

SUMMARY REPORT DIGEST
CHICAGO POLICE DEPARTMENT

LOG NO
1085406

TYPE
CR

DATE OF REPORT
28-DEC-2017

INSTRUCTIONS: To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, NO AFFIDAVIT, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed Five (5) DAYS SUSPENSION.

TO: CHIEF ADMINISTRATOR,
INDEPENDENT POLICE REVIEW AUTHORIT

CHIEF,
BUREAU OF INTERNAL AFFAIRS

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
SHAH, ANISH	9181			113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 7528 S. LAFAYETTE AVE, CHICAGO, IL 60620	DATE / TIME 24-MAY-2017 18:05	BEAT: 623
INCIDENT ADDRESS: 7808 S. HALSTED ST, CHICAGO, IL 60620	DATE / TIME 24-MAY-2017 19:05	BEAT: 621

ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT		SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
				ASSIGNED	DETAILED					
CERECERES, ANTHONY M	9161	19293		006	701	M / S	1968	31-AUG-1998	YES	YES
ZAMOJSKA, MARTA K	9161	8309		006		F / WHI	1980	19-FEB-2013	YES	YES
HICKEY, JAMES R	9161	11523		006	701	M / S	1976	25-OCT-1999	YES	YES
SCHULZ, ANTHONY W	9171	887		006		M / WHI	1970	04-NOV-1996	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
				F / BLK	1980 / 37

VICTIMS

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
				F / BLK	2004 / 13
				M / BLK	1981 / 36
				F / BLK	1980 / 37

WITNESSES

NAME	ADDRESS*	CITY	TELEPHONE	SEX / RACE	DOB / AGE
GARBACZ, MARISSA	RANK: 9161, STAR NO: 17624, EMP NO:			F / WHI	1988 / 29

* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

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ALLEGATIONS

See page 3.

SUMMARY

See pages 4-9.

ATTACHMENTS

INVESTIGATIVE REPORTS - SUPPORTING ALLEGATIONS LIST ATTACHMENTS NUMBER	INVESTIGATIVE REPORTS - SUPPORTING ACCUSED MEMBERS(S) LIST ATTACHMENTS NUMBER:	PHYSICAL EVIDENCE LIST ATTACHMENTS NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE: 62
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FINDINGS - RECOMMENDATIONS

See pages 9-12.

DATE INITIATED
(Date incident was received for investigation)

06-JUN-2017

DATE COMPLETED (Date of this report)

28-DEC-2017

ELAPSED TIME
(Total time expressed in days)

205

Investigator will initiate the Command Channel Review form by
completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE


IF NECESSARY, USE AN 8 1/2 x 11" SHEET OF WHITE PAPER TO CONTINUE ANY ITEM.

SUMMARY OF INCIDENT

On May 24, 2017 at 6:30 PM around 7528 S. LaFayette Ave., Chicago, Illinois, [REDACTED] (“[REDACTED]” and their 12 year old daughter, [REDACTED] (“[REDACTED]”), were stopped for disobeying a turn signal indicator by Officers Anthony Cereceres #19293, James Hickey #11523 and Sergeant Anthony Schulz #887. Officers Marta Zamojska #8309 and Marissa Garbacz #17624 were called to the scene for female assistance. The officers found cannabis inside the vehicle and on the occupants. [REDACTED] alleges the officers and sergeant’s actions during the traffic stop amount to misconduct, COPA¹ reviews these allegations.

ALLEGATIONS

It is alleged that on May 24, 2017 at 6:30 PM around 7528 S. LaFayette Ave., the accused, **Officer James Hickey #11523:**

1. Directed multiple profanities towards [REDACTED] and [REDACTED] and
2. Handcuffed [REDACTED] too tightly and refused to loosen the handcuffs.

It is alleged that on May 24, 2017 at 6:30 PM around 7528 S. LaFayette Ave., the accused, **Officer Anthony Cereceres #19293:**

1. Directed multiple profanities towards [REDACTED] and [REDACTED] and
2. Questioned a minor without parental consent.

It is alleged that on May 24, 2017 at 6:30 PM around 7528 S. LaFayette Ave., the accused, **Officer Marta Zamojska #8309:**

1. Questioned a minor without parental consent, and
2. Searched a minor without parental consent.

It is alleged that on May 24, 2017 at 6:30 PM around 7528 S. LaFayette Ave., the accused, **Sgt. Anthony Schulz #887:**

1. Directed multiple profanities towards [REDACTED] and [REDACTED] and
2. Unnecessarily displayed his weapon.

APPLICABLE RULES AND LAWS

- Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department
- Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty
- Rule 38:** Unlawful or unnecessary use or display of a weapon

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

G01-01: Mission Statement and Core Values
G03-02-02: Force Options
S04-13-09: Investigatory Stop System

The Fourth Amendment of the United States Constitution
Illinois State Law

INVESTIGATION

Statements

In [REDACTED] (“[REDACTED] audio statement to IPRA conducted on June 1, 2017, [REDACTED] stated that she, [REDACTED] were stopped by police officers when traveling to their house. [REDACTED] stated that when they were pulled over, the officers approached their vehicle with their “guns out.” [REDACTED] stated that the officers told them to put their hands in the air, which they did. [REDACTED] stated she told the officer that [REDACTED] was in the vehicle to which the officer holstered his weapon. [REDACTED] stated the officer opened her door. [REDACTED] stated the officers questioned [REDACTED] and [REDACTED] indicated that an officer asked [REDACTED] whether he had his license, but [REDACTED] did not have it. [REDACTED] stated that the officer handcuffed [REDACTED] searched him, and placed him into a police vehicle. [REDACTED] stated she attempted to see [REDACTED] interaction with the officers, but the sergeant told her to turn around.

[REDACTED] stated that she and [REDACTED] exited the vehicle and officers searched it. [REDACTED] stated an officer found a rolled “blunt” in the passenger’s door. [REDACTED] stated that an officer asked her if she had additional contraband on her to which she answered, “no.” [REDACTED] said the officers asked her why she has marijuana with her while [REDACTED] is inside the vehicle. [REDACTED] stated that the officers searched the vehicle, but did not find additional contraband. While outside, [REDACTED] stated an officer called for a female officer to come to the scene. [REDACTED] stated that the female officer searched [REDACTED] and found cannabis in [REDACTED]’s bra. [REDACTED] then stated she does not know whether [REDACTED] was patted down or whether [REDACTED] willingly gave the cannabis to the officer. [REDACTED] said that the female officer asked [REDACTED] where did [REDACTED] get the cannabis and [REDACTED] said from [REDACTED] stated that the female officer neither asked nor told [REDACTED] that she would search [REDACTED]. [REDACTED] stated she did not see the female officer search [REDACTED]. [REDACTED] stated that she did not know that the female officer searched and talked to [REDACTED]. [REDACTED] said that she does not know whether the officers asked or told [REDACTED] that the officers would search or talk to [REDACTED] because [REDACTED] was inside the police vehicle.

[REDACTED] stated that the male officers then called [REDACTED] and [REDACTED] “stupid motherfuckers” and stated, “why would he give the cannabis to his daughter.” [REDACTED] stated the male officers again called her and [REDACTED] “stupid motherfuckers” and that “they do not care about their daughter.” [REDACTED] stated that when she was trying to get her belongings from the vehicle, the officers told her that “[her daughter] got more fucking common sense than you.” [REDACTED] stated that the officers arrested [REDACTED] took their vehicle for impoundment, and released her and [REDACTED]. (Att. 4)

IPRA and COPA contacted [REDACTED] public defender and private attorney via telephone and electronic mail numerous times to interview [REDACTED] however, the attempts were met with negative results. (Att. 61)

Officer Anthony Cereceres' ("Officer Cereceres") audio statement to COPA was conducted on October 24, 2017. Officer Cereceres stated he approached the passenger side of [REDACTED] and [REDACTED] vehicle stating, "show me your hands" and "show me your fucking hands." Officer Cereceres said he did not hear the other officers use profanity when approaching the vehicle. Officer Cereceres stated he does not recall if anyone had their weapon displayed. Officer Cereceres stated he saw a blunt on the passenger door. Officer Cereceres described [REDACTED] as nervous because she was stuttering and was not directly answering his questions. Officer Cereceres stated, after [REDACTED] exited the vehicle, he patted down and asked [REDACTED] questions related to the drugs in the vehicle. Officer Cereceres stated he did not use profanity at this time. Officer Cereceres stated he searched the passenger side of the vehicle and did not find additional contraband. Officer Cereceres stated that Sgt. Schulz came to the passenger side of the vehicle when he was speaking to [REDACTED] and [REDACTED] went towards the back of the vehicle with Sgt. Schulz.

Officer Cereceres stated that he opened the rear passenger door because he heard [REDACTED] crying. Officer Cereceres said he talked to [REDACTED] to calm her down. Officer Cereceres stated that [REDACTED] said she did not want her parents to go to jail. Officer Cereceres stated that he did not ask [REDACTED] or [REDACTED] for permission to speak [REDACTED]. Officer Cereceres stated that he did not search or conduct a pat down on [REDACTED]. After Officers Zamojska and Garbacz arrived, Officer Cereceres stated that Officer Zamojska went towards [REDACTED] but he did not hear the conversation between them. Officer Cereceres stated that Officer Zamojska recovered cannabis from [REDACTED], but he does not know whether Officer Zamojska searched [REDACTED] or whether [REDACTED] gave the cannabis to Officer Zamojska.

Officer Cereceres stated that Officer Hickey handcuffed [REDACTED] Officer Cereceres stated he does not recall if [REDACTED] complained about the handcuffs. Officer Cereceres stated he did not hear [REDACTED] ask other officers to loosen the handcuffs. Officer Cereceres said he did not see injuries on [REDACTED] and that Officer Hickey did not say anything about injuries to him. Officer Cereceres indicated that he did not hear Sgt. Schulz or Officer Hickey use profanity. (Att. 49)

Officer James Hickey's ("Officer Hickey") audio statement to COPA was conducted on October 24, 2017. Officer Hickey stated he approached the driver's side of [REDACTED] and [REDACTED] vehicle with Sgt. Schulz. Officer Hickey stated he did not use profanity when approaching the vehicle. Officer Hickey stated he does not recall what Sgt. Schulz said when approaching the vehicle. Officer Hickey stated that the officers did not have their weapons unholstered. Officer Hickey said that Sgt. Schulz had his Taser positioned in the low ready position. After hearing Officer Cereceres' verbal commands, Officer Hickey stated he opened the driver's door to get a clear view of inside the vehicle because the windows were dark. Officer Hickey stated that [REDACTED] was "basically just sitting in the driver's seat." Officer Hickey stated he asked [REDACTED] for his driver's license to which [REDACTED] relayed that [REDACTED] did not have one. Officer Hickey stated that [REDACTED] exited the vehicle and Officer Hickey placed him into custody. Officer Hickey stated that he told [REDACTED] to step to the back of the vehicle. Officer Hickey stated he did not use profanity at this point. Once [REDACTED] was at the rear of the vehicle, Officer Hickey stated he conducted a

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Log #1085406

protective pat down on [REDACTED]. Officer Hickey said he spoke to Sgt. Schulz, who ran [REDACTED] identification over the radio. Officer Hickey said the dispatcher informed Sgt. Schulz that [REDACTED] did not have a valid driver's license, therefore, Sgt. Schulz decided [REDACTED] would be arrested. Officer Hickey stated that [REDACTED] never resisted.

Officer Hickey stated that [REDACTED] neither complained about the handcuffs nor requested for them to be loosened. Officer Hickey stated that [REDACTED] did not say the handcuffs were too tight. Officer Hickey said he did not hear whether [REDACTED] asked Officer Cereceres or Sgt. Schulz to loosen the handcuffs. Officer Hickey stated that he was next to [REDACTED] the entire time and [REDACTED] did not say anything about the handcuffs. Officer Hickey also stated that [REDACTED] did not complain about the handcuffs while at the 6th District. Officer Hickey stated he did not notice any injuries on [REDACTED].

Officer Hickey stated he does not know what Officer Cereceres was doing once Officer Hickey was with [REDACTED]. After Officers Zamojska and Garbacz arrived, Officer Hickey stated they patted down [REDACTED]. Officer Hickey stated that he does not know Officer Zamojska's actions after the pat down. (Att. 54)

Officer Marta Zamojska's ("Officer Zamojska") audio statement to COPA was conducted on October 5, 2017. Officer Zamojska stated that she was called for female assistance. Once she arrived, Officer Zamojska stated she patted down [REDACTED] and during the pat down she did not speak to [REDACTED] about [REDACTED]. Officer Zamojska stated she talked to Sgt. Schulz, but does not recall what was said. Officer Zamojska stated she learned that [REDACTED] was in the vehicle and Sgt. Schulz told Officer Zamojska to check on [REDACTED]. Officer Zamojska said that she did not ask [REDACTED] or [REDACTED] for permission prior to approaching [REDACTED]. Officer Zamojska said she does not recall where [REDACTED] and [REDACTED] were at this time. Officer Zamojska stated that [REDACTED] did not know her exact age, but described her as a minor. Officer Zamojska stated that she asked [REDACTED] whether she had anything on her because [REDACTED] was nervous. [REDACTED] said no. Officer Zamojska stated she does not recall if she asked [REDACTED] anything else. Officer Zamojska stated she patted down [REDACTED]'s waist, stomach, and chest. Officer Zamojska stated that she conducted a pat down on [REDACTED] because (1) she was called for female assistance and [REDACTED] is a female; (2) Sgt. Schulz told her to check on [REDACTED]; (3) [REDACTED] was "very nervous;" and (4) she has experience where minors carry weapons. Officer Zamojska indicated that she "felt a bulge on [REDACTED]'s chest." Officer Zamojska said that narcotics were then recovered. Officer Zamojska stated that [REDACTED] was compliant and [REDACTED] continued to repeat that she had to use the restroom. Officer Zamojska stated that [REDACTED] told her that [REDACTED] gave her the narcotics. After the narcotics were recovered, Officer Zamojska stated she was calming [REDACTED] down and talked about school with her.

Officer Zamojska stated that [REDACTED] was already handcuffed and in custody when she arrived at the scene. Officer Zamojska stated she does not recall if [REDACTED] said anything to her when she transported him to the district. Officer Zamojska stated that she does not recall if [REDACTED] complained about anything during the transport. Officer Zamojska stated that [REDACTED] did not complain about anything at the district. Officer Zamojska stated that she does not recall if [REDACTED] said anything about handcuffs. Officer Zamojska stated she did not see any weapons or hear profanity. (Att. 44)

Sgt. Anthony Schulz's ("Sgt. Schulz") audio statement to COPA was conducted on November 3, 2017. Sgt. Schulz stated that while he approached [REDACTED] and [REDACTED] vehicle, he heard Officer Cereceres saying "hands, hands, show me your hands, stop moving, show me your hands." Sgt. Schulz stated that he did not give any verbal commands when approaching. Sgt. Schulz stated that [REDACTED] appeared to be nervous because of the "look on his face" and "the way he was turning his head and body." Sgt. Schulz stated that [REDACTED] followed the order to put his hands up. Sgt. Schulz stated that he pulled his Taser out for officer safety because he heard Officer Cereceres saying verbal commands. Sgt. Schulz stated he pointed his Taser in various directions, including at [REDACTED]. Sgt. Schulz stated that "it is up to the individual officer" and "the totality of circumstances" when drawing their Taser. Sgt. Schulz stated that the vehicle's windows were tinted enough that he was unable to have a clear view inside the vehicle. Sgt. Schulz stated that [REDACTED] was arrested. Sgt. Schulz stated he did not hear [REDACTED] refer to his handcuffs during the incident. Sgt. Schulz stated that he did not speak to [REDACTED] and had no interaction with [REDACTED] once he was placed into custody.

Sgt. Schulz stated that he does not recall any conversation between [REDACTED] and Officer Hickey. Sgt. Schulz stated he spoke to [REDACTED] about her identification, the traffic stop, and keeping her hands on the vehicle. Sgt. Schulz stated he did not use profanity towards [REDACTED]. Sgt. Schulz stated he saw Officer Cereceres talking to [REDACTED] but he did not hear the conversation. Once Officers Zamojska and Garbacz arrived, Sgt. Schulz indicated that [REDACTED] was placed in their vehicle. Sgt. Schulz stated that Officer Zamojska spoke to [REDACTED] but did not hear their conversation. Sgt. Schulz stated that Officer Zamojska approached and spoke to [REDACTED] because [REDACTED] was upset, crying, and nervous. Sgt. Schulz stated that Officer Zamojska told him that [REDACTED] had cannabis on her. Sgt. Schulz stated he did not use profanity during this incident. Sgt. Schulz stated he does not recall the other officers using profanity, but after watching the video footage, he heard Officer Cereceres say "fucking" once. (Atts. 59, 60)

Officer Marissa Garbacz's ("Officer Garbacz's") audio statement to COPA was conducted on September 22, 2017. Officer Garbacz stated that she was called to search a female. When she arrived, Officer Garbacz stated that one of the officers asked her to place [REDACTED] in her vehicle. Officer Garbacz stated she was with [REDACTED] majority of the time while at the scene. Officer Garbacz said that [REDACTED] did not say anything to her. Officer Garbacz stated she did not see Officer Zamojska search anyone. Officer Garbacz stated she saw the rear passenger door open with Officer Zamojska looking into the vehicle. Officer Garbacz stated that Officer Zamojska later told her that Officer Zamojska conducted a pat down on [REDACTED], [REDACTED] unzipped her hoodie, Officer Zamojska saw a bulge, and found cannabis underneath [REDACTED]'s shirt. Officer Garbacz stated she approached [REDACTED] and Officer Zamojska once [REDACTED] exited the vehicle. Officer Garbacz stated they talked about school and told [REDACTED] that "everything would be okay" because she was nervous. Officer Garbacz stated she did not hear Officer Zamojska ask [REDACTED] about drugs or the traffic stop until Officer Zamojska later told her. Officer Garbacz stated she "does not recall" when asked specific questions. (Att. 39)

Video Evidence

Officer Cereceres' Body-Worn Camera ("BWC") depicts him approaching the passenger side saying "hands, hands, hands, let me see your hands, don't fuck around..." Officer Cereceres is seen looking inside the vehicle and finding a blunt in the passenger door. At this moment, an officer is heard referring to his Taser. Officer Cereceres searches and questions [REDACTED]. Officer Cereceres is shown searching the front passenger area. [REDACTED] is heard telling [REDACTED] to stop crying. Officer Cereceres is heard asking [REDACTED] about the cannabis in the vehicle while her daughter is occupying it. [REDACTED] says [REDACTED] does not have a license. Sgt. Schulz is seen arriving to the rear passenger side and Officer Cereceres tells [REDACTED] to step with Sgt. Schulz. Officer Cereceres asks [REDACTED] two questions and turns off his BWC. (Att. 28)

Officer Hickey's BWC depicts him approaching the driver side. He opens the door and [REDACTED] is seen with his hands in the air. An officer is then heard saying, "Want me to [inaudible] Taser at you." (Att. 28)

Sgt. Schulz's BWC depicts Sgt. Schulz standing behind Officer Hickey with his Taser in his right hand. The video shows [REDACTED] with his hands in the air, exiting the vehicle, and Officer Hickey handcuffing [REDACTED]. Sgt. Schulz walks to the other side of the vehicle and steps towards the back with [REDACTED]. Sgt. Schulz and [REDACTED] are heard talking about why [REDACTED] and [REDACTED] were stopped. Sgt. Schulz is heard providing [REDACTED] information over the radio. The dispatcher is heard saying [REDACTED] does not have a valid driver's license. There is no profanity heard in Sgt. Schulz's BWC. (Att. 28)

Officers Zamojska and Garbacz's in-car camera depicts [REDACTED] handcuffed in the back seat. The video depicts [REDACTED] moving in the back seat. [REDACTED] is heard yelling and swearing. A female officer is heard speaking to [REDACTED]. The female officer is heard: (1) asking [REDACTED] "do you have anything on you;" (2) telling [REDACTED] to "remove everything from your pocket;" (3) telling [REDACTED] not to be scared; (4) telling [REDACTED] to "open the zipper;" (5) calling for the sergeant after saying "oh damn;" and (6) asking [REDACTED] "what you gave me is that it, do you have anything else on you?" A male officer is heard speaking to [REDACTED] about what was found. [REDACTED] begins to cry and the female officer is calming her down. Many aspects of the video are inaudible due to noise. (Att. 28)

Documentary Evidence

[REDACTED] **Arrest Report**, CB #19484412, dated May 24, 2017, and the **Original Case Incident Report**, RD #JA277912, indicate Officers Cereceres and Hickey curbed [REDACTED] for a traffic violation. [REDACTED] was unable to produce a valid driver's license or proof of insurance; therefore, he was placed into custody. Officer Hickey recovered cannabis in [REDACTED] pocket, and Officer Cereceres recovered a rolled-up cigar containing cannabis in the passenger side door. Officer Zamojska recovered a bag of cannabis from under [REDACTED]'s sweatshirt. The reports state that [REDACTED] related that her father saw the police vehicle and handed [REDACTED] a bag of drugs to hide for him. [REDACTED] stated, without being asked, "all the weed is mine." The reports indicate [REDACTED] was transported to the 6th District for processing. The charges listed on the reports relate to traffic violations and cannabis. (Atts. 7, 8)

IPRA requested **Crime Scene/Evidence photographs**; however, CPD Forensic Services' Photography Team stated that no photographs related to the case are on file. (Atts. 23, 26)

IPRA conducted a **POD search** around the incident location; however, there are no PODs in the area that would have captured the incident. (Att. 30)

On July 12, 2017, IPRA requested **video footage** from the 6th District's processing and interview rooms for May 24, 2017. However, the requested video footage has a thirty day retention period and was no longer available at the date of request. (Att. 27, 32)

ANALYSIS/CONCLUSION

Officer Hickey

COPA recommends a finding of Unfounded for **Allegation #1** against Officer Hickey, that he directed multiple profanities towards [REDACTED] and [REDACTED]. The allegation is contradictory and inconsistent to the evidence gathered through COPA's investigation. [REDACTED] alleged that male officers called [REDACTED] and [REDACTED] "stupid motherfuckers" multiple times. Officer Hickey was one of the male officers involved in this incident. In his statement, Officer Hickey stated he did not use profanity towards anyone. The BWC and additional officer statements corroborate his statement. Officer Hickey is not heard using profanity at any point of the incident in the BWC footage. Likewise, in their statements, Officer Cereceres said Officer Hickey did not use profanity towards [REDACTED] and [REDACTED]. Officer Zamojska also stated she did not hear profanity once she arrived on scene. This allegation is not based on the facts revealed through the investigation. Therefore, COPA recommends a finding of Unfounded for Allegation #1 against Officer Hickey.

COPA recommends a finding of Not Sustained for **Allegation #2** against Officer Hickey, that he handcuffed [REDACTED] too tightly and refused to loosen the handcuffs. Officer Hickey stated that [REDACTED] neither complained about the handcuffs being tight nor requested them to be loosened while on the street or at the 6th District. Officer Hickey stated that he was next to [REDACTED] the entire time and [REDACTED] did not say anything about the handcuffs. Officer Hickey also indicated that he did not hear [REDACTED] ask Officer Cereceres or Sgt. Schulz to loosen the handcuffs. Similarly, Officer Cereceres and Sgt. Schulz said they did not recall or hear [REDACTED] complain about the handcuffs, ask for them to be loosened, or refer to the handcuffs during the incident. [REDACTED] is not seen or heard complaining about the handcuffs in the BWC footage. In fact, while sitting in the back seat, [REDACTED] is seen moving around in fury. There is insufficient evidence to attribute the allegation to Officer Hickey or to the actions of [REDACTED] himself. Therefore, COPA recommends a finding of Not Sustained for Allegation #2.

Officer Cereceres

COPA recommends a finding of Unfounded for **Allegation #1** against Officer Cereceres, that he directed multiple profanities towards [REDACTED] and [REDACTED]. The allegation is contradictory and inconsistent to the evidence gathered through COPA's investigation. [REDACTED] alleged that male officers called [REDACTED] and [REDACTED] "stupid motherfuckers" multiple times. Officer Cereceres was

one of the male officers involved in this incident. Although Officer Cereceres admitted and is heard saying “don’t fuck around” once, he did not use other profanity after that. The BWC footage corroborates his statement as he is not heard using profanity multiple times or using different profanities. Therefore, COPA recommends a finding of Unfounded for Allegation #1 against Officer Cereceres.

COPA recommends a finding of Exonerated for **Allegation #2** against Officer Cereceres, that he questioned a minor without parental consent. Officer Cereceres is seen and heard asking [REDACTED] questions related to her age and where she was coming from prior to being stopped. Officer Cereceres is not required to receive consent to question a juvenile. Officer Cereceres can question any passenger within the vehicle. Nonetheless, Officer Cereceres spoke to [REDACTED] in presence of her mother, [REDACTED] was a few feet away and would have been able to object, but there is no evidence that [REDACTED] objected during the incident. Moreover, Officer Cereceres stated he heard [REDACTED], a juvenile, crying and that he talked to her to calm her down. Although Officer Cereceres did not ask [REDACTED]’s parents for permission to speak to [REDACTED], he engaged in general on-the-scene questioning in the fact-finding process of the investigation. [REDACTED] was not in custody, arrested, or interrogated. Officer Cereceres informally questioned [REDACTED]. [REDACTED] was not the focus of the investigation. [REDACTED] was the focus of the investigation because he was arrested and charged. Therefore, COPA recommends a finding of Exonerated for Allegation #2 against Officer Cereceres.

Officer Zamojska

COPA recommends a finding of Exonerated for **Allegations #1** against Officer Zamojska, that she questioned a minor without parental consent. Officer Zamojska admitted to questioning [REDACTED]; however, she is not required to receive consent to question a juvenile. Officer Zamojska can question any passenger within the vehicle. Although Officer Zamojska did not ask [REDACTED]’s parents for permission to question [REDACTED], she engaged in general on-the-scene questioning in the fact-finding process of the investigation. [REDACTED] was not in custody, arrested, or interrogated. Officer Zamojska informally questioned [REDACTED] by asking [REDACTED] whether she has “anything on her.” After locating the cannabis, Officer Zamojska asked [REDACTED] where the cannabis came from. This question relates to the focus of the investigation regarding [REDACTED] who was arrested and charged for possession of cannabis. [REDACTED] was never the focus of the investigation. Therefore, COPA recommends a finding of Exonerated for Allegations #1 against Officer Zamojska.

COPA recommends a finding of Sustained for **Allegation #2** against Officer Zamojska, that she searched a minor without parental consent. Since all passengers are seized for the duration of a traffic stop, an officer may, for their protection, “frisk” or pat down the passenger for weapons if they have reasonable suspicion that the suspect is armed and dangerous.² To justify a protective pat down, the officer must reasonably believe that the person is armed and dangerous.³ The purpose

² *Terry v. Ohio*, 392 U.S. 1 (1968). See also *Arizona v. Johnson*, 555 U.S. 323 (2009); *Brendlin v. California*, 551 U.S. 249 (2007).

³ *People v. Jackson*, 366 Ill.Dec.164, 170 (1st Dist. 2012).

of the pat down is for officer safety and not to gather evidence. Also, the right to frisk does not automatically follow a stop.⁴

Similarly, S04-13-09(c)(2) closely tracks the language of Illinois statute, 725 ILCS 5/108-1.01, which provides in relevant part that “When a peace officer has stopped a person for temporary questioning pursuant to Section 107-14 of this Code and reasonably suspects that he or another is in danger of attack, he may search the person for weapons.” However, Illinois courts have interpreted 725 ILCS 5/108-1.01 to adhere to the United States Supreme Court’s Fourth Amendment jurisprudence which requires that an officer believe the individual is armed and dangerous before performing a pat down during an investigatory stop.⁵

Even though [REDACTED] was a passenger of the traffic stop, Officer Zamojska did not have the right to frisk [REDACTED] because she did not reasonably believe that [REDACTED] was armed and dangerous. In her statement, Officer Zamojska stated that she conducted a pat down on [REDACTED] because [REDACTED] was “very nervous” and she has experience where minors carry weapons. Even though Officer Zamojska believed [REDACTED] was nervous, she did not state she believed [REDACTED] was armed and dangerous. Without more reasoning, it is unreasonable for her to believe [REDACTED] was armed and dangerous. Moreover, [REDACTED]’s demeanor can be attributed to the situation and the numerous police officers interacting with her and her parents. Furthermore, Officer Zamojska’s intention to pat down [REDACTED] was to gather evidence by determining whether [REDACTED] possessed contraband. Although she stated she has experience where minors carry weapons, at no time did Officer Zamojska assert that she specifically patted down [REDACTED] due to safety concerns or reasonably believe [REDACTED] was dangerous. This is a strict violation of the Fourth Amendment, CPD’s General Orders, and Illinois State Law. Therefore, COPA recommends a finding of Sustained for Allegation #2 against Officer Zamojska.

Sgt. Schulz

COPA recommends a finding of Unfounded for **Allegation #1** against Sgt. Schulz, that he directed multiple profanities towards [REDACTED] and [REDACTED]. The allegation is contradictory and inconsistent to the evidence gathered through COPA’s investigation. [REDACTED] alleged that male officers called [REDACTED] and [REDACTED] “stupid motherfuckers” multiple times. Sgt. Schulz was one of the male officers involved in this incident. In his statement, Sgt. Schulz stated he did not use profanity towards [REDACTED] or during this incident. Sgt. Schulz’s BWC and additional officer statements corroborate his statement. There is no profanity heard in his BWC. Officer Cereceres indicated that he did not hear Sgt. Schulz use profanity. Officer Zamojska also stated she did not hear profanity once she arrived on scene. This allegation is not based on the facts revealed through the investigation. Therefore, COPA recommends a finding of Unfounded for Allegation #1 against Sgt. Schulz.

COPA recommends a finding of Exonerated for **Allegation #2** against Sgt. Schulz, that he unnecessarily displayed his weapon. Determining whether Sgt. Schulz’s display of his Taser was proper is fact dependent. In Sgt. Schulz’s BWC, he is seen with his Taser unholstered and saying, “want me to [inaudible] Taser at you” when in front of [REDACTED] vehicle door. In his statement,

⁴ *People v. Ware*, 264 Ill. App. 3d 650 (1st Dist. 1994).

⁵ *See, e.g., People v. Walker*, 2013 IL App (4th) 120118.

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Sgt. Schulz admitted to pulling his Taser out and pointing it in various directions including at [REDACTED]. Sgt. Schulz also indicated that he displayed his Taser because he heard Officer Cereceres stating verbal commands and for officer safety.

Even though [REDACTED] is seen with his hands in the air sitting in his seat when his door was opened, in that moment, he could have attempted to create distance between himself and the arresting officer. Additionally, Officer Cereceres stated “hands, hands, hands, let me see your hands” while approaching the vehicle. It was reasonable for Sgt. Schulz to unholster his Taser after hearing Officer Cereceres’ verbal commands and in the event [REDACTED] attempted to run. Therefore, COPA recommends a finding of Exonerated for Allegation #2 against Sgt. Schulz.

[REDACTED]
[REDACTED] Anish Shah
[REDACTED]
Supervising Investigator Erica Sangster
[REDACTED]
Deputy Chief Investigator Josh Hunt