

SUMMARY REPORT OF INVESTIGATION

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| Date/Time/Location of Incident: | February 24, 2021, 2:45 PM, 6934 S Jeffrey Blvd. |
| Date/Time of COPA Notification: | February 25, 2021, 12:38 PM |
| Involved Officer #1: | Bernard McDevitt, Star #2954, employee # [REDACTED], Date of Appointment: 05-31-1994, PO, Unit 22, Male, Caucasian. |
| Involved Officer #2: | George Spacek, star #3913, employee # [REDACTED], Date of Appointment: 08-27-2001, PO, Unit 007, Male, Caucasian |
| Involved Individual #1: | [REDACTED] DOB: [REDACTED], 1982, Male, Black |
| Case Type: | Traffic Stop |

I. ALLEGATIONS

| Officer | Allegation | Finding |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Officer Bernard McDevitt | It is alleged that on or about February 24, 2021, at approximately 1430 hours, at or near 6934 S Jeffrey Blvd., Chicago, IL 60649 that you, Bernard McDevitt committed misconduct through the following acts or omissions by: 1. Failing to comply with S03-14 by failing to timely activate your body worn camera. | SUSTAINED |
| Officer George Spacek | It is alleged by [REDACTED] that on February 24, 2021, at approximately 1430 hours, at or near 6934 S Jeffrey Blvd., Chicago, IL 60649, that you George Spacek, committed misconduct through the following acts or omissions by: 1. Searched the vehicle belonging to [REDACTED] without justification. 2. Seized a bag belonging to [REDACTED] without justification. | SUSTAINED SUSTAINED |

II. SUMMARY OF EVIDENCE¹

The complainant, ██████████ (“██████████”) registered a complaint with COPA on February 25, 2021, and alleges that Officer Bernard McDevitt (“McDevitt”) conducted a traffic stop on his vehicle without justification. ██████████ also alleges Officer George Spacek (“Spacek”) improperly entered his vehicle and seized a bag from the backseat. In his statement, ██████████ made another complaint alleging an unidentified black female officer at the CPD 007th District station refused to take his complaint regarding the incident. COPA investigated the complaint thoroughly, and that officer could not be identified.² COPA acquired and reviewed Body Worn Camera (“BWC”) footage, Department reports, GPS, A&A sheets, and service calls. COPA did not bring an allegation for the traffic stop. COPA concluded during the preliminary investigation there was sufficient evidence³ to support probable cause to conduct the traffic stop based on the expired vehicle registration.

BWC footage from Officers Bernard McDevitt,⁴ George Spacek,⁵ John Spring,⁶ Luke Bechina,⁷ James Hunt,⁸ and Sergeant Alfie Patterson⁹ captures the traffic stop involving ██████████. The BWC footage shows Officers McDevitt, Hunt, Spring, and Bechina, conducting the traffic stop on ██████████ in an unmarked Chicago Police Department (CPD) vehicle. Officer McDevitt approaches the driver’s side of ██████████ vehicle and explains the reasoning for the traffic stop. Officer McDevitt requests ██████████ Driver’s License and Insurance. ██████████ shows Officer McDevitt a City of Chicago citation through the driver’s side window and refuses to open the window to the vehicle. After numerous requests by Officer McDevitt to roll the window down so he may complete the traffic stop, ██████████ refuses, and Officer McDevitt opens the driver’s door to the vehicle. ██████████ immediately becomes irate with the officers. Two individuals are seen in the vehicle, ██████████ (Driver’s seat) and an unknown black female (passenger seat). ██████████ is observed on his cell phone talking to a 911 dispatch officer, yelling he is in fear for his life. The officers on scene cannot be seen or heard making any threats or threatening postures toward ██████████ during the stop. ██████████ demands the officers to call a Sergeant to the scene. Officer Spring was observed making a radio transmission for a supervisor to come to the scene.

Officer Spacek then arrives on the scene in another unmarked CPD vehicle. Officer Spacek immediately walks up to ██████████ vehicle and can be observed looking into ██████████ vehicle. Officer Spacek then opens the vehicle’s rear driver’s side door and removes a backpack from the backseat. Upon removal of the bag, ██████████ immediately exits his vehicle and questions Officer

¹COPA 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.

² COPA interviewed witness officer, Teresa Shegog (Att. No. 26), after reviewing District 7 A&A sheets from date of incident. Shegog had no knowledge or recollection of the alleged attempted complaint.

³ Att. No. 29 & 30 The TSS from a traffic stop conducted on 2-13-2021 displays a violation 9-76-160(F) : REGISTRATION PLATES and the Event Query from the traffic stop occurring on 2-24-2021,

⁴ Att. No. 15

⁵ Att. No. 16

⁶ Att. No. 13

⁷ Att. No. 14

⁸ Att. No. 12

⁹ Att. No. 19

Spacek as to why he is removing his bag. ██████ closes the distance between himself and Officer Spacek and orders Officer Spacek to give him back his bag. Officers McDevitt and Spring attempt to control ██████ then follows Officer Spacek around ██████ vehicle, ordering Officer Spacek to give the bag back to him. Sgt. Patterson arrives on the scene, takes control of ██████ bag, and pulls ██████ away from Officer Spacek. Sgt. Patterson and ██████ then step away from ██████ vehicle and speak with each other. ██████ asks Sgt. Patterson to search his bag to ensure Officer Spacek did not put anything in it. Sgt. Patterson can be seen conducting a brief search of ██████ bag at his direction and consent. Sgt. Patterson then directs ██████ back to his car and asks him to cooperate with officers so they can complete the traffic stop. Officer McDevitt then informs ██████ they could have issued a citation for the traffic offense and the expired registration stickers on his vehicle, but he would not be issuing any citations.

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.

IV. ANALYSIS AND CONCLUSION

COPA finds the allegation Officer Bernard McDevitt failed to timely activate his BWC, **Sustained**. Officer McDevitt activates his BWC approximately 45 seconds after initiating contact

with the complainant,¹⁰ [REDACTED] while conducting the traffic stop. In his statement, Officer McDevitt relayed he could have been distracted or preoccupied, which prevented him from activating his BWC upon initial contact with the complainant. Officer McDevitt explained he was making a threat assessment upon initiating the traffic stop and getting a count of the individuals inside the vehicle. Department members are required to activate the BWC system to event mode at the beginning of an incident and will record the entirety of the incident for all law-enforcement activities, which includes traffic stops. See Chicago Police Department S03-14. At the initiation of the traffic stop, no circumstances prevented Officer McDevitt from activating his BWC before initiating contact with the complainant. Thus, the allegation is Sustained.

COPA finds the allegation that Officer George Spacek improperly searched the complainant's vehicle, is **Sustained**. Officer Spacek can be observed on BWC arriving on the scene at 14:38:40. Officer Spacek does not communicate with the other officers who initiated the stop. Officer Spacek can be observed entering the rear passenger compartment at 14:43:13 and removing a bag from the rear passenger seat. In his statement, Officer Spacek informed COPA he entered the vehicle's rear passenger compartment due to officer safety to prevent the complainant from reaching for any dangerous objects or weapons that could be present. COPA finds that justification unreasonable. Although [REDACTED] acted irate during the stop, he did not appear to present a danger to the officers. [REDACTED] did not make any furtive movements or reach into the backseat until Officer Spacek seized¹¹ the backpack from the rear passenger seat. A reasonable person would not believe the complainant presented an immediate threat to the officers on the scene, nor would the situation have provided sufficient probable cause or a reasonable belief the complainant was armed and or dangerous to justify a search. In his statement, Officer McDevitt stated no requests were made for additional units other than the request for a supervisor. Officer Spacek arrived on the scene and involved himself in the traffic stop on his own accord. In his statement with COPA, Officer McDevitt relayed that he told Officer Spacek to shut the door after Officer Spacek had opened it to de-escalate the situation and not to "enrage" [REDACTED] any further.

COPA finds the allegation Officer George Spacek improperly seized a bag belonging to [REDACTED] **Sustained**. Officer Spacek approached the traffic stop scene and immediately entered [REDACTED] vehicle at the protest of Officer McDevitt, who was the initial officer on the scene. Officer Spacek, in his statement, stated he seized the bag belonging to [REDACTED] due to officer safety. Officer Spacek relayed to COPA and made furtive movements toward the bag. Upon review of BWC footage, [REDACTED] can only be observed reaching towards the bag after Officer Spacek removes the bag from the vehicle. It is COPA's opinion there was insufficient probable cause, or reasonable suspicion to believe [REDACTED] was an immediate threat to officers or that he could be armed and dangerous, to justify the seizure of the bag. It should be noted the bag removed from the vehicle was not searched by Officer Spacek after its removal. Sergeant Patterson eventually searched the bag at the request of [REDACTED]

¹⁰ Officer McDevitt's BWC footage Att. 15

¹¹ COPA used "Seized" to define the action Spacek took in removing a backpack from the rear passenger seat, and not the formal definition, when referring to a police seizure. The bag was not permanently seized and logged into evidence. The bag was temporarily seized and eventually returned to the owner before the completion of the traffic stop. COPA investigator Ressinger clarified the use of the word seized in Spacek's statement with COPA.

