

SUMMARY REPORT OF INVESTIGATION

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| Date/Time/Location of Incident: | November 9, 2020 / 3:11 p.m. / 130 N. Hoyne Ave., Chicago, IL 60612. |
| Date/Time of COPA Notification: | November 20, 2020 / 1:03 p.m. |
| Involved Officer #1: | Officer Javier Reyes, Star# 19831, Employee ID# [REDACTED], DOA: September 24, 2007, Unit: 012, Male, Hispanic. |
| Involved Officer #2: | Officer Michael Belmontez, Star# 7025, Employee ID# [REDACTED], DOA: October 10, 2000, Unit: 012, Male, Hispanic. |
| Involved Individual #1: | [REDACTED] Male, Black. |
| Case Type: | 03 – Improper Detention |

I. ALLEGATIONS¹

| Officer | Allegation | Finding |
|------------------------------|---|----------------|
| Officers Reyes and Belmontez | 1. Detaining [REDACTED] without justification. | Exonerated |
| | 2. Grabbing [REDACTED] by the arm, without justification. | Exonerated |

II. SUMMARY OF EVIDENCE

On November 9, 2020 at approximately 3:11 p.m., Officers Javier Reyes and Michael Belmontez (collectively “the Officers”) were on patrol when they observed a vehicle, with an expired license plate, fail to stop at a red signal.² The Officers attempted to conduct a traffic stop on the vehicle; however, the driver, [REDACTED] parked and exited the vehicle prior to the Officers activating their emergency equipment.³ The Officers exited their vehicle and approached [REDACTED] as he walked away from his vehicle. The Officers informed [REDACTED] that they observed him failing to stop at a red light. [REDACTED] responded by arguing with the Officers and refusing to provide his identification. As [REDACTED] loudly argued with the Officers, his father arrived on scene and assisted in calming [REDACTED]. The Officers issued [REDACTED] two citations, one for traffic violation and one for expired vehicle registration.

¹ A review of applicable BWC did not [REDACTED] object evidence of racial profiling.

² The vehicle’s windows were tinted to the extent that there was a limited ability to see inside.

³ In his statement to COPA, [REDACTED] commented on observing the Officers pass him and make a U-turn, and how he quickly drove to his residence and parked his vehicle prior to the Officers activating their emergency equipment.

III. 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.

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.⁴ 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.⁵ 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."⁶

IV. ANALYSIS AND CONCLUSION

COPA finds that Allegation#1 against the Officers is **exonerated**. A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law."⁷ "Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observed and the reasonable inferences that are drawn based on the sworn member's training and experience."⁸ Additionally, drivers are required to come to a complete stop at a solid red signal.⁹ Furthermore, vehicles are required to have valid, unexpired registration.¹⁰ Here, the Officers observed [REDACTED] fail to stop at a solid red signal at the intersection

⁴ *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).

⁵ *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁶ *Id.* at ¶ 28.

⁷ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

⁸ S04-13-09 II(C), Investigatory Stop System (effective July 10, 2017 to current).

⁹ 625 ILCS 5/11-306(c)(1).

¹⁰ 625 ILCS 5/3-701(a)(1).

of Hoyne Ave. and Madison Ave. while operating a vehicle with expired registration.¹¹ These observations created the reasonable suspicion required for the Officers to conduct a traffic stop. The mere fact that [REDACTED] was able to park and exit his vehicle prior to the Officers physically stopping him is inconsequential to the reasonableness of their actions. Therefore, the Officers' decision to stop and detain [REDACTED] during a traffic stop was reasonable and proper.

COPA finds that Allegation #2 against the Officers is **exonerated**. Department members are permitted to use force in response to resistance. When a citizen fails to comply with verbal or other direction, they are a passive resister.¹² Members are permitted to respond to passive resistance with holding and compliance techniques, control instruments and deployment of oleoresin capsicum.¹³ Here, [REDACTED] was, at minimum, a passive resister when he attempted to walk away from a lawful traffic stop. The Officers responded to [REDACTED] resistance by grabbing his arm to prevent him from leaving. The Officers' decision to grab [REDACTED] by his arm to prevent him from leaving the traffic stop, was permitted by policy and reasonable and proper.

Approved:

[REDACTED]

10/25/2021

Matthew Haynam
Deputy Chief Administrator

Date

¹¹ COPA notes that the tint on the vehicle windows was likely dark enough to provide an independent basis for a traffic stop.

¹² G03-02-01 IV(B)(1).

¹³ G03-02-01 IV(B)(1)(a-d).

Appendix A

Assigned Investigative Staff

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| Squad#: | 14 |
| Investigator: | Emmily Stokes |
| Supervising Investigator: | Garrett Schaaf |
| Director of Investigations: | Matthew Haynam |