

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	September 4, 2018
Time of Incident:	12:42 a.m.
Location of Incident:	5801 South Columbia Drive, Chicago, Illinois
Date of COPA Notification:	July 16, 2019
Time of COPA Notification:	2:39 p.m.

Complainant, ██████████ was arrested by officers of the Chicago Police Department (CPD) on September 4, 2018 at approximately 12:42 a.m. at 5801 South Columbia Drive, Chicago, Illinois, for Aggravated Unlawful Use of a Weapon (UW).<sup>1</sup> Initially, ██████████ and ██████████ had been detained for being on Chicago Park District property after curfew.<sup>3</sup> Prior to being detained, Officer Alejandro Ballesteros had observed ██████████ make furtive movements near the vehicle ██████████ had just exited, which was later determined to be ██████████ vehicle. ██████████ gave the officers consent to search his vehicle and a firearm, belonging to ██████████ was found in the vehicle. ██████████ had a Conceal-Carry license; however, the clip was loaded in the pistol, which is in violation of the UW statute, and ██████████ was subsequently charged with the UW offense. ██████████ however, in his statement to COPA had claimed that consent to search the vehicle had not been obtained and that he had been illegally detained. As a result, investigation in this matter was initiated.

**II. INVOLVED PARTIES**

Involved Officer #1:	Alejandro Ballesteros, Star #11650, Employee ID# ██████████, Date of Appointment: June 29, 2015, Police Officer, Unit of Assignment: 011, DOB: ██████████, 1993, Male, Hispanic
Involved Officer #2:	Adrien T. Franklin, Star #9188, Employee ID#: ██████████, Date of Appointment: October 30, 2006, Police Officer, Unit of Assignment: 003, DOB: ██████████, 1969, Male, Black
Involved Individual #1:	██████████ DOB: ██████████, 1995, Male, Black
Involved Individual #2:	██████████ DOB: ██████████, 1988, Male, Black

<sup>1</sup> 720 ILCS 5.0/24-1.6-A-2

<sup>2</sup> Attachment #14

<sup>3</sup> 10-36-185 – VIOL. PARK DIST. Code CH VII B 2

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Alejandro Ballesteros	1. It is alleged by ██████████ that on or about September 4, 2018, at approximately, 12:42 a.m., at or near 5801 South Columbia Drive, Chicago, Illinois, Police Officer Alejandro Ballesteros, Star #11650, committed misconduct by detaining ██████████ without justification.	<b>Exonerated</b>
Officer Adrien T. Franklin	1. It is alleged by ██████████ that on or about September 4, 2018, at approximately, 12:42 a.m., at or near 5801 South Columbia Drive, Chicago, Illinois, Police Officer Adrien T. Franklin, Star #9188, committed misconduct by detaining ██████████ without justification.	<b>Exonerated</b>

**IV. APPLICABLE RULES AND LAWS**

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- Rules
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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.
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- City of Chicago Municipal Violations
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1. 10-36-185 Park District Code CH VII B 2
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- State Laws
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1. Aggravated Unlawful Use of a Weapon (UW) [720 ILCS 5.0/24-1.6-A-2]

## V. INVESTIGATION<sup>4</sup>

### a. Interviews

In his interview with COPA on July 16, 2019,<sup>5</sup> ██████████ had complained that he had been unlawfully detained by CPD officers on September 4, 2018 at or near 5801 South Columbia Drive, Chicago, Illinois, after attending a boat party on a boat docked at the pier at that location. He claimed that he was walking to his car with his brother, ██████████ when they were approached by officers and then handcuffed. He claimed to have been doing nothing illegal at the time. He claimed to have not been smoking marijuana. He claimed that the officers subsequently searched their vehicle, which had been parked next to another vehicle where the occupants had been smoking marijuana. He claimed that consent had not been given to the officers to conduct the search. A firearm belonging to ██████████ was recovered from the vehicle and seized by the officers. ██████████ stated that he had a valid Concealed Carry permit at the time; however, at the time of the seizure of the firearm, the clip was inserted in the firearm and not separate, as required by law. ██████████ further complained that the officers had not initially informed him as to why he was being detained.

### b. Digital Evidence

**Body Worn Camera (BWC) for Officer Alejandro Ballesteros, September 4, 2018, Event # 1824700477;**<sup>6</sup> Officer Adrien T. Franklin is observed holding ██████████ and ██████████ by their arms. They are handcuffed. They are standing next to a white vehicle with the passenger-side door open. ██████████ asks Officer Ballesteros what they did. ██████████ says that they just came from a party on a boat. ██████████ explains that it is his car by which they are standing. Officer Franklin tells ██████████ that ██████████ was standing near the vehicle, and when he saw the officer he quickly went into the vehicle, and that it looked suspicious. ██████████ continues to argue with the officer. Officer Franklin tells them that it is a street stop. The officer asks if he can look in the car. ██████████ says the officer can take a peek, but that there is nothing illegal in there.<sup>7</sup> The officer says he smells weed (i.e. marijuana). Officer Ballesteros opens the driver-side door of the vehicle and begins to search the vehicle. He recovers a firearm from under the driver's seat. He attempts to eject a round from the pistol, but the gun is not charged. He then removes the clip. It is a semiautomatic pistol. A round can be seen in the top of the clip. Officer Ballesteros is communicating with Dispatch relative to his situation. He asks if anyone has a FOID card. ██████████ responds that he does but does not have a Concealed Carry license. Officer Ballesteros continues to search the vehicle and finds a wallet in the vehicle. He leaves the wallet in the vehicle. He finishes searching and approaches Officer Franklin and the two subjects. Officer Ballesteros places the recovered firearm in his vehicle. Officer Franklin still has both subjects handcuffed together near the police vehicle. Another officer arrives on the scene and Officer Ballesteros tells him that when they pulled up to the area, they observed both of the individuals near the trunk of the vehicle. One of them observed the officers and quickly shut the trunk of the vehicle, and then got inside of

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<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> Attachment #3

<sup>6</sup> Attachment #5

<sup>7</sup> Attachment #5 at 12:41:06

the vehicle on the driver's side. Officer Ballesteros approached the vehicle and smelled weed (i.e. marijuana). They asked to search the car and indicated that they found a firearm under the driver's seat. Four other officers are now on the scene, including a sergeant. Officer Ballesteros asks [REDACTED] where his I.D. is located, and [REDACTED] says that it is in the car. Officer Ballesteros retrieves the I.D. A black female, wearing a red shirt, is observed in a dark vehicle parked nearby. Officer Ballesteros tells her that she can leave. Officer Franklin then runs [REDACTED] I.D. for a name check. [REDACTED] can be heard arguing in the background. Officer Ballesteros places the firearm and clip in the glove compartment of his vehicle. The other officers are standing near the subjects.

**Body Worn Camera (BWC) for Officer Adrien T. Franklin, September 4, 2018, Event # 1824700477;**<sup>8</sup> Officer Franklin is seen approaching [REDACTED] while he is standing near a white automobile. Officer Ballesteros is seen approaching [REDACTED] who is also standing near the vehicle. Officer Franklin tells [REDACTED] to come over by him. [REDACTED] raises his hands and approaches Officer Franklin. Officer Franklin places handcuffs on [REDACTED] who is questioning what is happening. He then handcuffs [REDACTED] to [REDACTED]. He asks whose car it is, and [REDACTED] says that it is his wife's car. [REDACTED] says that [REDACTED] is his godbrother. Officer Franklin asks if he can search the vehicle. He also asks where the weed (i.e. marijuana) is. [REDACTED] denies there is marijuana in the car. [REDACTED] says that they just came from a boat party. [REDACTED] asks what they did and Officer Franklin says that they are in the park after hours. [REDACTED] complains about being stopped. Officer Franklin asks if he can look in the car.<sup>9</sup> [REDACTED] says, "Officer, you can take a peek, but there is nothing illegal in there."<sup>10</sup> Officer Franklin says he smells weed (i.e. marijuana). Officer Ballesteros opens the passenger side door of the vehicle. He then goes to the driver's side of the vehicle, opens the door, and begins searching with his flashlight. He finds a firearm in the vehicle near the driver's seat. [REDACTED] states that it is his firearm, but that he does not have a Concealed Carry permit. He only has a FOID card.<sup>11</sup> Officer Ballesteros clears the weapon. Officer Franklin explains to [REDACTED] that he cannot possess a gun in the park without a Concealed Carry license. He tells [REDACTED] that [REDACTED] was acting suspicious near the vehicle when the officers pulled up in the park. Three uniformed officers and a sergeant arrive on the scene, and Franklin explains to the sergeant what had occurred, and that they had found a gun in the car. Officer Franklin goes to his vehicle to run a name check with [REDACTED] driver's license. He mentions that the magazine was inserted in the firearm. He writes out a citation for [REDACTED] because it was his car in the park. He returns [REDACTED] identification to him, and gives him a citation.

**c. Physical Evidence:**

9 mm Taurus Millennium, G2, blue steel, semi-automatic pistol, serial # [REDACTED]

**d. Documentary Evidence**

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<sup>8</sup> Attachment #6

<sup>9</sup> Attachment #6 at 12:41:00

<sup>10</sup> Attachment #6 at 12:41:08

<sup>11</sup> Firearm Owner's Identification Card

Investigatory Stop Report (ISR #000630058) dated September 4, 2018<sup>12</sup>

CPD A&A Sheet, Unit 003, Watch 4, September 4, 2019<sup>13</sup>

CPD Case Supplementary Report JB421096<sup>14</sup>

CPD Arrest Report for [REDACTED] IR# JB421096, CB# 19698068<sup>15</sup>

CPD Criminal History Report for [REDACTED] IR# 2164260<sup>16</sup>

## VI. ANALYSIS

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.

Complainant, [REDACTED] was arrested by officers of the Chicago Police Department on September 4, 2018 at approximately 12:42 a.m. at 5801 South Columbia Drive, Chicago,

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<sup>12</sup> Attachment #1

<sup>13</sup> Attachment #8

<sup>14</sup> Attachment #11

<sup>15</sup> Attachment #12

<sup>16</sup> Attachment #14

Illinois, for Aggravated Unlawful Use of a Weapon [720 ILCS 5.0/24-1.6-A-2]. The incident was recorded on Body Worn Cameras. Initially, [REDACTED] and [REDACTED] who [REDACTED] had claimed to be his brother in an interview with COPA, had been detained for being on Chicago Park District property after curfew in violation of 10-36-185-VOL. PARK DIST. Code CH VII B 2. Since [REDACTED] had been detained based upon a clear curfew violation, his initial detention was lawful.

Investigation has further determined that [REDACTED] is not [REDACTED] brother, as [REDACTED] had claimed in his interview with COPA. This statement affects [REDACTED] credibility. [REDACTED] also complained to COPA that he had been illegally detained, stating that he was not informed by the police why he was being detained, and later claimed that the police had illegally searched [REDACTED] vehicle from which [REDACTED] had exited. [REDACTED] claimed that [REDACTED] had not given consent to search the vehicle, as it was [REDACTED] vehicle, and not [REDACTED]. The BWC of Officer Alejandro Ballesteros, however, clearly indicates that [REDACTED] was told by the officer that he had smelled marijuana, and that [REDACTED] was making suspicious movements near the vehicle. As such, [REDACTED] was clearly told why he was being detained. Again, this is inconsistent with [REDACTED] statement to COPA.

With respect to consent to search the vehicle, the BWC of Officer Ballesteros clearly reflects that [REDACTED] was asked by Officer Ballesteros if Ballesteros could search his vehicle, with [REDACTED] responding: *“You can take a peek but there’s nothing illegal in there.”*<sup>17</sup> This is clearly consent, and this contradicts [REDACTED] statement to COPA that consent had not been given. A firearm belonging to [REDACTED] was subsequently recovered from the vehicle.

In summary, prior to detaining [REDACTED] and [REDACTED] Officer Ballesteros claimed that he had observed [REDACTED] making furtive movements near the vehicle [REDACTED] had just exited, which has been determined not to be [REDACTED] vehicle, but [REDACTED] vehicle, resulting in [REDACTED] having no standing to contest the search. Ballesteros also claimed that he had smelled marijuana emanating from the vehicle. This is confirmed from his BWC, and this is reasonable suspicion to initially detain [REDACTED] absent the fact that [REDACTED] was violating a Chicago Park District ordinance. [REDACTED] however, had claimed that he had not been smoking marijuana, but that unidentified individuals in an adjacent car had been smoking marijuana. This appears highly unlikely, as those individuals were not detained by the officers.

[REDACTED] has alleged that he was falsely arrested, and that the search of the vehicle from which he had exited was illegally searched; however, [REDACTED] inconsistent statements to COPA are in direct opposition to the events recorded on the BWC of Officer Ballesteros, and thus [REDACTED] credibility is called into question. As such, the allegations alleged by [REDACTED] in this investigation should be considered unsubstantiated, and both officers should be **EXONERATED** of the allegations made by [REDACTED] in this matter.

**I. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
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<sup>17</sup> BWC of PO Alejandro Ballesteros at 12:41:05 a.m.

<p>Officer Alejandro Ballesteros</p>	<p>1. It is alleged by [REDACTED] that on or about September 4, 2018, at approximately, 12:42 a.m., at or near 5801 South Columbia Drive, Chicago, Illinois, Police Officer Alejandro Ballesteros, Star #11650, committed misconduct by detaining [REDACTED] without justification.</p>	<p><b>EXONERATED</b></p>
<p>Officer Adrien T. Franklin</p>	<p>1. It is alleged by [REDACTED] that on or about September 4, 2018, at approximately, 12:42 a.m., at or near 5801 South Columbia Drive, Chicago, Illinois, Police Officer Adrien T. Franklin, Star #9188, committed misconduct by detaining [REDACTED] without justification.</p>	<p><b>EXONERATED</b></p>

Approved:

[REDACTED]

7-30-2020

\_\_\_\_\_  
 Angela Hearts-Glass  
 Deputy Chief Administrator

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 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Investigator:</b>	James L. Whitmer
<b>Supervising Investigator:</b>	Andrew Dalkin
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass