SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 25, 2019	January 25, 2019		
Time of Incident:	4:15 PM	4:15 PM		
Location of Incident:	531 W. 76 th Street, Chicago, I	531 W. 76 th Street, Chicago, IL		
Date of COPA Notification	January 28, 2019	January 28, 2019		
Time of COPA Notification	n: 11:19 AM	11:19 AM		
Kishta, Star# 6077, and Offian OEMC radio dispatch of party as complainant The officers noted the evasifinding her hiding in the bacand Sherrod ascertained that supervisor to arrive on scene scene to serve	proximately 4:15 PM, at or near 527 cer Justin Sherrod, Star# 14849, both a wanted person. Upon arrival, the of who the caller stated she an Ordive actions being taken by to average to a weekyard of 7643 S. Lowe. After further that had not been served the OC and serve the OOP to a Cook Cook as advised and released on scene.	of the 6 th District, responded to caller pointed out the offending der of Protection (OOP) against. void being stopped after finally er investigation, Officers Kishta OP. While waiting for a CPD		
II. INVOLVED PA	ARTIES			
Involved Officer #1:	Appointment: 12/15/2017, Pol	Hanan Kishta, Star# 6077, Employee ID# Date of Appointment:12/15/2017, Police Officer, UOA: 6 th District, DOB: 1989, Female, White		
Involved Officer #2:	of Appointment: 2/16/2017, P	Justin Sherrod, Star# 14849, Employee ID# Date of Appointment: 2/16/2017, Police Officer, UOA: 6 th District, DOB: 1994, Male, Black		
Involved Individual #1:	DOB:/199	91, Female, Black		
III. ALLEGATION	S			
Officer A	llegation	Finding / Recommendation		
at	is alleged that on or around January 2 approximately 4:15 PM, at or near 52 5 th Street, Officer Kishta:			

1. Stopped without justifice in violation of Rules 2 and 3		Exonerated
	2. Detained without justification, in violation of Rules 2 and 3	Exonerated
	3. Searched without justification, in violation of Rules 2 and 3	Exonerated
	4. Failed to properly document the detention of in violation of Rule 5	Sustained/Violation Noted
Officer Sherrod	It is alleged that on or around January 25, 2019, at approximately 4:15 PM, at or near 527 W. 76 th Street, Officer Sherrod:	
	1. Stopped without justification, in violation of Rules 2 and 3	Exonerated
	2. Detained without justification, in violation of Rules 2 and 3	Exonerated
	3. Searched without justification, in violation of Rules 2 and 3	Exonerated
	4. Failed to properly document the detention of in violation of Rule 5	Sustained/Violation Noted

IV. APPLICABLE RULES AND LAWS

Rules

- 1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- 2. **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- 3. **Rule 5:** Failure to perform any duty.

Special Orders

1. **S04-13-09:** Investigatory Stop System

Federal Laws

1. 4th Amendment, U.S. Constitution

V. INVESTIGATION 1

a. Interviews

On January 29, 2019, **complainant** gave COPA an audio and video recorded statement. Stated that on Friday, January 24, 2019², she was walking to her residence when uniformed CPD officers, identified as accused Police Officer Hanan Kishta, ("Officer Kishta"), Star# 6077, and accused Police Officer Justin Sherrod, ("Officer **Sherrod"**). Star# 14849, both of the 6th District, stopped their marked CPD vehicle after observed in the backyard of 7646 S. Lowe. The officers asked if she was was being detained. The officers said that they were looking for someone and that she fit the description. Informed COPA that she had entered through the front door of 7656 S. Lowe and exited out the backdoor into the gated backyard where the officers observed her. A female officer, identified as Officer Kishta, jumped a five-foot locked gated fence to get into the yard where she was standing. Officer Kishta proceeded to search her, pat down her coat, handcuffed her and asked her for identification. She informed Officer Kishta that her identification was in her wallet, to which Officer Kishta retrieved her identification from that wallet. The male officer, identified as Officer Sherrod, asked her how she got into the backyard. Officer Sherrod she had walked through the house. The officers asked if they knocked on the door would someone allow them to walk her through the residence and out the front door to their police vehicle, to which told the officers they could try. An officer knocked on the back door of 7643 S. Lowe, but no one responded. The officers then proceeded to "throw her over the gate." 3 Officer Sherrod was on one side of the gate and that she was with Officer Kishta on the other side. Officer Kishta lifted the lower portion of her body over the fence and Officer Sherrod caught the top portion on the other side. Stated she was handcuffed and placed in the backseat of the officer's vehicle. She asked the officers why she was being detained and Officer Kishta said, "just give us a minute, we're going to talk to you."4

The officers proceeded to drive around the area, approximately two to three blocks from her residence. When the officers arrive at her residence, 531 W. 76th St., Officer Sherrod asked if she had been involved in an altercation.

At that time, a Cook County Sheriff's marked vehicle then arrived on scene and a uniformed deputy sheriff approached and knocked on the officers' window. The deputy sheriff said he was looking for a The officers told the deputy sheriff they were detaining her in their backseat. The deputy sheriff said he was serving with an order of protection

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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 According to OEMC Event# 1902509826, the date of the incident was Friday, January 25, 2019.

³ Attachment 8 at 7:37

⁴ Id at 8:39

("OOP"). ⁵ Officer Kishta exited the vehicle and briefly spoke with her neighbor, identified as Both officers spoke with
informing her that had been served the OOP. had a problem with involving snow removal and a gate. had obtained the OOP against her after the disagreement involving snow removal. Officer Sherrod came back to the police vehicle she was seated in, informing her she could have been arrested, but not having been served the OOP, she was being released. stepped out of the CPD marked vehicle and was unhandcuffed by Officer Kishta. Officer Kishta handed her the OOP.
felt the officers used excessive force by throwing her over the gate and choking her. She told the officers she was not comfortable "jumping a gate." believes the reason why the people at 7546 W. Lowe did not answer the door for the officers was because they were not aware of what was occurring. The people at 7546 W. Lowe spoke with the officer at the front door but not the back. stated the officers requested a supervisor, but one never came. ⁷
On July 17, 2019, accused Police Officer Hanan Kishta, ("Officer Kishta"), Star# 6077, 6 th District, gave COPA her audio recorded interview. Officer Kishta stated that on January 24, 2019, she and her partner, accused Police Officer Justin Sherrod, ("Officer Sherrod"), Star# 14849, received an Office of Emergency Management and Communications ("OEMC") radio dispatch to
Officer Kishta stated was attempting to evade investigation, as was walking fast, and that she and Officer Sherrod temporarily lost sight of her. The officers drove through an alleyway, at which time she exited the police vehicle and proceeded on foot, attempting to locate While on foot, she observed in a fenced backyard attempting to hide behind a house. As the gate was locked, she climbed the backyard fence, approached and handcuffed her for officer safety. At that time was being detained, not arrested, for further investigation.
⁵ Attachment 15 ⁶ Attachment 8 at 33:37 ⁷ Attachment 8 ⁸ Attachment 13 ⁹ Id at page 1 ¹⁰ Attachment 8. audio recorded interview to COPA stated she was in the backyard of 7646 S. Lowe when

the officers approached her for investigation. However, body worn camera video shows the address as 7643 S.

Lowe.

was asked how she got into the backyard of 7646 S. Lowe. Officer Kishta described demeanor and statements to her and Officer Sherrod as "being a little bit off." statements on how she had gone through the front door of 7643 S. Lowe to retrieve her charger and had exited that location via the rear door leading into the rear yard did not make sense. Officer Kishta had to unhandcuff performed to get her over the fence to the officers' vehicle. Officer Kishta, after unhandcuffing performed a protective pat down for officer safety. Officer Kishta lifted legs and Officer Sherrod was on the other side to ensure she did not fall. was rehandcuffed after getting over the fence and taken to the police vehicle and then informed that she was not under arrest but being detained for further investigation. Officer Kishta stated a Law Enforcement Agencies Data System ("LEADS") check was performed to verify identity and whether she had been served the OOP. investigation took longer than it should have because of her evasive actions to avoid the officers.

was transported back to Street where Officer Sherrod called for a supervisor to their location because the LEADS check revealed that had not been served the OOP. While they waited for the supervisor, a Cook County deputy sheriff arrived on scene. The deputy sheriff was there to serve the OOP. After received the OOP from the deputy sheriff, she was unhandcuffed and released and informed that having been served the OOP, approaching her neighbor in the future could result in her arrest.

Officer Kishta stated that an Investigative Stop Report (ISR) was not completed for because, when the Cook County deputy sheriff served the OOP, she believed that action sufficed as to not require the completion of an ISR. Officer Kishta stated going forward, that in similar situations, she must complete an ISR.¹³

¹¹ Attachment 13 at 25:05

¹² Attachment 14

¹³ Attachment 26. On July 17, 2019, Officer Kishta gave COPA a second audio recorded interview.

and observed Officer Kishta and Officer Sherrod had to jump the fence to get to Officer
Kishta and was handcuffed by Officer Kishta and informed that she was being detained
for further investigation. Officer Kishta performed a protective pat down of At no time did
he perform a protective pat down of Officer Sherrod stated nothing was recovered from the
protective pat down of evasive behavior was the reason for the protective pat down.
Officer Sherrod asked how she got into the backyard, to which said she had "went
through the house and into the backyard."14 Officer Sherrod stated, however, that there were no
footprints in the snow indicating that had done so, nor was there a reply when he knocked on
the door. He believed that had climbed over the fence to get into the backyard. Officer
Sherrod stated to get back over the fence, she was unhandcuffed, sat on the fence, and while
leaning on his body for support, climbed over. After was over the fence, she was re-
handcuffed and taken to the police vehicle.
Officer Sherrod stated was driven back to Officer Sherrod
completed a name check via LEADS with the identification provided by The LEADS
inquiry indicated that an OOP did not exist against Officer Sherrod learned that the OOP
had not been served on As he was calling his supervisor to serve the OOP to

that in the future, would be in violation of the OOP should there be any illegal contact. Before releasing Officer Sherrod informed her that the reason for being detained was to ascertain whether had a valid OOP against her. Officer Sherrod believed the entire incident took approximately thirty minutes. Officer Sherrod stated that an ISR was not done because he mistakenly forgot to complete the document.¹⁵

County deputy sheriff arrived on scene and served the OOP. Officer Sherrod and Officer Kishta

telling her had been served the OOP. Officer Sherrod stated to

b. Digital Evidence

The body worn camera (BWC) of Officer Kishta on January 25, 2019, shows her interaction with Specifically, the BWC shows at speaking to Officers Kishta and Sherrod regarding the actions of that violated the OOP. The BWC shows pointing out and Officers Kishta and Sherrod separating and searching for through several locations before finding her in the rear yard of 7643 S. Lowe. The BWC verifies Officer Kishta handcuffed and informing her that she was not under arrest but being detained for further investigation, as well as Officer Kishta unhandcuffing and patting down seen sitting on and swinging her legs over the fence, and Officer Sherrod assisting for further investigation and, upon the officers' rarrival at the scene, informing that shad not been served the OOP, but that they would call a supervisor to serve her. Additionally, Officer Sherrod is seen speaking to a CPD supervisor and requesting their presence at

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¹⁴ Attachment 22 at 17:39

¹⁵ Attachment 22

to serve an OOP. Officers Sherrod and Kishta are seen talking to a person off camera, identified as a Cook County deputy sheriff, asking if they were there to serve an OOP. The BWC shows was served the OOP. Officers are shown advising about the OOP, her being unhandcuffed, and released at the scene. The BWC does not show physical force being used by Officers Kishta and Sherrod during their investigation of

The **body worn camera (BWC) of Officer Sherrod** on January 25, 2019, shows his interaction with Specifically, Officer Sherrod is seen looking through several yards attempting to locate Officer Sherrod is shown jumping the fence in the rear yard of 7643 S. Lowe to join Officer Kishta who is detaining The BWC of Officer Sherrod shows no shoe prints in the snow on the rear landing or the steps leading from the rear door of 7646 S. Lowe, where stated she exited to enter the backyard. Similarly, the BWC of Officer Sherrod does not show any shoe prints in the snow on the steps or front porch of 7643 S. Lowe as he walks up and knocks on the front door of the dwelling. The BWC shows Officer Kishta unhandcuffing and patting down, and then assisting over the fence with Officer Sherrod ensuring she does not get injured. The remainder of Officer Sherrod's BWC coincides with that of Officer Kishta.¹⁷

c. Documentary Evidence

Office of Emergency Management and Communications (OEMC) Event Query# 1902509826, indicates that on January 25, 2019, Beat# 622, manned by Officers Kishta and Sherrod, responded to on a wanted person. The remarks state that the caller, a said that a neighbor, assaulted her yesterday and that she was back again outside the caller's door. The event query also states that the caller said she had an OOP against who is on scene causing problems. 18

VI. ANALYSIS

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

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

¹⁷ Attachment 18

¹⁶ Attachment 17

¹⁸ Attachment 13

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 III. 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.

1. Stop and detention of

A police officer many temporarily detain an individual for an investigatory stop when "the officer's decision is based on specific, articulable facts which warrant the investigative stop intrusion." People v. Moore, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing Terry v. Ohio, 392 U.S. 1, 21, (1968)); People v. Stewart, 242 Ill. App. 3d 599, 605 (1993)). "The police officer must have an 'articulable suspicion' that the person has committed or is about to commit a crime. *Moore*, 286 Ill. App. 3d at 653. An officer may not detain an individual based on mere hunches or unparticularized suspicions. Id. Officers Kishta and Sherrod responded to an OEMC radio dispatch to 527 W. 76th Street on a wanted person. ¹⁹ Upon arrival the caller, stated she had an OOP against the complainant, pointed out who was observed by the officers walking rapidly from the location. Based upon the information provided Officers Kishta and Sherrod had articulable suspicion in which to stop and investigate whether was in violation of an OOP. "[A] Terry stop must be limited in scope and duration because it is an investigative detention, which must be temporary and last no longer than necessary to effectuate the purpose of the stop." People v. Johnson, 408 Ill. App. 3d 107, 113 (2d Dist. 2010) (citing Florida v. Royer, 460 U.S. 491, 500 (1983)). Accordingly, "an arrest is distinguishable from an investigatory stop based on the length of detention and the scope of the investigation following the initial stop." People v. Maxey, 2011 IL App (1st) 100011, ¶ 60 (citing People v. Bennett, 376 Ill. App. 3d 554, 565 (1st. Dist. 2007)). After pointed her out, Officers Kishta and Sherrod proceeded in the direction of for the purpose of a stop and an investigation. Officers Kishta and Sherrod stated that the behavior of i.e., turning the block and walking faster, looking behind her and trying to hide in the backyard of a dwelling, demonstrated evasive actions used to avoid being stopped and investigated. investigatory stop lasted longer because of the evasive behavior of However, based upon

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¹⁹ Attachment 13

the totality of the circumstances, Officers Kishta and Sherrod had reasonable articulable suspicion to stop and investigate

2. Search of

Special Order S04-13-09, *Investigatory Stop System*, the Chicago Police Department, states that for sworn members, a protective pat down is a limited search during an investigatory stop of the outer clothing of a person for weapons for the protection of the sworn member or others in the area. The special order further states that for department members to conduct a protective pat down, reasonable articulable suspicion founded on specific and objective or observations about how a subject behaves, what the subject is seen or heard doing, and the circumstances or situation in regard to the suspect that is either witnessed or known by the officer, is required. Thus, officers must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area. Given the totality of the circumstances, i.e., the OEMC radio dispatch received by Officers Kishta and Sherrod that described the assaultive behavior of which led to the issuance of the OOP, and her evasive behavior in avoiding investigation by the officers, it is reasonable that Officer Kishta performed a protective pat down of outer clothing for officer safety.

3. Properly document the detention of

Special Order S04-13-09, *Investigatory Stop System*, the Chicago Police Department, requires its sworn members to complete and Investigatory Stop Report (ISR) to document the facts and circumstances of an appropriate Investigatory Stop, Probable Cause to stop when no other document captures the reason for detention, Protective Pat Down, or other search information is entered and retained within the Investigatory Stop Database. Officer Kishta stated that an (ISR) was not completed for because when the Cook County Deputy Sheriff served the OOP, she believed that action sufficed as to not require the completion of an ISR. Officer Sherrod stated he mistakenly forgot to complete the ISR. As such, both officers fail to adhere to the department directive requiring the completion of an ISR for the investigatory stop.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

- a. Officer Kishta
 - i. Complimentary and Disciplinary History
 - 1. Officer Kishta has received seven honorable mentions.

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²⁰ Attachment 13

2. Officer Kishta has no department discipline during her eighteenmonth tenure with CPD.

ii. Recommended Penalty, by Allegation

1. Allegation No. 3

- a. COPA recommends a Violation Noted.
- was served the OOP that the action sufficed as to not require the completion of an ISR. Additionally, Officer Kishta has no disciplinary action in her eighteen-month tenure with CPD.
- **c.** Aggravating Factors: None other than failing to complete the ISR.

b. Officer Sherrod

i. Complimentary and Disciplinary History

- 1. Officer Sherrod has received a Problem-Solving Award, an Emblem of Recognition, six Honorable Mentions, a Life Saving Award and a Joint Operations Award.
- 2. Officer Sherrod has received a reprimand for a court appearance violation.

ii. Recommended Penalty, by Allegation

1. Allegation No. 3

- **a.** COPA recommends a Violation Noted.
- **b.** Mitigating Factors: During his nearly three-year tenure with CPD, Officer Sherrod's Complimentary History demonstrates that normally he is attentive to duties and responsibilities as a sworn member of CPD.
- **c.** Aggravating Factors: None other than a failing to complete the ISR.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Kishta	It is alleged that on or around January 25, 2019, at approximately 4:15 PM, at or near Officer Kishta:	
	1. Stopped without justification, in violation of Rules 2 and 3.	Exonerated
	2. Detained without justification, in violation of Rules 2 and 3.	Exonerated
	3. Searched without justification, in violation of Rules 2 and 3.	Exonerated
	4. Failed to properly document the detention of in violation of Rule 5	Sustained/Violation Noted
Officer Sherrod	It is alleged that on or around January 25, 2019, at approximately 4:15 PM, at or near Officer Sherrod:	
	1. Stopped without justification, in violation of Rules 2 and 3	Exonerated
	2. Detained without justification, in violation of Rules 2 and 3	Exonerated
	3. Searched without justification, in violation of Rules 2 and 3	Exonerated
	4. Failed to properly document the detention of in violation of Rule 5.	Sustained/Violation Noted

Approved:

	7-23-2020	
Angela Hearts-Glass Deputy Chief Administrator	Date	

Appendix A

Assigned Investigative Staff

Squad#:12Investigator:Mark A. GlennSupervising Investigator:Andrew DalkinDeputy Chief Administrator:Angela Hearts-Glass