



Log # 2019-1769

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On May 21, 2019, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ alleging that on May 17, 2019, Officer Emile Domer #17294, Officer Patrick Forbes #2953, and Officer Mark Mizera, Jr. #17092 (collectively “the Officers”) conducted a traffic stop on his vehicle without justification. Additionally, Mr. ██████████ alleged that Officer Domer conducted an improper search of his vehicle and damaged his vehicle, both without justification. Following its investigation, COPA did not reach sustained findings regarding any of these allegations.

II. SUMMARY OF EVIDENCE²

On May 17, 2019, ██████████ and his passenger, ██████████ were traveling northbound on Damen Avenue in his silver Pontiac sedan when Mr. ██████████ made an illegal diagonal turn across an intersection and directly into a gas station located on the corner at 7100 S. Damen Avenue.³ The three arresting Officers followed behind him in an unmarked police SUV and initiated a traffic stop with the assistance of two other plainclothes officers who arrived in an unmarked police sedan.⁴ Due to the fact that the Officers were assigned to an Area South Gang Crimes unit which was not assigned body worn cameras (BWC) at the time, no officer-recorded video depicting the initial stop and arrest could be obtained. However, BWC video was obtained showing the conclusion of the incident when responding officers arrived to transport Mr. ██████████ to lockup. Most importantly, the gas station’s surveillance security camera system captured the entirety of the stop and the searches conducted by Officer Domer.

The surveillance video showed that Mr. ██████████ exited from the driver’s position of the silver Pontiac and immediately received a pat-down from Officer Domer.⁵ Following this, Officer Domer leaned into the driver-side area and appeared to conduct a brief search of the interior while ██████████ was still in the front passenger seat.⁶ After Mr. ██████████ exited from the vehicle (climbing out from the driver’s side because the passenger-side door was too close to the adjacent

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, third-party video, police reports, a civilian interview, and an officer interview.

³ Att. 41 at 0:59.

⁴ *Id.* at 1:12.

⁵ *Id.* at 2:12-2:15.

⁶ *Id.* at 2:44-3:11.

gas pumps), Officer Domer also conducted a pat-down on him.⁷ A more thorough search of the vehicle then ensued, encompassing the rest of the vehicle interior and the trunk area.⁸

According to the Arrest Report, Mr. ██████ had been driving on a suspended driver's license and had confessed this to Officer Domer at the beginning of the stop.⁹ Officer Domer stated during his interview with COPA that this admission motivated him to order Mr. ██████ and Mr. ██████ to exit the vehicle.¹⁰ When Mr. ██████ climbed out through the driver's side, Officer Domer noticed that the center console was inadvertently knocked loosely out of place, and he said based on his experience he believed this loose console could be a likely place for a weapon or other contraband to be concealed.¹¹ A search was subsequently conducted, and a handgun was discovered concealed in the Pontiac's center console.¹² Mr. ██████ was arrested for illegally possessing the handgun without a Firearm Owners Identification Card or a Concealed Carry License, was placed into a cage-equipped CPD vehicle, and was by transported by responding officers. Officers completed Investigatory Stop Reports documenting the searches of Mr. ██████ and Mr. ██████ in addition to the Original Case Incident Report and Mr. ██████ Arrest Report.¹³

III. ALLEGATIONS¹⁴

Officer Emile Domer:

1. It is alleged that on May 17, 2019, at approximately 9:45 pm, at or near 7100 S. Damen Avenue (Gas station), Officer Emile Domer committed misconduct through the following acts or omissions, by:
 - Conducted a traffic stop on ██████ vehicle without justification; and
 - Exonerated.
 - Conducted an improper search of ██████ vehicle without justification; and
 - Exonerated.
 - Caused damage inside ██████ vehicle without justification.
 - Unfounded.

Officer Patrick Forbes:

⁷ *Id.* at 3:21-3:23.

⁸ *Id.* at 3:46-15:15.

⁹ Att. 7, pg. 3. The Arrest Report stated that Mr. ██████ had immediately confessed to having a suspended license and had offered his ID card as identification in place of the license.

¹⁰ Att. 38 at 13:15-13:31.

¹¹ *Id.* at 13:35-14:25.

¹² *Id.* at 14:30-14:55. (The recovered handgun was a Taurus G2C 9mm semi-automatic pistol, serial # ██████, with a magazine containing an unknown number of live rounds.)

¹³ Atts. 7, 9, 21 and 22.

¹⁴ COPA served allegations on and interviewed Officer Domer. After interviewing Officer Domer, it became apparent that the allegations were exonerated and unfounded against all involved officers. As such, COPA elected not to interview Officer Forbes and Officer Mizera, Jr.

2. It is alleged that on May 17, 2019, at approximately 9:45 pm, at or near 7100 S. Damen Avenue (Gas station), Officer Patrick Forbes committed misconduct through the following acts or omissions, by:
 - Conducted a traffic stop on [REDACTED] vehicle without justification.
 - Exonerated.

Officer Mark Mizera, Jr.:

3. It is alleged that on May 17, 2019, at approximately 9:45 pm, at or near 7100 S. Damen Avenue (Gas station), Officer Mark Mizera, Jr. committed misconduct through the following acts or omissions, by:
 - Conducted a traffic stop on [REDACTED] vehicle without justification.
 - Exonerated.

IV. CREDIBILITY ASSESSMENT

During the stop, [REDACTED] was recorded on BWC making contradictory statements to the Officers about the handgun that had been discovered in his Pontiac. He initially said that the handgun did not belong to either himself or his passenger, [REDACTED]¹⁵ However, shortly afterward he admitted that he had earlier observed the handgun in Mr. [REDACTED] possession.¹⁶ This inconsistency factored into COPA's assessment of Mr. [REDACTED] credibility.

V. ANALYSIS¹⁷

a. The traffic stop and its justification

COPA found that Allegation #1 against Officer Domer, Officer Forbes, and Officer Mizera, Jr., that of conducting a traffic stop on [REDACTED] vehicle without justification, is **exonerated**. The gas station's surveillance video demonstrated that Mr. [REDACTED] had executed an illegal and unconventional driving maneuver when he turned diagonally through the intersection, crossed over the traffic lanes without signaling, and entered directly into the gas station.¹⁸ This behavior alone was sufficient to warrant a traffic stop. CPD members are authorized to conduct an investigatory stop on a person "based on Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a criminal offense."¹⁹ The obvious traffic infraction and the absence of a valid license was sufficient to produce reasonable articulable suspicion, and thereby provided the justification to proceed with an investigatory stop.

b. The vehicle search conducted by Officer Domer

COPA found that Allegation #2 against Officer Domer, that of conducting an improper search of [REDACTED] vehicle without justification, is **exonerated**. Warrantless searches of

¹⁵ Att. 25 at 2:15.

¹⁶ *Id.* at 3:30.

¹⁷ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹⁸ Att. 41 at 0:59.

¹⁹ SO4-13-09 II (A), Investigatory Stop System (effective July 10, 2017—present).

citizens and their property have been strictly limited by the Fourth Amendment of the United States Constitution and the Illinois Constitution, which established “the right of individuals to be free from unreasonable searches and seizures.”²⁰ However, under current law police officers have been permitted to conduct impromptu searches of individuals under specific circumstances, such as when the officers have a reasonable suspicion that a subject may be armed and are able to articulate the basis for that suspicion.²¹ Additionally, the law has permitted police officers to conduct a limited search of an individual’s vehicle during a traffic stop provided that they have a reasonable articulable suspicion that a weapon is located there.²² Given the circumstances of this stop and the fact that reasonable articulable suspicion had already been established by Mr. [REDACTED] driving behavior, by his lack of a driver’s license, and by the appearance of the loose center console panel in the car, Officer Domer was acting within CPD policy when he conducted a weapons search within the immediate area of the driver’s position. After the handgun was discovered in the center console area, Officer Domer then had probable cause to continue searching other areas of the vehicle for further weapons or contraband, including the backseat and trunk areas.²³

c. The alleged damage done to the vehicle by Officer Domer

COPA found that Allegation #3 against Officer Domer, that of causing damage inside [REDACTED] vehicle without justification, is **unfounded**. No evidence was found to show either that there was actual damage done to the interior, or that any existing damage did not pre-date this incident. In his statement, Officer Domer described the center console in the vehicle as having been in a detached or manipulated state and explained that he had observed the console to move loosely when Mr. [REDACTED] inadvertently struck it with his knee.²⁴ This suggested that there had been damage or alterations to the console before the search occurred. Given that Mr. [REDACTED] had already given conflicting accounts to the Officers about the handgun found in his car, COPA found that Mr. [REDACTED] claim of damage to the vehicle did not carry as much credibility as it otherwise might have.²⁵ As result of these considerations, COPA determined that the most convincing available evidence discredited this allegation.

Approved:

[REDACTED]
 Charday Jackson
 Deputy Chief Administrator – Chief Investigator

March 31, 2023

Date

²⁰ People v. Colyar, 2013 IL 111835, ¶ 31 (citing U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6).

²¹ Arizona v. Johnson, 555 U.S. 323 (2009).

²² Michigan v. Long, 463 U.S. 1032 (1983).

²³ Maryland v. Dyson, 527 U.S. 465 (1999).

²⁴ Att. 38, 13:56-14:26.

²⁵ Att. 25 at 2:15 and 3:30.

Appendix ACase Details

Date/Time/Location of Incident:	May 17, 2019 / 9:45 PM / 7100 S. Damen Avenue, Chicago, IL 60636
Date/Time of COPA Notification:	May 21, 2019 / 1:21 PM
Involved Officer #1:	Officer Emile Domer / Star #17294 / Employee ID # [REDACTED] / Date of Appointment: April 1, 2013 / Unit of Assignment: 003 / Male / Black
Involved Officer #2:	Officer Patrick Forbes / Star #2953 / Employee ID # [REDACTED] / Date of Appointment: August 26, 2013 / Unit of Assignment: 189/701 / Male / White
Involved Officer #3:	Officer Mark Mizera, Jr. / Star #17092 / Employee ID # [REDACTED] / Date of Appointment: July 15, 2013 / Unit of Assignment: 007/701 / Male / Hispanic
Involved Individual #1:	[REDACTED] / Male / Black
Involved Individual #2:	[REDACTED] / Male / Black

Applicable Rules

- 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 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- SO4-13-09 II (A), Investigatory Stop System (effective July 10, 2017—present).

Appendix B

Definition of COPA's Findings and Standards of Proof

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 a proposition is proved.²⁶ For example, 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. 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.”²⁷

²⁶ 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 is found to be more probably true than not).

²⁷ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation