <p>Not Sustained</p> <p>Sustained</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

<p>Officer Kyle Bernaciak Star #15051</p>	<p>It is alleged that on or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Bernaciak detained [REDACTED] when he:</p> <ol style="list-style-type: none"> 1. stopped the vehicle [REDACTED] was driving, without justification. 2. On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Bernaciak searched the vehicle [REDACTED] was driving, without justification. 	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer Benjamin DeYoung Star #17199</p>	<p>It is alleged that on or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer DeYoung detained [REDACTED] when he:</p> <ol style="list-style-type: none"> 1. Stopped the vehicle [REDACTED] was driving, without justification. 2. Searched [REDACTED] without justification. 3. Searched the vehicle [REDACTED] was driving, without justification. 4. Displayed his Taser at or in the direction of [REDACTED] without justification. 5. Failed to inform [REDACTED] that his Body Worn Camera had been activated to record. 6. Searched [REDACTED] purse without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Unfounded</p>

Officer Keith Crot, Star #11624	<p>7. Failed to complete a Tactical Response Report for the use of force exhibited upon [REDACTED]</p> <p>It is alleged that On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Crot:</p> <ol style="list-style-type: none"> 1. Searched the vehicle [REDACTED] was driving, without justification. 2. Held a cigar in his mouth, while on-duty, in official contact with the public. 	<p>Exonerated</p> <p>Not Sustained</p>
Officer Samuel Flores, Star #17305	<p>It is alleged that On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Flores:</p> <ol style="list-style-type: none"> 1. On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Flores failed to activate his body worn camera. 	<p>Exonerated.</p>
Officer Jerald Williams, Star #2217	<p>It is alleged that On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Williams:</p> <ol style="list-style-type: none"> 1. On or about September 29, 2018, at approximately 1:45 PM at or near 1431 W. 79th Street, Chicago, IL, Officer Flores failed to activate his body worn camera. 	<p>Exonerated.</p>

III. SUMMARY OF EVIDENCE²

On September 29, 2018, at or about 1:34 p.m., CPD officers curbed [REDACTED] vehicle, at or near 1441 W. 79th St., Chicago, IL, purportedly for speeding approximately 5-10 mph over the limit and/or crossing the center yellow line. Officer DeYoung approached and requested identification and proof of insurance; however, [REDACTED] did not produce either,

² COPA 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.

and asked to know why he was stopped. He also told officers that they did not have “jurisdiction” over his person.³ Assist officers subsequently arrived on-scene. [REDACTED] thereafter refused officers’ repeated demands to fully lower his driver’s window and exit the vehicle. Officer DeYoung then pointed his Taser at him, in the vehicle, and told him to stop moving his hands. Officers then opened the driver’s door, grabbed [REDACTED] arm and [REDACTED] exited the vehicle, was handcuffed, arrested and searched. A container of suspected cannabis was removed from [REDACTED] jacket front pocket. His passenger, [REDACTED] produced her license, exited the vehicle and was searched. Thereafter, [REDACTED] told [REDACTED] to take his ignition keys from the vehicle -- which she then did, secreting the keys into her purse. Officers then detained, handcuffed and arrested her, and searched her purse for the vehicle’s keys. During the purse search, Officer Renee Gardner removed what she said were plastic “sticks” or straws containing suspected flavored cannabis oil, as well as, purportedly, a narcotics pipe. [REDACTED] protested the straws contained honey, and not cannabis oil. She and [REDACTED] were then transported to the district station for processing. [REDACTED] was charged with resisting and obstructing an officer, improper lane usage, narcotics possession, and released on \$1,500.00 bail. The vehicle was impounded. [REDACTED] was charged with interfering and narcotics possession.

[REDACTED] subsequently filed a sworn complaint with COPA, and alleged police improperly searched her purse and incorrectly charged her with possession of narcotics. [REDACTED] likewise gave a sworn statement to COPA and alleged he and his car were unjustifiably stopped, searched, and his vehicle impounded. He alleged his marijuana was medicinal in nature, and he should not have been arrested for its possession. No injuries were reported.

Partial body-worn camera (“BWC”) footage of the initial arrest was recovered by CPD, however, forward-facing in-car dash camera (“ICC”) footage of the stop was not recovered.

COPA obtained and reviewed all relevant reports, including original case incident reports, case supplementary reports, CFD records, and relevant criminal court records.

IV. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

³ It is germane to, and COPA takes notice of the fact that [REDACTED] presented himself as, at least tacitly, an adherent to The Moorish Science Temple of America sect, and repeatedly alluded to the foregoing in the “court documents” he presented to the officers and in his COPA statement. The foregoing is directly relevant to the context of and analysis of this matter because while not synonymous with contemporary secular “sovereign citizen” groups, some individual followers, including [REDACTED] assert they are separate “sovereigns” from and not bound by some or all local or U.S. law. [REDACTED] even told responding officers on BWC that “[he was] not a U.S. citizen.” [REDACTED] in his sworn COPA statement, repeated this belief he was above or immune from municipal or Illinois law – including not needing to carry vehicle liability insurance, a driver’s license, or that he was unbound by then-current marijuana possession laws. Most of [REDACTED] COPA allegations, and his credibility, thus fail because they are premised on fundamental misinterpretations and misapplications of local, state, federal, and even international law. The documents he proffered show he is not a valid renunciant of U.S. citizenship, per federal law, that he remains a U.S. citizen and Illinois driver’s licensee, and that he is not otherwise immune from prosecution for violations of federal, local or municipal law.

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

Allegations #1 and #2 against Officer Gabriel Rodriguez are **Unfounded** and **Exonerated**, respectively. Officer Rodriguez was not involved in the initial traffic stop and detention of [REDACTED] and [REDACTED] and thus Allegation #1 is **Unfounded**. His subsequent assist of the detention, search and/or arrest of [REDACTED] and [REDACTED] was duly justified for the same reason(s) as set forth in the analysis of Officer DeYoung's actions, below, and thus, Allegation #2 against Officer Gabriel Rodriguez is **Exonerated**.

Officer Renee Gardner was not involved in the initial stop and detention of [REDACTED] and [REDACTED] and, thus, Allegation #1 against Officer Renee Gardner is **Unfounded**. Notwithstanding the foregoing, her subsequent assisting with the detention, search and arrest of [REDACTED] and [REDACTED] was duly justified for the same reason(s) as set forth in the analysis of Officer DeYoung's actions, below, and thus, Allegations #'s 4, 5, and 6 against Officer Renee Gardner are **Exonerated**.

Allegations #2 and #3 against Officer Renee Gardner are **Not-Sustained**, and **Sustained**, respectively. Officer Renee Gardner admitted failing to activate her department-issued Axon BWC

during part of the incident, and not warning ██████ she was recording at the start of the encounter.⁴ Officer Renee Gardner related she recorded part of the incident, however, and *did* warn ██████ the BWC was recording during the transport to the station. She told COPA she believed the responding officers had already warned ██████ of BWC, so her doing so was unnecessary.⁵ Recovered BWC footage confirmed Officer Baker stopped her BWC mid-way through the encounter before her search of ██████ purse. She re-activated the BWC before transporting ██████ to the district. This omission resulted in a gap in footage and the loss of potentially material video of the purse search and related actions. Allegation #2 is therefore **Not-Sustained**⁶ and Allegation #3 is **Sustained**.

██████ taking the ignition key - to defeat officers' towing of the vehicle and against officers' direct orders to not do so - constituted criminal resistance, interference, or obstruction of the officers' investigation, and is an arrestable, Class-A misdemeanor per 720 ILCS 5/31-1. Her actions were thus a reasonable basis for Officer Renee Gardner to place her in custody, and to search her and her purse without a warrant, incident to arrest. As such, Allegations #4, #5, and #6 against Officer Renee Gardner are rightly **Exonerated**.

Additionally, as shown on BWC and related in her COPA statement, Officer Renee Gardner found the suspected cannabis oil "sticks" or straws during the key fob search – not afterwards, as was alleged, thus diminishing ██████ credibility. Even ignoring the ignition key issue, the purse search and seizure of the suspect straws was independently justified, as a matter of law, as a search for additional contraband after ██████ suspect cannabis was already found. The ultimate composition of the straws is irrelevant for COPA's purposes – that they strongly resembled contraband was alone sufficient justification for officers to confiscate them for analysis, and, coupled with the volume of suspected marijuana leaf already found, to arrest the parties for transporting them, and to seize and impound the vehicle.

Allegations #1 and #2 against Officer Kyle Bernaciak are **Exonerated**. Officer Bernaciak was involved in the initial stop and detention of ██████ and ██████ and assisted in curbing the vehicle. Officer Bernaciak related in his COPA statement that he and Officer DeYoung observed ██████ black automobile overtake another vehicle on the left, cross the center line into oncoming traffic, and they thereafter curbed the vehicle. This comports with ██████-██████ admission he did cross the center line before being stopped. For this reason alone, stopping the sedan to investigate the circumstances of the potentially unlawful traffic maneuver(s) was duly warranted. As such, Allegation #1 against Officer Bernaciak is **Exonerated**.

Officer Bernaciak also related observing another officer, whose name he could not remember,⁷ see and remove a clear plastic container in ██████ jacket pocket containing a green, leafy substance believed to be cannabis.⁸ The foregoing was corroborated on BWCs, thus

⁴ See Attachment 16 at 32:00.

⁵ *Id.* at 32:24

⁶ Compliance with the directive would be duplicative of the other responding officers' verbal warning(s), and Officer Gardner's failure was, at most, *de minimis* error.

⁷ Thereafter believed to be Officer DeYoung.

⁸ See Attachment 13, at 10:34.

bolstering Officer Bernaciak's credibility. After the container was found, Officer Bernaciak related searching the driver's seat area for additional evidence of narcotics, but none was found.

Because suspect narcotics had already been observed and recovered from the driver, and ██████████ admitted to officers on BWC the item was his "medicinal plant," officers were duly justified searching his vehicle's passenger compartment for additional evidence of narcotics. ██████████ produced no medical marijuana card authorizing his possession of the drug. As such, Allegation #2 against Officer Bernaciak is **Exonerated**.

The allegations # 1, 2, 3, 4 and 6 against Officer Benjamin DeYoung are **Exonerated**. Officer DeYoung related he, officers Bernaciak and Crot curbed ██████████ and ██████████ black, 2-door coupe after observing it speed [approx. 45 mph] and cross the center line into oncoming traffic near 1600 W. 79th St. and S. Ashland Ave. His description comports with ██████████ admission he crossed the center line before being stopped. For that reason alone, stopping the vehicle to investigate the potentially unlawful lane-usage maneuver(s) was duly warranted. As such, Allegation #1 against Officer DeYoung is **Exonerated**.

Second, the search of ██████████ person was duly justified as a search incident to arrest after he inexplicably refused to present a license and proof of insurance or exit the vehicle when demanded. That the suspect cannabis was then spotted inside the driver's open jacket pocket and removed – as corroborated on Officer DeYoung's BWC footage -- further justified the search and seizure of the contraband. As such, Allegation #2 is **Exonerated**. Additionally, once the suspected cannabis was found on ██████████ the search of his vehicle's passenger compartment was duly justified per, *inter alia*, Arizona v. Gant, 556 U.S. 332 (2009). Allegation #3 is thus **Exonerated**.

Allegation #4 against Officer DeYoung is **Exonerated**. Officer DeYoung's display of his taser towards Mr. Sadler Bey -- without firing it -- during the encounter was, *per se*, not a violation of then-existing CPD rules or directives, nor did the specific maneuver fall within the scope of reviewable misconduct included in COPA's enabling ordinance, MCC 2-78-120, *et seq.* As such, Allegation #4 must be **Exonerated**.

Allegation #5 against Officer DeYoung is **Not Sustained**. Officer DeYoung admitted in his statement⁹ he failed to inform ██████████ he was being recorded on BWC, in contravention of S03-14.¹⁰ However, the circumstances of the stop as related by Officer DeYoung and depicted on BWC footage -- including the heavily tinted vehicle windows, the fact ██████████ inexplicably refused to lower his driver's window more than a crack, the furtive movements related by Officer DeYoung, and ██████████ overall erratic behavior -- reasonably satisfied the safety risk exception to S03-14. At most, the omission was *de minimis* error. For each of the foregoing reasons, a finding of **Not Sustained** is warranted.

⁹ BWC footage confirmed Officer DeYoung failed to notify his BWC was recording.

¹⁰ See S03-14, Sub. III (a)(4): "Upon initiation of a recording, Department members will announce to the person(s) they intend to record that their BWC has been activated to record. NOTE: Sworn members will not unreasonably endanger themselves or another person to conform to the provisions of this directive."

Allegation #6 against Officer DeYoung is **Exonerated**. [REDACTED] taking the vehicle's ignition key -- to defeat officers' towing of the vehicle and against officers' direct orders to not do so - constituted criminal resistance, interference, or obstruction of the officers' investigation, and is an arrestable, Class-A misdemeanor per 720 ILCS 5/31-1. Her actions were thus a reasonable basis to place her in custody, and to search the purse without warrant. The purse search and seizure of the key(s) and suspect cannabis oil straws were thus duly justified, as a matter of law. An **Exonerated** finding against Officer DeYoung is therefore warranted.

Allegation #7 against Officer DeYoung is **Unfounded**. Officer DeYoung admitted in his statement he did not complete a Tactical Response Report ("TRR") incident to this matter. No such report, however, was required per then-current Department directives, including, but not limited to G03-02-02, or G03-02-04¹¹, because the Taser employed in this case was not discharged or used as an impact weapon against [REDACTED]. The mere display or pointing of non-lethal weapons, including Tasers, for officer safety or to compel a subject's compliance with lawful orders, was neither prohibited nor classified a reportable incident requiring TRR completion. In addition, BWC footage showed [REDACTED] was removed from his vehicle by Officer Rodriguez -- not Officer DeYoung -- and he did so in a gingerly, non-forceful manner, using verbal de-escalation techniques until [REDACTED] complied and exited the driver's seat without force, and contra [REDACTED] description of events. An **Unfounded** finding is therefore warranted.

Allegation #1 against Officer Keith Crot is **Exonerated**. Officer Crot related during his COPA statement that he searched [REDACTED] driver's side door area during the traffic stop, and he was depicted on BWC doing so. The search was limited to the driver's door storage pocket and immediate driver's area of the vehicle. A greenish, cannabis-like object was briefly removed from the door pocket, but no contraband was found.¹² Because Officer Crot's search occurred after [REDACTED] was arrested and the suspect narcotics found in his jacket, Officer Crot's limited, warrantless search of the driver's area for additional evidence of contraband was duly justified as a matter of law, and not a violation of Department policy. A finding of **Exonerated** is therefore warranted.

Allegation #2 against Officer Keith Crot is **Not Sustained**. BWC footage depicted, and Officer Crot admitted in his statement, that he held a cigar in his mouth while on-duty and during the public stop and arrest of [REDACTED]. Doing so was a violation of Department Rule 55. Notwithstanding the foregoing, the violation was observed only following COPA's review of BWC footage and not independently complained of. As such, the action would fall under S03-14 (II)(B) regarding isolated, minor rules violations. Therefore, the violation is **Not Sustained**.

Allegation #1 against Officer Samuel Flores is **Exonerated**. Officer Flores related in his COPA statement, and as reflected in CPD's response to COPA, that Officer Flores did not activate a department-issued Axon BWC during the incident at issue. Officer Flores related, however, that on the date at issue he was assigned to unit 312 (gang enforcement) and not assigned a BWC unit.¹³

¹¹ Respectively, "Incidents Requiring the Completion of a Tactical Response Report" and "Taser Use Incidents."

¹² The item removed from the door pocket appeared on BWC to be a partially burned sage or herbal "smudge stick" (incense).

¹³ See Attachment 20 at 5:15.

He added that after [REDACTED] exited the vehicle and the suspect cannabis found, he assisted in the search of the vehicle's passenger compartment and found a marijuana pipe in the glovebox. He further related Officer Renee Gardner subsequently told him to detain the female passenger, [REDACTED] because she took the vehicle keys. He then handcuffed her, after officer Rodriguez stated she was under arrest. He related officers then searched her purse and Officer DeYoung found keys and Officer Renee Gardner found cannabis oil sticks. For the foregoing reasons, the fact Officer Flores was not assigned a BWC exempted him from the activation requirement. A finding of **Exonerated** is therefore warranted.

Allegation #1 against Officer Jerald Williams is **Exonerated**. Officer Williams admitted in his COPA statement, and BWC showed, that he failed to activate his department-issued Axon BWC while assisting the stop and arrest of [REDACTED] and [REDACTED] Officer Williams related, however, that he was assigned to unit 312 (gang enforcement) and not equipped with BWC.¹⁴ The fact Officer Williams was not issued a BWC therefore exempted him from S03-14's¹⁵ recording requirement(s), and a finding of **Exonerated** is warranted.

VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Renee Gardner

i. Complimentary and Disciplinary History

Officer Renee Gardner's complimentary history consists of the following: (1) 2019 Crime Reduction Award; (1) Annual Bureau Award of Recognition; (1) Attendance Recognition Award; (58) Honorable Mention; (1) Joint Operations Award; (1) Problem Solving Award; (1) Superintendent's Honorable Mention

As of August 11, 2022, there is no Sustained Complaints History. There is a March 14, 2022, Reprimand (Log# 564220) shown in SPAR History.

ii. Recommended Penalty, by Allegation

1. Allegation No. 2: Violation Noted

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Investigator

12-22-2022

Date

¹⁴ See Attachment 21 at 9:29.

¹⁵ Incorporating the Illinois Officer-Worn Body Camera Act, 50 ILCS 706/10.