

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 29, 2019
Time of Incident:	2:51 PM
Location of Incident:	1220 N. Pulaski Rd.
Date of COPA Notification:	August 1, 2019
Time of COPA Notification:	12:30 PM

The complainant, [REDACTED] (“[REDACTED]”) alleged that on July 29, 2019, Chicago Police Department (“CPD”) Officer Stephen Gregory (“Officer Gregory”) and Officer Kimberly Oppedisano (“Officer Oppedisano”) performed a traffic stop on him without justification and searched both [REDACTED] and his vehicle without justification. COPA sustained the allegations related to the pat down and vehicle search. The remaining allegation was not sustained.

II. INVOLVED PARTIES

Involved Officer #1:	Stephen Gregory, Star #9960, Employee ID # [REDACTED], Date of Appointment: October 10, 2000, Police Officer, 25 th District, Date of Birth: [REDACTED], 1971, Male, White
Involved Officer #2:	Kimberly Oppedisano, Star #13053, Employee ID # [REDACTED], Date of Appointment: January 26, 2004, Police Officer, 25 th District, Date of Birth: [REDACTED], 1981, Female, White
Involved Individual #1:	[REDACTED], Date of Birth: [REDACTED], 1980, Male, White

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Gregory	It is alleged that on July 29, 2019 at approximately 2:51 PM, near 1220 N. Pulaski Rd., you committed misconduct through the following acts or omissions by: 1. Detaining [REDACTED] without justification.	Not Sustained

	2. Performing a pat-down on [REDACTED] without justification.	Sustained / 10-Day Suspension
	3. Searching inside [REDACTED]'s vehicle without justification.	Sustained / 10-Day Suspension
Officer Oppedisano	It is alleged that on July 29, 2019 at approximately 2:51 PM, near 1220 N. Pulaski Rd., you committed misconduct through the following acts or omissions by:	
	1. Detaining [REDACTED] without justification.	Not Sustained
	2. Performing a pat-down on Joseph Petruzzi without justification.	Sustained / 10-Day Suspension
	3. Searching inside [REDACTED]'s vehicle without justification.	Sustained / 10-Day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

- Rule 2:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.

Special Orders

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

Federal Laws

- Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

V. INVESTIGATION¹

a. Interviews

██████████ (“██████████”)²

COPA interviewed ██████████ on August 6, 2019. ██████████ told COPA investigators that on June 29, 2019, ██████████ drove past an unmarked SUV and pulled over as soon as the officers turned on their lights. ██████████ removed a cellphone from his pocket (but he could not get it to work), put it on his arm rest, and took out a second phone to record. Per ██████████, he had removed his seatbelt after he stopped his car, so he could remove his phones from his pocket. Officer Gregory asked ██████████ for his license, and ██████████ complied. Officer Gregory asked ██████████ why he bent down towards the passenger’s seat and ██████████ responded that he does not “answer questions.”³ Officer Gregory unlocked the door thru the window, opened the door, asked ██████████ to exit, and related that ██████████ may have a gun under the seat. Officer Oppedisano opened the passenger door and instructed ██████████ to exit. ██████████ complied. Officer Gregory grabbed the back of ██████████’s shirt and attempted to search ██████████’s pockets, but ██████████ stopped the officer. The officer performed a pat down and detained ██████████. Officer Oppedisano searched the seat, the front console, and possibly the center console. ██████████ got his insurance information from his car, but Officer Oppedisano related it was not valid. When ██████████ pointed out it was not expired, Officer Oppedisano took the insurance, which was in a plastic cover, and threw it at ██████████’s throat. ██████████ was issued a citation for no seat belt.

Officer Stephen Gregory (“Officer Gregory”)⁴

COPA interviewed Officer Gregory on February 4, 2020. Officer Gregory told COPA investigators he was aware that this incident was documented on YouTube, but he had not watched it. He continued to explain that On July 29, 2019, Officer Gregory was on patrol with Officer Oppedisano when they stopped ██████████ for not wearing a seatbelt. Per Officer Gregory, “When I pulled him over, I observed him lean his entire body over to underneath the passenger seat. I observed him lean over to the passenger side, or the floorboard, you could say.”⁵ This led Officer Gregory to believe ██████████ “was trying to hide a weapon.”⁶ Officer Gregory observed no additional factors that contributed to this belief. ██████████ was asked out of his car so that he could not access a possible weapon in his vehicle. Officer Gregory performed a pat down to check for weapons and denied going inside ██████████’s pockets. Officers Jurisic and Alvarado happened to drive by and stopped.

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 Atts. 17 & 18

³ Approximately 8:57 minute mark of ██████████’s COPA interview (Att. 17 & 18).

⁴ Atts. 27 & 29

⁵ Att. 29, Page 7, Lines 17 – 20.

⁶ Att. 29, Page 8, Lines 2 – 3.

*Officer Kimberly Oppedisano (“Officer Oppedisano”)*⁷

COPA interviewed Officer Oppedisano on February 4, 2020. Officer Oppedisano was aware that a video of the incident was available on Facebook and YouTube but had not seen the posts. Officer Oppedisano told COPA investigators that on July 29, 2019, she and her partner were on routine patrol and pulled ██████ over after observing him driving without a seatbelt. ██████ was asked out of the vehicle because the officers, “observed Joseph Petruzzi bend all the way over, down towards the passenger's side floorboard, and for my safety and my partner's safety, we wanted him out of the car to see if he had concealed a weapon or something that could hurt us.”⁸ Officer Oppedisano related that ██████’s leaning over was the only factor that caused her to think ██████ could have a weapon. Officer Oppedisano searched ██████’s car in the “front passenger side floor, the floorboard under the seat where I observed his body disappear to, and I believe I also opened the center console and maybe the glove compartment. Just where he -- what he had accessible in his reach.”⁹ Per Officer Oppedisano, at first she confused the effective date and the expiration date on ██████’s insurance. She denied throwing ██████’s insurance at him and related she “flipped it back into the car.”¹⁰

b. Digital Evidence¹¹**██████’s Videos**¹²

██████ shared his cell phone videos with COPA. COPA also located videos pertaining to this incident on a YouTube page titled, “Disorderly Product News.”¹³ The cell phone video began while ██████ was in the driver’s seat and Officer Gregory was at the driver’s side window. Officer Gregory asked ██████ what he “put under the seat.”¹⁴ ██████ handed the officer his driver’s license and related that he does not answer questions. After Officer Gregory opened the driver’s door and asked ██████ out of the car, ██████ stated he was reaching towards his phone. Officer Gregory related that ██████ may have been hiding a weapon and should have been wearing a seatbelt. Officer Oppedisano was also ordered ██████ out of the vehicle. ██████ exited his car and complained about both Officer Gregory’s pat-down and Officer Oppedisano search of the car’s front passenger area when the recording stopped. When recording resumed, ██████ was back in the driver’s seat. ██████ announced his insurance was valid, as Officer Oppedisano was reading a document. Officer Oppedisano then tossed the document towards ██████ and stated, “There you go sir.”¹⁵ ██████ began yelling at Officer Oppedisano, who had returned to her squad car, and the recording ended. ██████’s cell footage began a third time while he was speaking with

⁷ Atts. 30 & 31

⁸ Att. 31, Page 8, Lines 3 – 8.

⁹ Att. 31, Page 9, Lines 9 – 14.

¹⁰ Att. 31, Page 10, Line 6.

¹¹ Police Observation Device (“POD”) video footage (Atts. 33 – 35) requested for the present investigation did not capture ██████’s traffic stop on July 29, 2019.

¹² Atts. 36 & 38

¹³ <https://www.youtube.com/channel/UCdlta1bSZw9NsGwSsuoZoIg/featured>

¹⁴ Approximately 0:20 minute mark of videos titled “Part 1 CPD Oppedisano” and “THESEATBELTSAGAPart13CHICAGOPOLICE.” (Atts. 36 & 38)

¹⁵ Approximately 0:23 minute mark of video titled, “Part 2 CPD Ofc. Oppedisano filmed on another camera.” (Att. 36)

Officer Victor Alvarado (“Officer Alvarado”) and Officer Matej Jurisic (“Officer Jurisic”). ██████ expressed that the officers stopped him because he was white and driving in a black neighborhood. Officer Gregory told ██████ he worked out of Grand and Central before giving ██████ tickets. ██████ continued shouting at the officers before driving off and terminating his cell recording.

Body Worn Camera (“BWC”) & In Car Camera (“ICC”)¹⁶

Officer Gregory, Officer Oppedisano, Officer Alvarado, and Officer Jurisic

Officer Oppedisano approached on the passenger’s side, and Officer Gregory on the driver’s side. ██████ was holding a cellphone and Officer Gregory asked for his license. Officer Oppedisano asked her partner why ██████ had leaned over and related she wanted ██████ out of the car. Officer Gregory also questioned why ██████ had leaned towards the passenger seat, and he asked if ██████ was hiding a weapon. ██████ handed Officer Gregory his driver’s license and responded that he does not answer questions. Officers Alvarado and Jurisic arrived as ██████ was asked out of the car. ██████ briefly argued and when Officer Gregory ██████ stated ██████ needed to wear a seatbelt, ██████ responded, “Okay, so write me up a ticket for the seatbelt.”¹⁷ ██████ exited and put his hands on his vehicle. Officer Gregory began a pat-down, and Officer Oppedisano entered the vehicle and looked around the front-passenger area. While not seen, noises in Officer Oppedisano’s BWC suggested she opened at least one compartment.¹⁸ The officers asked for insurance, and ██████ retrieved it from his vehicle. Before doing so, ██████ argued that the search was excessive for a seatbelt violation.¹⁹ ██████ handed Officer Oppedisano something, and she stated his insurance was expired. ██████ pointed out she was reading the effective date. Officer Oppedisano then tossed the proof of insurance into ██████’s car and returned to the squad car with Officer Gregory. Officer Oppedisano wrote a citation for ██████ and remained in the squad car, while Officers Jurisic and Alvarado stayed with ██████. ██████ remained upset and was shouting. Officer Gregory returned the ██████’s car and gave ██████ his citation(s).

ICC from Officers Jurisic and Alvarado showed the end of ██████’s police encounter.²⁰ Officer Gregory and Officer Alvarado stood nearby while Officer Gregory spoke with ██████. After all three officers returned to their respective cars, ██████ exited his vehicle and apparently recorded and/or photographed Officer Oppedisano and Officer Gregory’s car before returning to his vehicle. Both police cars then drove off.

c. Physical Evidence

No relevant physical evidence was identified in association with the present investigation.

¹⁶ While COPA submitted its own request for BWC and in car camera (“ICC”) video footage, ██████ provided COPA with copies of BWC from Officer Jurisic and Officer Alvarado. ██████ obtained these videos through a Freedom of Information Act (“FOIA”) request, and they were also found on the “Disorderly Product News” YouTube page.

¹⁷ Approximately 19:53:23z time stamp of Officer Gregory’s BWC. (Att. 12)

¹⁸ Approximately 19:54:39z time stamp of Officer Oppedisano’s BWC. (Att. 12)

¹⁹ Approximately 19:55:35z time stamp of Officer Oppedisano’s BWC. (Att. 12)

²⁰ “Beat 2535 ICC_20190729151220.” (Att. 12)

d. Documentary Evidence***Investigatory Stop Report (“ISR”) ²¹***

Officers Oppedisano and Gregory stopped ██████’s vehicle “for driver failing to wear his seatbelt.” When the officers approached the vehicle, ██████ leaned “over to the passenger side floor board.” The officers suspected ██████ “was attempting to conceal a weapon,” and asked him out of the car. Officer Oppedisano “performed a search under the front passenger seat which revealed no contraband.” The officers performed a protective pat-down without consent. ██████ was described as “belligerent.”

During his COPA interview, ██████ provided a copy of the ISR receipt that Officers Oppedisano and Gregory gave him.²² The reason for the stop was reported as, “leaning under seat of [vehicle].”

Traffic Citation²³

COPA confirmed ██████ was issued traffic citation #TU167030 by Officer Oppedisano on July 29, 2019 for failing to wear a seat belt.

Event Query Report - ██████²⁴

██████ was subjected to a traffic stop by Beat 2562B (Officers Gregory and Oppedisano) at approximately 2:53 PM on July 29, 2019. The officer’s ran ██████’s information, and they reported completing an ISR at about 3:04 PM.

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.

²¹ Att. 21

²² Att. 20

²³ Atts. 15 & 39

²⁴ Att. 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 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

Allegation 1

Allegation 1 against Officer Gregory and Officer Oppedisano, that they detained ██████ without justification, is not sustained. ██████ told COPA he had his seatbelt on when he was first pulled over and took it off to retrieve his cameras after he stopped. Officer Gregory and Officer Oppedisano told ██████ on scene that they stopped him for as seatbelt violation, and they related the same in their COPA interviews and CPD documentation. Per BWC, ██████ did not deny the seatbelt violation. Rather, he argued that a seatbelt violation did not justify Officer Oppedisano searching inside his car. However, COPA cannot determine, by that clear and convincing standard, that ██████ was not wearing his seatbelt. Conversely, the preponderance of the evidence does not suggest ██████ was wearing his seatbelt. As such, this allegation is not sustained.

Allegation 2 & Allegation 3

Allegation 2 against both officers, that they performed a pat down on ██████ without justification, is sustained. Similarly, Allegation 3, that Officer Gregory and Officer Oppedisano searched ██████'s vehicle without justification, is sustained. CPD Special Order S04-13-09 requires an officer to "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," in order to perform a pat down. The reasonable articulable suspicion for the pat down provided by both officers was that ██████ leaned over as the officers approached. The question, then, is if ██████'s leaning motion provided sufficient reasonable articulable suspicion for a pat down and a search of his vehicle's passenger area. Neither officer reported seeing a weapon in plain view, described any behavior that suggested ██████ was a threat, or provided any additional factors that lead them to believe ██████ was armed. ██████'s movement of bending forward taken alone was not sufficient to give rise to reasonable articulable suspicion for a pat down or search of his car. Accordingly, both Allegation 2 and Allegation 3 are sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Stephen Gregory

i. Complimentary and Disciplinary History: one (1) 2004 Crime Reduction Ribbon, one (1) 2009 Crime Reduction Award, one (1) 2019 Crime Reduction Award, five (5) Attendance Recognition Awards, seven (7) Complimentary Letters, nine (9) Department Commendations, 4 (four) Deployment Operations Center Awards, one (1) Emblem of Recognition – Appearance, eleven (11) Emblems of Recognition – Physical Fitness, two-hundred and thirty-five (235) Honorable Mentions, one (1) Honorable Mention Ribbon Award, one (1) Life Saving Award, one (1) NATO Summit Service Award, one (1) Police Officer of the Month Award, one (1) Presidential Election Deployment Award, one (1) Superintendent’s Honorable Mention, one (1) Traffic Stop of the Month Award. No applicable past disciplinary history.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 2:** Performing a pat-down on [REDACTED] without justification. **10-Day Suspension**
2. **Allegation No. 3:** Searching inside [REDACTED]’s vehicle without justification. **10-Day Suspension**

b. Officer Kimberly Oppedisano

i. Complimentary and Disciplinary History: one (1) 2009 Crime Reduction Award, one (1) 2019 Crime Reduction Award, five (5) Attendance Recognition Awards, five (5) Complimentary Letters, seven (7) Department Commendations, four (4) Deployment Operations Center Award, nine (9) Emblems of Recognition – Physical Fitness, two-hundred (200) Honorable Mentions, one (1) Honorable Mention Ribbon Award, one (1) NATO Summit Service Award, one (1) Police Officer of the Month Award, one (1) Presidential Election Deployment Award 2008, one (1) Superintendent’s Honorable Mention, and one (1) Traffic Stop of the Month Award.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 2:** Performing a pat-down on [REDACTED] without justification. **10-Day Suspension**
2. **Allegation No. 3:** Searching inside [REDACTED]’s vehicle without justification. **10-Day Suspension**

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Gregory	<p>It is alleged that on July 29, 2019 at approximately 2:51 PM, near 1220 N. Pulaski Rd., you committed misconduct through the following acts or omissions by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification. 2. Performing a pat-down on [REDACTED] without justification. 3. Searching inside [REDACTED]'s vehicle without justification. 	<p>Not Sustained</p> <p>Sustained / 10-Day Suspension</p> <p>Sustained / 10-Day Suspension</p>
Officer Oppedisano	<p>It is alleged that on July 29, 2019 at approximately 2:51 PM, near 1220 N. Pulaski Rd., you committed misconduct through the following acts or omissions by:</p> <ol style="list-style-type: none"> 1. Detaining [REDACTED] without justification. 2. Performing a pat-down on [REDACTED] without justification. 3. Searching inside [REDACTED]'s vehicle without justification. 	<p>Not Sustained</p> <p>Sustained / 10-Day Suspension</p> <p>Sustained / 10-Day Suspension</p>

Approved:

[REDACTED]

2/11/2021

Appendix A

Assigned Investigative Staff

Squad#:	14
Investigator:	Kelsey Fitzpatrick, #61
Deputy Chief Administrator:	Matthew Haynam