

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

|                            |  |
|----------------------------|--|
| Date of Incident:          | August 24, 2018                              |
| Time of Incident:          | 7:30 to 7:40 pm                              |
| Location of Incident:      | 801 W. Garfield Boulevard, Chicago, IL 60609 |
| Date of COPA Notification: | August 28, 2018                              |
| Time of COPA Notification: | 1:36 pm                                      |

On August 23, 2018, an information bulletin seeking to identify a vehicle fleeing the area of a homicide was distributed department wide for a dark colored Ford Escape or Ford Focus bearing Texas license plates. On August 24, 2018, at approximately 4:42 A.M., a corrected message was distributed department wide identifying the wanted vehicle as a Ford Escape bearing stolen Texas registration plates.

At 7:30 P.M. August 24, 2018, Officers Alejandro Santos and Terrence Norris were patrolling in their assigned area, Garfield Boulevard and observed a vehicle matching the dark colored Ford Escape parked at the Shell Gas Station located at 801 W. Garfield Boulevard at the gas pumps. Officer Norris approached the vehicle from the front as Officer Santos approached from the rear and exited their CPD unmarked squad cars. When Santos approached Mr. [REDACTED], he stated to Santos that he knows his rights and that he is a civil rights attorney.

Santos then confirmed with Officer Norris that they were looking for Texas plates and [REDACTED]'s vehicle had Michigan plates. Officer Norris told Mr. [REDACTED] "sorry to bother you." When Santos walked past Mr. [REDACTED] and told him he was sorry. He also informed him that there was a black Ford Escape was wanted in a murder, and to be careful going down Garfield because the murder may have happened in that area. The entire interaction with [REDACTED] lasted approximately 40 seconds.

During his statement to COPA, [REDACTED] alleged that he was improperly detained. During our investigation COPA identified the below procedural allegations. COPA's investigation revealed that [REDACTED] allegation is **exonerated**, and the procedural allegations are **not sustained** or **unfounded**.

II. INVOLVED PARTIES

|                      |  |
|----------------------|--|
| Involved Officer #1: | Officer Alejandro Santos / Star #16241 / Employee ID#[REDACTED] / DOA: August 25, 2014 / Unit: 009 / DOB: [REDACTED], 1989 / Male / Hispanic |
| Involved Officer #2: | Officer Terrence Norris / Star #16143 / Employee ID#[REDACTED] / DOA: January 27, 2003/ Unit: 116 / DOB: [REDACTED], 1980 / Male / White.    |

Involved Individual #1: [REDACTED] / DOB: / Male / Black

**III. ALLEGATIONS**

| Officer                  | Allegation  | Finding / Recommendation                          |
|--------------------------|---|---|
| Officer Alejandro Santos | 1. Detained Mr. [REDACTED], without justification, in violation of Rule 6.<br><br>2. Violated Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report, in violation of Rule 6.<br><br>3. Violated Special Order S03-14, in that you failed to timely activate your body worn camera, in violation of Rule 6. | Exonerated<br><br>Not Sustained.<br><br>Unfounded |
| Officer Terrence Norris  | 1. Detained Mr. [REDACTED], without justification, in violation of Rule 6.<br><br>2. Violated Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report, in violation of Rule 6.   | Exonerated.<br><br>Not Sustained.                 |

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 6: prohibits disobedience of any directive or order, whether written or oral.

Special Order

1. S03-14 – Body Worn Cameras – effective April 30, 2018 to current.
2. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

**V. INVESTIGATION<sup>1</sup>**

**a. Interviews**

In a **notarized letter<sup>2</sup>** dated October 26, 2018 and **statement to COPA<sup>3</sup>** on July 1, 2019, **Mr. [REDACTED]** alleged his black Ford Escape was pumping gas at 801 W. Garfield, the Shell

<sup>1</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>2</sup> Att. 3.

<sup>3</sup> Att. 18.

Gas Station when officers (Officer Alejandro Santos and Terrence Norris) approached him and requested his identification. ■ explained to Officer Santos that he was a civil rights attorney and that he did not have to provide the officers with his identification. ■ added based on his understanding with interaction between black males and police officers he raised his hands to show that he was not a threat to the officers. ■ explained that based on the request for his identification, and the positioning of the officers he believed that he was not free to go. He did not clarify with the officers nor did the officers tell him he was not free to leave. ■ explained that the entire interaction was brief, and no officer made any physical contact with him in any way.

In a **statement to COPA**<sup>4</sup> on September 6, 2019, **Officer Alejandro Santos** explained that he had no independent recollection of the interaction with ■. But, after reviewing the Body Worn Camera (BWC) footage his memory was refreshed.

Officer Santos recalled being on patrol with his partner, Officer Terrence Norris, in his assigned area when he heard reports, via a radio transmission, of a dark colored SUV with out of state license plates wanted in connection of a homicide in the area of Garfield Boulevard. After hearing the report, he responded to the area of west Garfield and observed a dark colored Ford SUV parked at the gas pumps at 801 W. Garfield, the Shell Gas Station. When they approached the Ford, Officer Santos attempted to activate his BWC,<sup>5</sup> as he exited the CPD unmarked squad car and walked towards the rear of the Ford. He observed a black male (■)<sup>6</sup> standing near the pump as it appeared that he was engaged in pumping gas. Officer Santos approached ■ and engaged him in conversation but does not recall what he initially said to ■. He does not believe he requested ■'s driver's license. Once he confirmed with Officer Norris the vehicle, they wanted had Texas license plate and that he observed Michigan plates, he informed ■ that his vehicle was similar to a vehicle wanted in a murder.

Officer Santos was clear that he attempted to activate his BWC prior to exiting the CPD unmarked vehicle but realized that he was unsuccessful as he approached the Ford, because he did not hear the periodic audible beep. Once he realized his BWC was not activated, Officer Santos attempted to activate it a second time, but was again unsuccessful. On his third attempt Officer Santos was able to activate his BWC. Additionally, Officer Santos explained that his interaction was brief and lasted no more than 60-seconds. Further, Officer Santos explained at no time did Officer Norris, the CPD vehicle<sup>7</sup> nor he block ■'s path nor tell ■ he was not free to leave. Officer Santos explained that he did not believe ■ was ever detained. Officer Santos explained his belief was based on the lack of investigative questions, the lack of seeking ■'s identification, the briefness of the interaction, the positioning of Officer Norris, the CPD vehicle and himself. Further, Officer Santos explained that had he believed that if a detention had occurred, he would have completed an Investigatory Stop Report (ISR), even if he never learned ■'s name.

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<sup>4</sup> Att. 41.

<sup>5</sup> In instances in which Officer Santos recounted attempting to or activating his BWC, he used his left hand to press twice on the left side of his chest, the area where he recounted mounting his BWC.

<sup>6</sup> Officer Santos did not learn the name of the male until he was notified of this investigation.

<sup>7</sup> Officer Santos explained that Officer Norris positioned the CPD vehicle in front and to the right of ■'s vehicle and that there was ample space for ■ to leave the in his vehicle had he attempted to.

In a **statement to COPA**<sup>8</sup> on September 6, 2019, **Officer Terrence Norris** explained that he had no independent recollection of the interaction with ■■■ and provided essentially the same information as Officer Santos. Additionally, Officer Norris explained that he positioned the CPD vehicle in front and to the right of the Ford and that there was ample space for the Ford to drive away from the pumps if desired. Officer Norris did recall a second set of officers responding to the interaction, but that they parked their vehicle on the roadway and never approached ■■■.<sup>9</sup> Officer Norris added that he did not have any interaction with ■■■, did not prevent ■■■ from leaving, and once it was learned the Ford was not the wanted vehicle the interaction with ■■■ ended. Officer Norris estimated the interaction with ■■■ lasted approximately 60-seconds and that he did not believe ■■■ was detained, due to the positioning of the officers, ■■■ actively pumping gas, the lack of investigative questions, and the briefness of the interaction. Officer Norris explained that had he believed ■■■ was detained, he would have completed an ISR even if he never learned ■■■'s name.

### **b. Digital Evidence**

**BWC**<sup>10</sup> footage depicts Officer Santos taking his left hand and pressing the left side of his chest, as he is exiting the CPD vehicle.<sup>11</sup> Once out of the vehicle, Officer Santos approaches the Ford and ■■■ who is standing next to and looking at the gas pump. While standing at the rear of the Ford, Officer Santos's left hand is again seen pressing the left side of his chest.<sup>12</sup> Officer Santos, while still using his left hand to press his chest, approaches ■■■ and speaks with him; however, no audio is recorded.<sup>13</sup> Once the audio begins to record, ■■■ is heard telling Officer Santos that he is an attorney.<sup>14</sup> As ■■■ turns around and raises his hand, Officer Santos asks other officers to "try and see what the plate is real quick"<sup>15</sup> Officer Norris informs, Officer Santos that the license plate is from Texas.<sup>16</sup> Officer Santos confirms the license plate on the Ford is from Michigan and excuses himself past ■■■ while explaining to ■■■ that a black Ford Escape with out of state license plates was being sought in connection with a homicide and that he should be cautious if he was going to remain in the area.<sup>17</sup> All of the officers return to their vehicle and the recordings end.

The BWC clearly shows, that while there are two CPD vehicles in front of the Ford, one is parked on the street outside of the parking lot while the other is parked to the left front of the Ford allowing for plenty of space to leave if desired. Further, the BWC footage shows that no officer ever blocks ■■■'s path, nor instructs ■■■ that he is not free to leave, nor do they request identification. Additionally, at no time does ■■■ ask if he is free to leave or attempt to leave nor do the officers ever ask any questions related to furthering a criminal investigation of any kind. Further, at no time does any officer say anything to ■■■ or conduct themselves in any manner that

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<sup>8</sup> Att. 37.

<sup>9</sup> Officer Norris did not learn of ■■■'s name until he was notified of this investigation.

<sup>10</sup> Att. 33.

<sup>11</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:10.

<sup>12</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:20.

<sup>13</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:21.

<sup>14</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:30.

<sup>15</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:34.

<sup>16</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:41.

<sup>17</sup> Att. 33, file AXON-Body\_2\_Video\_2018-08-24\_1928 (1) at 00:49.

would indicate to ■■■ he needed to raise his hands. Finally, the entire interaction with ■■■ last approximately 40-seconds.

### c. Documentary Evidence

**GPS records**<sup>18</sup> showed that vehicle 4936 was stopped at 801 W. Garfield during the time of the reported interaction.

**Assignment and Attendance Records**<sup>19</sup> show that vehicle 4936 was assigned to Officers Santos and Norris at the time it was stopped at the location.

A **search for ISRs**<sup>20</sup> revealed that no ISR was completed list ■■■ or a John Doe on August 24, 2018.

**Investigative Alerts**<sup>21</sup> detail that from August 23, 2018 to September 17, 2018, the Department was seeking a dark colored Ford Escape/Focus without out of state license plates (Texas) in connection with a homicide.

## VI. ANALYSIS

COPA finds that Allegation #1 against both officers is **exonerated**. Department members are permitted to have “voluntary contact ... with person” provided a reasonable person would “feel free to leave the officer’s presence.”<sup>22</sup> If during an encounter a reasonable person believes they are not free to leave the contact becomes an investigatory detention and must be based on “Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a criminal offense.”<sup>23</sup> “Reasonable Articulate Suspicion is an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion” and is dependent on “the totality of the circumstances which the ... member observes and the reasonable inferences that are drawn based on the ... member’s training and experience.”<sup>24</sup>

The officers possessed a reasonable articulable suspicion that the Ford and/or Orr were possibly engaged in criminal activity. As the officers explained in their statements, they had received information, via the radio, of a dark color Ford SUV with out of state license plates wanted in connection with a homicide had recently been seen in the area of W. Garfield and that after receiving this information they responded to the area. Once in the area they observed a black Ford Escape with out of state license plates parked at the gas pumps and the driver (■■■) was standing at the pumps. It was based on the reports of the wanted vehicle in the area and the officers’ own observations that lead them to believe the Ford and or ■■■ were engaged in criminal activity – specifically a homicide – that warranted further investigation. Thus, if the interaction was in fact a detention then the officers’ actions were reasonable and proper.

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<sup>18</sup> Atts. 4 and 5.

<sup>19</sup> Att. 6.

<sup>20</sup> Att. 11.

<sup>21</sup> Att. 14.

<sup>22</sup> S04-13-09 II (A).

<sup>23</sup> S04-13-09 II (A).

<sup>24</sup> S04-13-09 II (C).

COPA finds that Allegation #2 against both officers is **not sustained**. Department members are required to complete an ISR only when a “Investigatory Stop” occurs.<sup>25</sup> As discussed above it is unclear if the interaction between ■■■ and the officer reached the level of an Investigatory Stop. Since COPA is unable to determine if ■■■ was in fact detained, it cannot determine if an ISR was required by policy.

COPA finds that Allegation #3 against Officer Santos is **unfounded**. Department members are required to activate their BWCs “as soon as practical” when engaged in law-enforcement-related activity, which includes an Investigatory Stop.<sup>26</sup> As discussed above, COPA is unable to determine if the interaction between ■■■ and the officers rose to the level of an Investigatory Stop; however, even if it had, the BWC footage and Officer Santos’ statement show that prior to exiting the CPD vehicle Officer Santos attempted to activate his BWC, while standing at the rear of the Ford Officer Santos discovered his BWC was not recording and again tried, unsuccessfully, to activate, and was finally successful in activating his BWC as ■■■ explained he was an attorney. The BWC and Officer Santos’ statement show that he “practicably” attempted to comply with Department policy and but for the failure of the BWC to active, would have captured the entire interaction with ■■■.

## VII. CONCLUSION

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

| Officer                  | Allegation   | Finding / Recommendation                          |
|--------------------------|--|---|
| Officer Alejandro Santos | 1. Detained Mr. ■■■■■, without justification, in violation of Rule 6.<br><br>2. Violated Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report, in violation of Rule 6.<br><br>3. Violated Special Order S03-14, in that you failed to timely activate your body worn camera, in violation of Rule 6. | Exonerated<br><br>Not Sustained.<br><br>Unfounded |
| Officer Terrence Norris  | 1. Detained Mr. ■■■■■, without justification, in violation of Rule 6.<br><br>2. Violated Special Order S04-13-09, in that you failed to complete an Investigatory Stop Report, in violation of Rule 6.   | Exonerated.<br><br>Not Sustained.                 |

<sup>25</sup> S04-13-09 VIII(A).

<sup>26</sup> S03-14 III(A)(2), (a).

Approved:



10-28-2020

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

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Date

**Appendix A**

Assigned Investigative Staff

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|                                    |  |
|------------------------------------|--|
| <b>Squad#:</b>                     | 11   |
| <b>Investigator:</b>               |     |
| <b>Supervising Investigator:</b>   |     |
| <b>Deputy Chief Administrator:</b> | Angela Hearts-Glass  |
| <b>Assigned Attorney:</b>          |  |