

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 1, 2018 / 8:27 PM / 1951 E. 71 st St.
Date/Time of COPA Notification:	September 6, 2018 / 10:00 AM
Involved Officer #1:	Officer Steven Holden #8149 / Employee ID # [REDACTED] / DOA: 30 Nov 2012 / Unit: 003 / Male / Black.
Involved Officer #2:	Officer Dimar Vasquez #17910 / Employee ID # [REDACTED] / DOA: 23 Feb 2004 / Unit: 003/716 / Male / Hispanic.
Involved Officer #3:	Officer Emilio De Leon #16360 / Employee ID # [REDACTED] / DOA: 25 Aug 2014 / Unit: 003/716 / Male / Hispanic.
Involved Officer #4:	Officer Jeremy Nash #12553 / Employee ID # [REDACTED] / DOA: 6 Apr 2015 / Unit: 003/195 / Male / Black.
Involved Officer #5:	Officer Byron Jackson #17278 / Employee ID # [REDACTED] / DOA: 27 Sep 2004 / Unit: 003 / Male / Black.
Involved Officer #6:	Officer David Alvarez Jr. #16131 / Employee ID # [REDACTED] / DOA: 25 Aug 2014 / Unit: 003/716 / Male / Hispanic.
Involved Individual #1:	[REDACTED] / Male / Black.
Case Type:	03G – Improper Search of a vehicle.

I. ALLEGATIONS

Officer	Allegation	Finding
Officers Steven Holden and David Alvarez	1. Conducted a traffic stop of [REDACTED], without justification.	Not Sustained.
	2. Searched [REDACTED] vehicle, without justification.	Exonerated.
Officers Emilio De Leon and Dimar Vasquez,	1. Searched [REDACTED] vehicle, without justification.	Exonerated.
Officers Jeremy Nash and Byron Jackson	1. Conducted a traffic stop of [REDACTED], without justification.	Unfounded.
		Unfounded.

	2. Searched [REDACTED] vehicle, without justification. 3. Failed to activate BWC during law enforcement activity.	Unfounded.
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II. SUMMARY OF EVIDENCE

On September 1, 2018, Mr. [REDACTED] was employed as a delivery driver for [REDACTED]. [REDACTED] was making a delivery when he was stopped by Officers as he was leaving the business’ parking lot. [REDACTED] was arrested for soliciting unlawful business, possession of a controlled substance, unauthorized use of a weapon, and the sale of untaxed cigarettes. [REDACTED] alleged he was wrongfully stopped, his vehicle was impermissibly searched, and items were illegally seized.

On August 30, 2018, the 003rd District Strategic Decision Support Center (SDSC) was monitoring Police Observation Devices (POD) in the 003rd District when a silver van occupied by [REDACTED] who was seen conducting a hand-to-hand transaction believed to be the sale of a stainless-steel handgun.

On August 31, 2018, the same silver van was again observed by the 003rd District SDSC and actively monitored via POD. The driver, [REDACTED] was witnessed conducting several hand-to-hand transactions and then left the area.

On September 1, 2018, the same silver van was again observed by the 003rd District SDSC and Officer Holden. The silver van was occupied by [REDACTED] and he was observed conducting hand-to-hand transactions near 1919 E. 71st St. Officer Holden relocated to where the silver van was observed and witnessed [REDACTED] fail to use a turning signal at which time a traffic stop was conducted at 1951 E. 71st St. Franklin was positively identified as the individual conducting hand-to-hand transactions observed by the District SDSC. [REDACTED] was placed into custody for soliciting unlawful business. [REDACTED] vehicle was subsequently impounded for being used when Franklin was soliciting unlawful business. A search of [REDACTED] vehicle revealed various types of liquor, unlabeled pills, untaxed cigarettes from Indiana, currency, and suspected controlled substances.

COPA requested the POD footage, from the Department but was in informed that it was not preserved by the Department and was no longer recoverable.

III. ANALYSIS AND CONCLUSION

COPA finds that Allegation #1 against Officers Holden and Alvarez, that they stopped [REDACTED] is **not sustained**. Department members are permitted to conduct a traffic stop when there is “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking

the law.”¹ “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.”²

Here, Officer Holden had direct knowledge of an ongoing pattern that [REDACTED] and his silver van were engaging hand-to-hand transactions. Additionally, immediately prior to locating and stopping [REDACTED] Officer Holden directly observed [REDACTED] engage in a hand-to-hand transaction. Further, Officer Holden asserted that [REDACTED] failed to properly signal for a turn immediately prior to being stopped. Both the observations on ongoing hand-to-hand transactions and the failure to signal created independent justifications for stopping [REDACTED]

The observed pattern of hand-to-hand transactions created reasonable articulable suspicion that [REDACTED] was engaged in criminal activity, specifically the distribution of contraband. This in of itself was sufficient justification to stop [REDACTED] to further investigate his potential criminal activity.

The observed traffic violation, failing to be signaling prior to a turn, established probable cause that [REDACTED] violated the law. This in of itself was sufficient justification to stop and detain [REDACTED]

COPA finds that Allegation #1 against Officers De Leon and Vasques and Allegation #2 against Officers Holden and Alvarez, that they improperly searched [REDACTED] vehicle, are **exonerated**. Department members are permitted to search a vehicle when: (1) there is probable cause to believe evidence of a crime in present;³ (2) there is reasonable suspicion the vehicle contains a weapon and/or that the occupants are armed and dangerous;⁴ (3) an arrest is made, provided there is reasonable suspicion that the vehicle contains evidence of the crime for which the arrest is made;⁵ (4) a vehicle is being impounded by the Department;⁶ or (5) consent is obtained. Additionally, solicitation of an unlawful business is an arrestable criminal offense.⁷

Here, Officer Holden witnessed [REDACTED] conduct hand-to-hand transactions while retrieving items from the rear of the van. After stopping and identifying [REDACTED] Officers were able to visually inspect the passenger compartment of the vehicle and observed large quantities of potential contraband.⁸ The officers’ observations combined with the pattern of hand-to-hand transactions, and Officer Holden’s direct observations on the date of the incident, created probable cause that the van did in fact contain contraband. Since the Officers’ observations established probable cause that the van likely contained contraband, the decision to search the van was reasonable and proper. Additionally, once [REDACTED] was arrested and the Officer impounded his van, a search would be required by Department policy.

¹ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

² S04-13-09 II(C), Investigatory Stop System (effective July 10, 2017 to current).

³ *Maryland v. Dyson*, 527 U.S. 465 (1999).

⁴ *Michigan v. Long*, 463 U.S. 1032 (1983).

⁵ *Arizona v. Grant*, 556 U.S. 332 (2009).

⁶ *South Dakota v. Opperman*, 428 U.S. 364 (1976).

⁷ MCC 10-8-515(a).

⁸ These observations were from outside of the van through the windows.

COPA finds the allegations against Officers Nash and Jackson are **unfounded**. The evidence clearly demonstrates that Officers Nash and Jackson were never present on the scene of this incident and that their involvement was limited to observing the POD footage in the SDCS. Since Officers Nash and Jackson were not on scene they played no role in the stopping of [REDACTED] nor the searching of his vehicle, and were not required to activate any BWC. Therefore, these allegations are **unfounded**.

Approved:



8/30/2022

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date