

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	January 27 th , 2021 / 10:28pm / 317 W. 61 st ST.
Date/Time of COPA Notification:	January 28 th , 2021 / 12:59am
Involved Officer #1:	Pedro Venegas, Star # 9624, Employee ID # [REDACTED], Date of Appointment: 16/11/2017, Rank: PO, Unit of Assignment: 007, DOB: [REDACTED] 1995, Male, White Hispanic.
Involved Officer #2:	Juan Pintor JR, Star # 6255, Employee ID # [REDACTED], Date of Appointment: 16/10/2017, Rank: PO, Unit of Assignment: 007, DOB: [REDACTED] 1993, Male, White Hispanic.
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1990, Male, Black
Case Type:	Civil Rights Violation Improper Stop / Seizure Vehicle

I. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Pedro Venegas	It is alleged that on January 27 th , 2021, at approximately 10:28pm, at or around 317 W. 61 st ST., Officer Pedro Venegas:	
	1. Initiated a traffic stop on [REDACTED] without justification.	Unfounded
	2. Used excessive force by pulling [REDACTED] out of his vehicle.	Unfounded
	3. Initiated a search on [REDACTED] vehicle without justification.	Unfounded

II. SUMMARY OF EVIDENCE¹

In a statement with COPA, complainant [REDACTED] stated that he was driving his vehicle on the way home when he noticed an unmarked police vehicle stopping him. Officer Venegas approached [REDACTED] vehicle and explained that Hones was being stopped for failing to use

¹ COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain investigations are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

a turn signal. Officer Venegas requested [REDACTED] license and walked back towards his department vehicle. When Officer Venegas returned, he instructed [REDACTED] to step out of the vehicle. [REDACTED] asked for the reasoning and Officer Venegas stated, "Because I said step out of the vehicle."² [REDACTED] requested for a sergeant to come to the scene. [REDACTED] stated that Officer Venegas aggressively grabbed his left arm and yanked him out of his vehicle. [REDACTED] then stated that Officer Venegas aggressively grabbed his arms, knocking the cellphone out of his hand. A supervisor arrived on scene and advised [REDACTED] to calm down and the investigation would be over soon.

[REDACTED] stated that he was never instructed to step out of his vehicle.³ [REDACTED] stated that Officer Venegas illegally detained him by not informing him the reasoning as to why he was detained.⁴ [REDACTED] stated that additional officers arrived at the traffic stop location and his vehicle was searched. [REDACTED] stated that the officers never explained to him why his vehicle was searched.⁵

Body Worn Camera (BWC) footage from Officers Venegas and Pintor depicts the traffic stop with [REDACTED] Officer Pintor approaches the passenger side of [REDACTED] vehicle while Officer Venegas interacts with [REDACTED] on the driver's side of the vehicle. Officer Venegas states, "Hey I got to ask because of the camera, any cannabis or weapons in the vehicle? Nothing? Because I can smell it." [REDACTED] states, "I smoked earlier but I don't have nothing I'm just really going home bro." Officer Venegas returns to his department vehicle while Officer Pintor remains on the front passenger side of [REDACTED] vehicle. [REDACTED] and Officer Pintor engage in conversation. Officer Venegas returns and instructs [REDACTED] to step out of the vehicle. [REDACTED] refuses and attempts to roll up the driver's window. Officer Venegas places his hands on [REDACTED] window and states, "Don't roll up the window." [REDACTED] gets his cellphone and states, "Officer you cannot reach into my car this is illegal." Officer Pintor requests an additional unit to assist in the traffic stop and repositions near [REDACTED]

Officer Venegas opens the driver's door and instructs [REDACTED] to step out of the vehicle. [REDACTED] refuses to step out of the vehicle and states, "You breached my vehicle!" Officers Venegas and Pintor attempt to grab [REDACTED] arm, but [REDACTED] screams, "You opened my door sir! You opened my door!" [REDACTED] refuses to step out of the vehicle and Officer Venegas performs a quick pat-down on [REDACTED] while he was seated inside of the vehicle. Officer Venegas informs [REDACTED] that his actions are obstructing his investigation and if [REDACTED] did not step out of the vehicle he would be placed into custody. [REDACTED] states, "As long as there is nothing in the vehicle!? You aren't going to search me!?" Officer Venegas informs [REDACTED] he would be free to go once the investigation is completed. [REDACTED] exits the vehicle with a cellphone in one hand and his wallet in the other hand.⁶ Officer Venegas instructs [REDACTED] to turn around and face his vehicle. [REDACTED] refuses and states, "You're not going to put me in handcuffs." The officers grab [REDACTED] turn him around, and place him in handcuffs. [REDACTED] resists the officers and states, "This is illegal, call my lawyer!"

² Att. 12 Timestamp 03:20 - 03:33 OFC Venegas BWC revealed OFC Venegas informed [REDACTED] he needed to search the interior of his car due to the odor of cannabis emitting from [REDACTED] vehicle.

³ Att. 12 Timestamp 04:56 - 05:39 OFC Venegas BWC OFC Venegas and OFC Pintor instructed [REDACTED] to step out of the vehicle multiple times.

⁴ Att. 12 Timestamp 07:12 - 07:17 OFC Venegas BWC revealed OFC Venegas recovered cannabis from [REDACTED] after [REDACTED] initially stated he was not in possession of cannabis. Assisting officers placed [REDACTED] inside of assisting officer's department vehicle in order to conduct the search of [REDACTED] vehicle. [REDACTED] was informed that he was not arrested, just detained and that once the search was complete [REDACTED] would be released.

⁵ Att. 12 Timestamp 03:20 - 03:33 OFC Venegas BWC revealed OFC Venegas informed [REDACTED] he needed to search the interior of his car due to the odor of cannabis emitting from [REDACTED] vehicle.

⁶ Att. 10 Timestamp 05:35 - 05:41 [REDACTED] is clearly and visibly seen stepping out of the vehicle without either of the officers making physical contact with him during the exiting of his vehicle.

Officer Pintor recovers cannabis from ██████ pockets. Officer Venegas asks ██████ “How much weed do you have on you?” ██████ states, “A little bit, a little bit.”⁷ The officers put ██████ in an assisting unit’s Department vehicle. Officers Venegas and Pintor search ██████ vehicle. Officer Venegas informs ██████ that he would be receiving citations instead of going to jail. ██████ signs both citations and Officer Venegas returns to his department vehicle.

An Investigative Stop Report (ISR) provides essentially the same details described in the BWC. The ISR added that when ██████ exited the vehicle the officers observed a large bulge in his front hoodie pocket. The officers attempted to perform a pat down on ██████ but ██████ became aggressive. The officers placed handcuffs on ██████ for the duration of the traffic stop. The pat down search revealed a rolled-up hat in ██████ hoodie pocket and two multi-colored zip lock baggies containing a green leafy substance, suspect cannabis, that was not being transported legally. A narcotics search of the vehicle was conducted and revealed empty zip lock baggies containing green leafy cannabis residue.

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 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.

⁷ Att. 10 Timestamp 07:03 – 07:16 Officers recovered cannabis from ██████ Initially ██████ stated to OFC Venegas that cannabis was not located inside of his vehicle.

IV. ANALYSIS AND CONCLUSION

COPA finds that Allegation #1, that Officer Venegas initiated a traffic stop on [REDACTED] without justification, be classified as **Unfounded**. Officer Venegas initiated the traffic stop, explained the reason for the traffic stop to [REDACTED] and issued [REDACTED] a citation for the traffic violation on BWC. Officer Venegas traffic stop initiation was found to be in Department policy. [REDACTED] did not provide an accurate account of the incident as alleged. Therefore, this allegation is Unfounded.

COPA finds that Allegation #2, that Officer Venegas used excessive force pulling [REDACTED] out of his vehicle, be classified as **Unfounded**. BWC depicts [REDACTED] clearly and visibly stepping outside of his vehicle with both hands in the air. During this portion of the stop, neither of the officers involved in the interaction with [REDACTED] physically touched him while he exited his vehicle. The totality of the circumstances, in combination with the preponderance of the evidence, indicates that this allegation did not occur as alleged.

COPA finds that Allegation #3, that Officer Venegas initiated a search on [REDACTED] vehicle without justification, be classified as **Unfounded**. Officer Venegas indicated on BWC that he could smell the odor of cannabis. Officer Venegas recovered cannabis from [REDACTED] that was not in a sealed container. The cannabis recovered was also accessible for consumption by [REDACTED] Officer Venegas had probable cause to conduct a narcotics search of [REDACTED] vehicle. Therefore, the search of [REDACTED] vehicle was reasonable. [REDACTED] did not provide an accurate account of the incident as alleged. Therefore, this allegation is Unfounded.

Approved:

[REDACTED]

2-28-2022

Angela Hearts-Glass
Deputy Chief Administrator

Date