

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 31, 2018
Time of Incident:	1:12 p.m.
Location of Incident:	1800 S. Pulaski Road
Date of COPA Notification:	August 3, 2018
Time of COPA Notification:	5:23 p.m.

On the afternoon of July 31, 2018, [REDACTED] was riding his bicycle to the convenience store when he was stopped by two police officers while he was inside the store. Mr. [REDACTED] was arrested for riding his bicycle on the sidewalk and taken to the 10th District Police Station for processing. Mr. [REDACTED] alleges he was strip-searched both at the convenience store and the police station. Mr. [REDACTED] was released with a single citation for riding his bike on the sidewalk.

II. INVOLVED PARTIES

Involved Officer #1:	Eric Phillip / Star #14523 / Employee ID # [REDACTED] / Date of Appointment: October 26, 2015 / Police Officer / Unit of Assignment: 10 th District / White Male
Involved Officer #2:	Daniel Guzman / Star #17279 / Employee ID # [REDACTED] / Date of Appointment: October 26, 2015 / Police Officer / Unit of Assignment: 10th District / White Male
Involved Individual #1	[REDACTED] / 26 years old / Black Male

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Eric Phillip	It is alleged that on or about July 31, 2018, at approximately 1:12 p.m. at or near 1800 S. Pulaski, Officer Eric Phillip #14253 committed misconduct through the following acts or omissions, by:	

<ol style="list-style-type: none"> 1. Stopping [REDACTED] without justification. 2. Strip-searching [REDACTED] without justification. 3. Arresting [REDACTED] without justification. 4. Failing to timely activate your body-worn camera in violation of S03-14. 5. Failing to obtain authorization to conduct a strip search in violation of G06-01-03. 	<p>Unfounded</p> <p>Not Sustained</p> <p>Unfounded</p> <p>Sustained</p> <p>Not Sustained</p>
<p>It is alleged that on or about July 31, 2018, at approximately 3:00 p.m. at or near 3315 W. Ogden, Officer Eric Phillip #14523 committed misconduct though the following acts or omissions, by:</p>	
<ol style="list-style-type: none"> 1. Strip-searching [REDACTED] without justification. 2. Performing a cavity search without justification in violation of G06-01-03. 3. Failing to obtain authorization to conduct trip search in violation of G06-01-03. 4. Failing to complete a report of strip-search in violation of G06-01-03. 5. Failing to include required information regarding a strip search in [REDACTED] Arrest Report in violation of G-06-01-03. 6. Performing a cavity search without a search warrant in violation of G06-01-03. 7. Performing a cavity search without the supervision of a physician in violation of G06-01-03. 	<p>Not Sustained</p>

Officer	Allegation	Finding
Officer Danny Guzman	<p>It is alleged that on or about July 31, 2018, at approximately 1:12 p.m. at or near 1800 S. Pulaski, Officer Danny Guzman #17279 committed misconduct though the following acts or omissions, by:</p>	
	<p>1. Stopping [REDACTED] without justification.</p>	Unfounded
	<p>2. Strip-searching [REDACTED] without justification.</p>	Unfounded
	<p>3. Arresting [REDACTED] without justification.</p>	Unfounded
	<p>4. Failing to activate your body-worn camera in violation of S03-14.</p>	Unfounded
	<p>5. Failing to obtain authorization to conduct a strip search in violation of G06-01-03.</p>	Unfounded
	<p>It is alleged that on or about July 31, 2018, at approximately 3:00 p.m. at or near 3315 W. Ogden, Officer Eric Phillip #14523 committed misconduct though the following acts or omissions, by:</p>	
	<p>6. Strip-searching [REDACTED] without justification.</p>	Not Sustained
	<p>7. Performing a cavity search without justification in violation of G06-01-03.</p>	Not Sustained
	<p>8. Failing to obtain authorization to conduct trip search in violation of G06-01-03.</p>	Not Sustained
	<p>9. Failing to complete a report of strip-search in violation of G06-01-03.</p>	Not Sustained
<p>10. Performing a cavity search without a search warrant in violation of G06-01-03.</p>	Not Sustained	
<p>11. Performing a cavity search without the supervision of a physician in violation of G06-01-03.</p>	Not Sustained	

IV. APPLICABLE RULES AND LAWS

Rules of Conduct

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 3: Prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 5: Prohibits failure to perform any duty.

Rule 8: Prohibits disrespect to or maltreatment of any person.

Rule 10: Prohibits inattention to duty

General Orders

G06-01-03 Conducting Strip Searches

Special Orders

S03-14 Body Worn Cameras

S04-14-05 Traffic Violators, Name Checks, and Bonding

S04-22-01 Exemptions and Restrictions for Issuing ANOV Citations

State Laws

725 ILCS 5/103-1 Rights on Arrest

V. INVESTIGATION¹

a. Interviews

The complainant, [REDACTED], was interviewed by COPA investigators on August 3, 2018.² In his statement, Mr. [REDACTED] said he was riding his bicycle in the street on 18th Street towards Pulaski Road. Mr. [REDACTED] was going to the convenience store on the corner. Just before approaching the store on his bicycle, Mr. [REDACTED] briefly pulled onto the sidewalk to park his bike. Mr. [REDACTED] entered the convenience store and was approached by two plain-clothed male police officers. The officers (now known to be Officers Phillip and Guzman) grabbed Mr. [REDACTED] while he was near the front counter and began searching inside his pants pockets, around his belt buckle, and looked inside his underwear. Mr. [REDACTED] said he felt like he was exposed. The officers asked Mr. [REDACTED] if he had taken something from someone on Keeler Street. Mr. [REDACTED] assumed this meant they wanted to know if he had taken drugs or a gun from someone. Mr. [REDACTED] told the

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 Attachment 9.

officers “no,” and that he didn’t have anything on him. Mr. [REDACTED] said he never stopped on his way to the convenience store.

Mr. [REDACTED] was taken outside the convenience store and placed into handcuffs near the police vehicle while the officers searched for his name in the computer. The officers said they couldn’t find his name in the computer although Mr. [REDACTED] provided his name and address. The officers said they could not give him a ticket for riding the bike on the sidewalk because they could not find him in the system, so they were going to take him into the police station. Another police vehicle arrived to transport Mr. [REDACTED] to the district station. Once at the district, Mr. [REDACTED] was placed into a room and the same officer who first approached Mr. [REDACTED] at the convenience store asked him to remove his shirt, his shorts and his socks. The officer then searched around the waistband of his boxer-shorts again and put his hands on Mr. [REDACTED] genitals and on his buttocks. Mr. [REDACTED] said the officer attempted to put his hand between his buttocks. After the search, Mr. [REDACTED] said he was finger-printed, photographed and placed into the lockup area. Several hours later he was released with one ticket for riding his bike on the sidewalk.

Accused Officer Eric Phillip was interviewed by COPA investigators on July 27, 2021.³ In his statement, Officer Phillip said he was working on a tactical team with his partner Danny Guzman on the date of the incident. He said he saw Mr. [REDACTED] riding his bicycle on the sidewalk and they proceeded to follow him to the convenience store where he was stopped. Officer Phillip went into the convenience store after Mr. [REDACTED]. Officer Phillip said he probably tried to activate his body worn camera (“BWC”) then and realized it wasn’t recording, so it was activated after his initial contact with Mr. [REDACTED]. Officer Phillip did not recall patting down or searching Mr. [REDACTED] inside or outside of the convenience store; however, he said he did remove keys and another item from Mr. [REDACTED] pockets while Mr. [REDACTED] was in the backseat of the transport vehicle after his arrest. Officer Phillip did not specifically recall whether he saw Mr. [REDACTED] at the police station after that, or whether he or his partner ever searched Mr. [REDACTED] at the police station. Officer Phillip denied performing a cavity search of Mr. [REDACTED]. Officer Phillip said normally one of the arresting officers would do a custodial search of an arrestee before he is placed into a holding cell, but that it could also be another officer not involved with the arrest. Officer Phillip said there would not be a reason to strip search Mr. [REDACTED] based solely on his arrest for riding his bicycle on the sidewalk and did not have any memory of suspecting Mr. [REDACTED] of being involved in a drug transaction.

Accused Officer Danny Guzman was interviewed by COPA investigators on October 19, 2021.⁴ In his statement, Officer Guzman said he was working with his partner, Officer Phillip, on the date of the incident. Officer Guzman saw Mr. [REDACTED] riding his bike on the sidewalk and they stopped Mr. [REDACTED] inside a convenience store. Officer Guzman said he did not pat down Mr. [REDACTED] in the convenience store but did not remember if Officer Phillip did. Officer Guzman said Mr. [REDACTED] did not have identification and he attempted to verify Mr. [REDACTED] identity through the Portable Data Terminal (“PDT”) in his police vehicle but didn’t recall if that returned any results. Officer Guzman said he was not able to write Mr. [REDACTED] a ticket because he did not have valid identification, so he and his partner decided to arrest Mr. [REDACTED] for the municipal code violation of riding his bike on the sidewalk. Mr. [REDACTED] and his bike were transported to the district station. Officer Guzman said he did not remember whether he saw Mr. [REDACTED] again at the police station, but he inventoried the bike there. Officer Guzman said he never performed a strip search of Mr.

³ Attachment 24.

⁴ Attachment 27.

██████████ or a cavity search. Officer Guzman said there would be no reason to do a strip search or cavity search in this case. Officer Guzman said he did not recall there being any reason for stopping Mr. ██████████ other than him riding his bike on the sidewalk. He did not recall suspecting a drug transaction or any other illegal activity.

b. Digital Evidence

BWC of Officer Phillip begins with Officer Phillip already inside the convenience store and walking Mr. ██████████ outside.⁵ Mr. ██████████ provides his name and date of birth to Officer Guzman who looks him up in the PDT. Officer Guzman indicates he cannot verify Mr. ██████████ identity and Mr. ██████████ tells Officer Guzman that he does not have identification with him. Officer Phillip places handcuffs on Mr. ██████████ and both officer's inform Mr. ██████████ that he is being taken into custody because they saw him riding his bike on the sidewalk. Mr. ██████████ responds saying people in that area drive dangerously, implying that is the reason he was on the sidewalk. Mr. ██████████ is escorted by Officer Phillip to a transport vehicle where he is seated inside. Officer Phillip removes a cell phone and keys from Mr. ██████████ pockets then assists Officer Guzman in putting Mr. ██████████ bicycle in the back of the police vehicle.

BWC of Officer Guzman shows Officer Guzman entering a convenience store while his partner is already inside the convenience store detaining Mr. ██████████.⁶ Officer Phillip is standing behind Mr. ██████████ and reaching down onto Mr. ██████████ body, although Officer Phillip's hands are not visible in the video. Officer Phillip walks Mr. ██████████ outside with Officer Guzman behind them. Officer Guzman has a brief exchange with Mr. ██████████ wherein Mr. ██████████ tells Officer Guzman he is on supervised release from Cook County. Mr. ██████████ provides his name and date of birth and Officer Guzman looks him up in the PDT. Officer Guzman says no results are found. Officer Guzman asks Mr. ██████████ if he provided his real name, to which Mr. ██████████ says he did. Officer Guzman asks Mr. ██████████ if he is doing drugs or selling drugs and Mr. ██████████ says he is not. Officer Guzman says they are going to take him into the station because for the bike infraction. Mr. ██████████ is taken to a transport vehicle and Officers Guzman and Phillip put his bicycle in the back of the police vehicle.

c. Documentary Evidence

The Arrest Report of ██████████ documents his arrest on July 31, 2018.⁷ The report documents that Officers Guzman and Phillip conducted a street stop of Mr. ██████████ for riding his bicycle on the sidewalk. Mr. ██████████ could not produce valid identification and was placed into custody and transported to the 10th District for processing.

The OEMC Portable Data Terminal Messages Report shows that a search for Mr. ██████████ name in LEADS was done at 1:12pm on July 31, 2018, and no information came back.⁸ However, three minutes later another search was done, and Mr. ██████████ information was found.

⁵ Attachment 19.

⁶ Attachment 28.

⁷ Attachment 10.

⁸ Attachment 13.

V. 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 reviewed complied with 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 conduct complied with Department policy than that it did not, 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.

VI. ANALYSIS

COPA recommends a finding of **Unfounded** for **Allegation #1** against **Officer Phillip** in that on July 31, 2018, Officer Phillip stopped [REDACTED] without justification. Officers must have reasonable, articulable suspicion that the person stopped is breaking a law in order to detain them on a traffic related offense. Riding a bicycle falls under laws relating to vehicles and traffic violations in Illinois. Here, Officer's Phillip and Guzman saw Mr. [REDACTED] riding his bicycle on the sidewalk, which is a city ordinance violation. The officers told Mr. [REDACTED] that was the reason for the stop and Mr. [REDACTED] seemed to acknowledge he was riding on the sidewalk when he told the officers that people drive dangerously there. Mr. [REDACTED] was issued a citation for riding his bike on the sidewalk and his arrest report lists that as the only offense. COPA finds there is clear and convincing evidence that Officer Phillip had a valid reason to stop Mr. [REDACTED]

The analysis for this allegation is consistent with Allegation #1 for Officer Guzman.

COPA recommends a finding of **Not Sustained** for **Allegation #'s 2 and 6** against **Officer Phillip** in that on July 31, 2018, Officer Phillip strip-searched [REDACTED] without justification. "Strip search" means having an arrested person remove or arrange some or all of his clothing to permit a visual inspection of the genitals, buttocks, anus, or undergarments of such person

(General Order G06-1-03). Illinois law and CPD General Order G06-01-03 state that strip searches shall not be conducted for traffic or misdemeanor offenses unless there is a reasonable belief that the individual is concealing a weapon or controlled substance. An officer must obtain written authorization to conduct a strip search and must make a report of the strip search as well as document in the arrest report that a strip search was conducted.

In this case, Mr. ██████ alleged he was strip searched both inside the convenience store and again at the police station by the same officer. Mr. ██████ said he felt exposed in the convenience store and was asked to partially disrobe at the police station. Officer Phillip did not recall conducting a strip search of Mr. ██████ either at the convenience store or at the police station. BWC of Officer Phillip shows him doing what looks like a pat down of Mr. ██████ inside the convenient store. Mr. ██████ appears fully clothed at the time and when he exits the convenience store with Officer Phillip; however, Mr. ██████ lower body is not visible in the BWC during the pat down and neither Officer Phillip nor Officer Guzman's BWC capture the entirety of the interaction with Mr. ██████. Officer Phillip is already in the process of patting down Mr. ██████ when BWC is activated. It's unclear whether there was any manipulation of Mr. ██████ clothing or whether he was exposed at some point in the convenience based on the video evidence.

Mr. ██████ alleged he was also strip searched at the police station and that the officers asked him about a suspected drug transaction when he first encountered them. In BWC, Officer Guzman asks Mr. ██████ if he is selling "dope," which lends credence to Mr. ██████ statement about the officers suspecting something more than a bicycle related ordinance violation. Officer Phillip said he did not recall performing a strip search of Mr. ██████ and said that based on the reason for the arrest, there would not have been a reason to conduct a strip search. Officer Phillip did not recall patting down Mr. ██████ either, although he is seen doing so on his partner's BWC.

COPA finds there is insufficient evidence to determine whether a strip search of Mr. ██████ occurred, either at the convenience store or at the police station. Therefore, COPA recommends a finding of Not Sustained for allegations 2 and 6 against Officer Phillip.

The analysis for this allegation is consistent with Allegation #6 for Officer Guzman.

COPA recommends a finding of **Unfounded** for **Allegation #3** against **Officer Phillip** in that on July 31, 2018, Officer Phillip arrested ██████ without justification. Officers must have probable cause that an offense has been committed in order to make an arrest. For city ordinance violations, officers may issue an Administrative Notice of Violation ("ANOV") without arrest, except in certain situations (*Special Order S04-22-01*). If a person who could otherwise be issued an ANOV does not have valid identification, or cannot be verified via the PDT, an ANOV cannot be issued. The person can be arrested and taken in for processing at a district station. *Id.*

As stated earlier, Officer's Phillip and Guzman saw Mr. ██████ riding his bicycle on the sidewalk, and Mr. ██████ seemed to acknowledge he was riding on the sidewalk when he told them that people drive dangerously there. Mr. ██████ was issued a citation for riding his bike on the sidewalk and his arrest report lists that as his only offense. As seen on BWC, Mr. ██████ did not have a valid form of identification with him when he was stopped. Officer Guzman is seen looking up Mr. ██████ information on the PDT and said he could not verify his identity. Several minutes later, according to OEMC evidence, Mr. ██████ information was located. However, this is after the officers determined they were going to bring Mr. ██████ in for processing. It is unclear whether

either officer was aware that additional information had come back. COPA recommends a finding of Unfounded for allegation number 3 against Officer Fillip.

The analysis for this allegation is consistent with Allegation #3 for Officer Guzman.

COPA recommends a finding of **Sustained** for **Allegation #4** against **Officer Fillip** in that on July 31, 2018, Officer Fillip failed to timely activate his BWC. Special Order S03-14 states that officers must activate their BWC at the beginning of an incident and record the entire incident. Here, Officer Fillip's BWC was not activated until he was done patting down Mr. [REDACTED], and they were exiting the convenience store. Officer Fillip said he probably tried to activate it before that and realized later that it had not started recording. As Officer Fillip does not have a concrete recollection of this, and there was no circumstance preventing him from activating his BWC before entering the convenience store, COPA recommends a finding of Sustained.

COPA recommends a finding of **Not Sustained** for **Allegation #'s 5, 8, 9 and 10** against **Officer Fillip** in that on July 31, 2018, Officer Fillip failed to obtain authorization to conduct a strip search and failed to properly document such strip search. General Order G06-01-03 states that officers must obtain authorization from the appropriate supervisor and document information about the strip search in the arrest report. As discussed earlier, the evidence is inconclusive to determine whether any strip-search occurred. Therefore, there is an insufficient basis to determine whether Officer Fillip should have requested authorization or documented a strip search which may or may not have occurred. Accordingly, COPA recommends a finding of Not Sustained for allegations 5, 8, 9 and 10.

The analysis for this allegation is consistent with Allegation #8, 9 and 10 for Officer Guzman.

COPA recommends a finding of **Not Sustained** for **Allegation #'s 7, 11 and 12** against **Officer Fillip** in that on July 31, 2018, Officer Fillip performed a cavity search and did so without a search warrant or the supervision of a physician. "A search of any body cavity other than the mouth will be permitted only under the authority of a search warrant. The body cavity search will be performed under sanitary conditions either by or under the supervision of a physician licensed to practice medicine in the State of Illinois." (*General Order G06-01-03*).

Mr. [REDACTED] said he was subject to a cavity search when he was at the district station. Mr. [REDACTED] said the officer touched his buttocks and tried to place his hand between his buttocks. It is unclear from Mr. [REDACTED] account of the incident whether the officer placed his hand between his buttocks or touched his buttocks. Either one would be an impermissible intrusion as a strip search is a visual inspection and a cavity search must be performed by or with a physician present. However, more importantly, it's unclear whether a strip search and this further search ever took place. Officer Fillip denied performing a cavity search of Mr. [REDACTED] and did not recall whether he ever saw him at the district after the arrest. There was probably a custodial search done of Mr. [REDACTED] when he was placed into a holding cell, but that would not rise to the level of a strip search and certainly not a cavity search. Aside from Mr. [REDACTED] statements, which are somewhat ambiguous with regard to a cavity search, there is no evidence that one was performed. Therefore, there is an insufficient basis to determine whether Officer Fillip should have obtained a search warrant for a

cavity search or the presence of a physician. COPA recommends a finding of Not Sustained for allegations 7, 11 and 12 against Officer Phillip.

The analysis for this allegation is consistent with Allegation #7 and 11 for Officer Guzman.

COPA recommends a finding of **Unfounded** for **Allegation #'s 2 and 5** against **Officer Guzman** in that on July 31, 2018, Officer Guzman strip-searched [REDACTED] without justification. Mr. [REDACTED] alleged that he was strip searched inside the convenience store. Officer Guzman activated his BWC before entering the convenience store and his partner was already inside the convenience store with Mr. [REDACTED] conducting a pat down. Officer Guzman does not have any physical contact with Mr. [REDACTED] inside the convenience store. Once they exit, Officer Guzman speaks to Mr. [REDACTED] from inside the police vehicle while he is looking up his information on the PDT. The only time Officer Guzman and Mr. [REDACTED] were inside the convenience store together, his partner. Officer Phillip was in control of Mr. [REDACTED] and had contact with him, not Officer Guzman. In his statement, Mr. [REDACTED] said the first alleged strip search occurred inside the convenience store. Since Officer Guzman had no contact with Mr. [REDACTED] inside the convenience store, he cannot have conducted a strip search of him. Additionally, since we find Officer Guzman did not conduct a strip search of Mr. [REDACTED], he cannot have been required to obtain authorization for one. Therefore, COPA recommends a finding of Unfounded for allegation numbers 2 and 5 against Officer Guzman.

COPA recommends a finding of **Unfounded** for **Allegation #4** against **Officer Guzman** in that on July 31, 2018, Officer Guzman failed to activate his body worn camera. Prior to COPA's interview of Officer Guzman, COPA investigators requested BWC and ICC from CPD's Record Services Division, which was the only way to retrieve such records at the time. The response received from CPD stated there was no BWC found for Officer Guzman.⁹ During COPA's interview of Officer Guzman, he stated he found his own BWC footage on Evidence.com. Subsequently, a search was done by COPA on Evidence.com and Officer Guzman's BWC video was located. Accordingly, COPA recommends a finding of Unfounded for allegation number 4 against Officer Guzman.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Eric Phillip

i. Complimentary and Disciplinary History¹⁰

- a. No Sustained Complaint History, as of February 8, 2022. SPAR History Report: Log# 561985, Incident Date – March 11, 2021, Completed Date – April 8, 2021 – Reprimand – 005 – Court Appearance Violation.

⁹ Attachment 29.

¹⁰ Attachment #30

- b. Complimentary History as of February 8, 2022: 2019 Crime Reduction Award (1); Attendance Recognition Award (1); Department Commendation (2); Honorable Mention (87); Joint Operations Award (2); Life Saving Award (1); Problem Solving Award (1); Special Commendation (1); Traffic Stop of the Month Award (1) and Unit Meritorious Performance Award (1) = 98 Awards.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 4 – Failing to activate body worn camera – Violation Noted

Approved:



8/31/2022

Matthew Haynam
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	16
Investigator:	Linda Wyant
Supervising Investigator:	Deborah Talbert
Deputy Chief Administrator:	Matthew Haynam