

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 22, 2018 / 10:25pm / [REDACTED] [REDACTED]
Date/Time of COPA Notification:	September 22, 2018 / 11:15pm
Involved Officer #1:	Juan Gali, Star#12394, Employee ID [REDACTED], Date of Appointment: March 5, 2013, Rank: Police Officer, Unit of Assignment: 701, DOB: [REDACTED] 1978, Gender: Male, Race: White.
Involved Officer #2:	Eleazar Maldonado, Star#3484, Employee ID [REDACTED], Date of Appointment: October 29, 2007, Rank: Police Officer, Unit of Assisgnment:701, DOB: [REDACTED], 1970, Gender: Male, Race: Hispanic.
Involved Individual #3:	Bernard McDevitt, Star#2954, Employee ID [REDACTED], Date of Appointment: May 13, 1994, Rank: Police Officer, Unit of Assignment: 701, DOB: [REDACTED] 1968, Gender: Male, Race: White.
Involved Individual #4:	John Spring, Star#12397, Employee ID [REDACTED], Date of Appointment: October 28, 2002, Rank: Police Officer, Unit of Assignment: 009, DOB: [REDACTED] 1980, Gender: Male, Race: White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1990, Gender: Female, Race: Black.
Involved Individual #2:	[REDACTED] DOB: Unknown; Gender: Male, Race: Black.
Case Type:	Improper Search

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Juan Gali	<p>On or about September 22, 2018, at approximately 10:25pm, at or near 2037 W. 69th Street, Chicago, IL, Police Officer Juan Gali, committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> Searched [REDACTED] [REDACTED] without justification and 	Unfounded

Officer Eleazar Maldonado	<p>2. Failed to complete an Investigative Stop Report.</p> <p>On or about September 22, 2018, at approximately 10:25pm, at or near 2037 W. 69th Street, Chicago, IL, Police Officer Juan Gali, committed misconduct through the following acts or omissions:</p>	Not Sustained
	<p>1. Searched [REDACTED] [REDACTED] without justification and</p>	Unfounded
	<p>2. Failed to complete an Investigative Stop Report.</p>	Not Sustained
Officer Bernard McDevitt	<p>On or about September 22, 2018, at approximately 10:25pm, at or near 2037 W. 69th Street, Chicago, IL, Police Officer Juan Gali, committed misconduct through the following acts or omissions:</p>	
	<p>1. Searched [REDACTED] [REDACTED] without justification and</p>	Not Sustained
	<p>2. Failed to complete an Investigative Stop Report.</p>	Sustained
Officer John Spring	<p>On or about September 22, 2018, at approximately 10:25pm, at or near 2037 W. 69th Street, Chicago, IL, Police Officer Juan Gali, committed misconduct through the following acts or omissions:</p>	
	<p>1. Searched [REDACTED] [REDACTED] without justification and</p>	Unfounded
	<p>2. Failed to complete an Investigative Stop Report.</p>	Not Sustained

II. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral.
3. Rule 10: Inattention to duty.

Special Orders

1. S04-13-09, Investigatory Stop System (effective July 10, 2017, to currently).

III. SUMMARY OF EVIDENCE

In a statement with COPA on September 28, 2018, **Complainant** [REDACTED] (Ms. [REDACTED]¹, stated that she and her boyfriend, [REDACTED] (Mr. [REDACTED] were standing outside with some of his family members when five officers jumped out of a police vehicle and entered the front yard. Three of the officers, Officers Juan Gali, Eleazar Maldonado, and John Spring, approached Mr. [REDACTED] while another officer, Officer Bernard McDevitt, searched Mr. [REDACTED] pockets. Ms. [REDACTED] added that she was not certain why Officer McDevitt searched Mr. [REDACTED]. Ms. [REDACTED] told the officers that stop and frisk was illegal. One of the officers motioned to his watch, indicating it was late, and stated something to the effect that their music was too loud. The interactions with Mr. [REDACTED] and the officers were non-confrontational, and the officers did not arrest Mr. [REDACTED]. Ms. [REDACTED] stated that she felt the search of Mr. [REDACTED] pockets was not justified. Ms. [REDACTED] explained she did not ask any of the officers for their names or badge numbers because she was afraid of retaliation from the officers. However, she did video record the encounter on her personal cell phone.

COPA interviewed **Accused Officer Spring**³ on February 18, 2021, **Accused Officer Gali**⁴ on February 25, 2021, and **Accused Officer Maldonado**⁵ on October 13, 2022. Officers Spring, Gali, and Maldonado provided similar accounts of the incident. All three of the officers explained that they did not recall the details of the stop. However, after reviewing the digital evidence, the officers identified Officer McDevitt as the officer who patted down Mr. [REDACTED]. Officers Maldonado and Spring identified themselves in the video, but Officer Gali advised that he did not see himself in the video. When asked about whose responsibility was it to fill out the Investigative Stop Report (ISR), each officer explained it was the responsibility of the officer who stopped/searched Mr. [REDACTED].

In a statement with COPA on October 12, 2022, **Accused Officer McDevitt**⁶ advised he did not independently recall the incident. However, after reviewing the digital evidence he identified himself and his partner, Officer Maldonado, in the video. He later identified himself as the officer that patted down Mr. [REDACTED]. When asked about why an ISR was not written, Officer McDevitt explained that the encounter appeared to be friendly. It appeared he was assisting Mr. [REDACTED] in locating his money. Officer McDevitt added that sometimes people give police officers permission to pat them down, but he did not recall if he asked Mr. [REDACTED] permission to pat him

¹ Attachment #11 – Audio Interview of [REDACTED]

² COPA was not able to obtain an interview from Mr. [REDACTED] Attachment #36. Ms. [REDACTED] advised she and Mr. [REDACTED] ended their relationship and she had no additional contact information for him.

³ Attachment #28.

⁴ Attachment #25.

⁵ Attachment #32.

⁶ Attachment #30.

down. Officer McDevitt continued to explain he did not believe the encounter was an Investigatory Stop, so the encounter would not require an ISR.

Cellphone Footage⁷ from Ms. █████ depicts Officer McDevitt patting down Mr. █████ pants while the other officers⁸ talk with Mr. █████ At 00:20, Mr. █████ states, “Y’all just stole \$2,000 from me,” and an officer responds that it was in his hand. At 00:51, an officer states, “Just keep it down a little bit,” and Ms. █████ states, “Then why did y’all have to search him if the music was loud? I’m just asking a question.” The officers then appear to leave the area.

On the date of the incident, Officers McDevitt, Spring, Gali, and Maldonado were assigned to Unit 312, Gang Enforcement – Area South, and were not assigned to wear body worn cameras (BWC).⁹

IV. 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 Attachment #13 – Video length is 01:02.

⁸ Officers Maldonado and Spring identified themselves in the video.

⁹ Attachment #5 & #34.

V. ANALYSIS

COPA finds that Allegation #1, that Officers Gali, Maldonado, and Spring searched ██████████ without justification, be classified as **Unfounded**. Officers Gali, Maldonado, and Spring all stated that they did not search Mr. ██████████ and Ms. ██████████ stated that only one officer searched Mr. ██████████. Cellphone footage depicted one officer patting down Mr. ██████████. Officer McDevitt identified himself as the officer who patted down Mr. ██████████. Therefore, this allegation is **Unfounded**.

COPA finds that Allegation #2, that Officers Gali, Maldonado, and Spring failed to complete an Investigative Stop Report (ISR), be classified as **Not Sustained**. Officers Gali, Maldonado, and Spring denied the allegation and stated that they did not complete an ISR because it was not required. The officers believed if an ISR was required it was the responsibility of the officer who had contact with the individual. The officers were unclear of the nature of the stop, however, if an ISR was required by them they would have prepared one. Based on the available evidence, there is insufficient evidence to prove/disprove the allegation. Therefore, this allegation is **Not Sustained**.

COPA finds that Allegation #1, that Officer McDevitt searched ██████████ without justification, be classified as **Not Sustained**. Officer McDevitt identified himself in the Cellphone footage as the officer that patted down Mr. ██████████. Officer McDevitt could not recall the reason for the search and stated it appeared he assisted Mr. ██████████ in locating his money. There is no documentation as to why Officer McDevitt performed a protective pat down on Mr. ██████████ and attempts to contact and interview Mr. ██████████ were unsuccessful. If Officer McDevitt would have completed an ISR, the pat down of Mr. ██████████ may have been deemed reasonable. Based on the available evidence, there is insufficient evidence to prove/disprove the allegation. Therefore, this allegation is **Not Sustained**.

COPA finds that Allegation #2, that Officer McDevitt failed to complete an Investigative Stop Report (ISR), be classified as **Sustained**. Officer McDevitt identified himself in the Cellphone footage as the officer that patted down Mr. ██████████. Officer McDevitt stated it appeared that he assisted Mr. ██████████ in locating his money. Officer McDevitt stated that he did not complete an ISR because the encounter appeared to be friendly. Special Order, S04-13-09, Investigatory Stop System, VIII, A, 1, reads in part, "Sworn members who conduct an Investigatory Stop, Probable Cause stop when no other document captures the reason for the detention, and, if applicable, a Protective Pat Down or other search in a public place, are required to submit an Investigatory Stop Report into the Investigatory Stop Database." Officer McDevitt failed to complete an ISR which would have documented his interaction with Mr. ██████████ and the reason why he performed a protective pat down on him. Therefore, this allegation is **Sustained**.

VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Bernard McDevitt

i. Complimentary and Disciplinary History

1 Complimentary Letter. 4 Department Commendations. 201 Honorable Mentions. 2 Honorable Mention Ribbon Awards. 1 Superintendent’s Honorable Mention. One SPAR with a penalty of a reprimand, and one Sustained Case with a 1-Day penalty.

ii. Recommended Penalty, by Allegation

Officer McDevitt failed to complete an ISR documenting his interaction with Mr. [REDACTED] and the reason why he performed a protective pat down on him. COPA recommends a penalty of **3-day suspension**.

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Investigator

11-25-2022

Date