

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 28, 2018
Time of Incident:	23:55
Location of Incident:	331 W. 106 th Place
Date of COPA Notification:	January 23, 2019
Time of COPA Notification:	14:20

The complainant, [REDACTED] alleged that the accused officers illegally detained him for sitting in a parked car.

II. INVOLVED PARTIES

Involved Officer #1:	Joseph Biszewski, star #12014, employee # [REDACTED] Date of Appointment 04/06/15, PO, Unit 312, DOB [REDACTED]/89, M, WHI
Involved Officer #2:	Zachary Gammonley, star#15808, employee # [REDACTED] Date of Appointment 02/23/15, PO, Unit 312, DOB [REDACTED]/92, M, WHI
Involved Individual #1:	[REDACTED] DOB [REDACTED] 82, M, BLK

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Biszewski	1. It is alleged that the accused attempted to enter the complainant’s vehicle to detain him.	Not Sustained
	2. It is alleged that the accused did not tell the complainant the reason for the detainment.	Not Sustained
	3. It is alleged that the accused illegally detained the complainant.	Not Sustained
	4. It is alleged that the accused failed to document the field interview.	Sustained/5 days
	5. It is alleged that the accused failed to activate his body worn camera during the incident.	Unfounded

Officer Gammonley	1. It is alleged that the accused attempted to enter the complainant’s vehicle to detain him.	Not Sustained
	2. It is alleged that the accused did not tell the complainant the reason for the detainment.	Not Sustained
	3. It is alleged that the accused illegally detained the complainant.	Not Sustained
	4. It is alleged that the accused failed to document the field interview.	Sustained/5 days
	5. It is alleged that the accused failed to activate his body worn camera during the incident.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

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1. Rule 1: Violation of any law or ordinance.
 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
 3. Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action.
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Special Orders

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1. S04-13-09: Investigatory Stop System
 2. S03-14: Body Worn Cameras
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Federal Laws

United States Constitution: Amendment IV

V. INVESTIGATION

a. Interviews

In his statement to COPA¹ on January 23, 2019, ██████████ stated that he and a friend were sitting in a parked car talking, when the accused drove past him. He explained that the officer put his car in reverse and backed down the street. The officer stopped near his car and one of the officers jumped out of the car and walked over to his car. The officer pulled on the driver's side door handle and tried to open the door. The door was locked so he knocked on the window and asked if there were any narcotics or guns in the car. The officer asked Mr. ██████████ to produce his identification and he requested that a sergeant be called to the scene. He also called 911 and requested that a sergeant be sent to the scene. Mr. ██████████ said that he did not understand why he was being detained or needed to see his identification because the officer never stated a reason for the detainment. He explained that while he waited for a sergeant to arrive, the accused officers threatened to bust out his car windows, shined flashlights into the car, and became rowdy. When the sergeant arrived, she asked him why he had not complied with the officers' commands and asked for his driver's license and proof of insurance. He gave the documents to her and after she looked at them, she asked him to exit the car. Mr. ██████████ said that instead of exiting the car he drove off. He explained that he drove off because the officers started reaching for their guns and he was afraid of being harmed. He stated that he believed the officers approached him for the purpose of bullying and intimidating him.

In his statement to COPA² on March 11, 2019, Accused Officer Joseph Biszewski stated that he and his partner Officer Gammonley were on patrol when they drove past Mr. ██████████ vehicle. Officer Biszewski explained that he smelled an order of burnt cannabis wafting out of Mr. ██████████ vehicle. He approached the vehicle, knocked on the window, which was not completely closed, and asked Mr. ██████████ what he was doing. Mr. ██████████ told him to get away from his car. He told him that he smelled weed and asked if there were any narcotics in the vehicle. He asked Mr. ██████████ for his identification and Mr. ██████████ requested a sergeant. Officer Biszewski stated that he called for a sergeant and waited outside of Mr. ██████████ car until the sergeant arrived. He explained that he had no physical contact with Mr. ██████████ and never displayed his gun during the incident. He stated that once the sergeant arrived, she spoke to Mr. ██████████ and asked him for his driver's license and auto insurance. The sergeant asked him to exit the vehicle and he drove off at a high rate of speed. He did not document the stop because he forgot and was unsure if Mr. ██████████ identification was correct. Officer Biszewski stated that he had not been issued a body worn camera.

In her statement to COPA³ Witness Sergeant Elise Padilla explained that she was requested to come to the scene. When she arrived, the accused officers were standing outside near Mr. ██████████ vehicle. Officer Biszewski informed her that he had conducted the stop because he smelled an odor of cannabis coming from Mr. ██████████ vehicle. She approached the vehicle and spoke to Mr. ██████████. She asked for his driver's license and he was adamant about not giving it to her because he alleged that he had been detained without a valid reason. He eventually gave her

¹ Att. 8

² Att. 5

³ Att. 6

his identification and showed her a rental agreement for the vehicle. The agreement had expired, did not describe the vehicle that he was driving, and did not list Mr. [REDACTED] as a driver. She informed Mr. [REDACTED] that he had no authority to drive the vehicle and asked him to step out of the car. Mr. [REDACTED] put the car in drive, jumped the curb, and sped off. Sergeant Padilla stated that while she waited for Mr. [REDACTED] to produce his identification, she had asked the Office of Emergency Management and Communications (OEMC) to run his name. OEMC informed her, shortly after Mr. [REDACTED] fled the scene, that he had an active warrant. Sergeant Padilla stated that the warrant was for fleeing and alluding the police. She said that they did not pursue Mr. [REDACTED] because by the time the officers were able to get to their vehicles, Mr. [REDACTED] had made his escape. Sergeant Padilla confirmed that the accused officers are not issued body worn cameras.

In his statement to COPA⁴ on March 28, 2019, Accused Officer Zachary Gammonley said that he and Officer Biszewski were on routine patrol when they came upon Mr. [REDACTED] vehicle. He did not recall the reason for the field interview. He explained that Mr. [REDACTED] requested that a sergeant be called to the scene when Officer Biszewski asked for his identification. He never spoke to Mr. [REDACTED] or had any interaction with him. He recalled that Mr. [REDACTED] seemed irate and agitated. Officer Gammonley said that after he gave his identification to the sergeant, Mr. [REDACTED] drove off and made his escape. He said that he never displayed his weapon during the incident. He stated that he did not document the incident because he was uncertain whether it had to be documented since the stop was incomplete and the uncertainty regarding Mr. [REDACTED] identity.

b. Digital Evidence

The Body Worn Camera⁵ footage of the incident consists of footage from the assisting officers' cameras. The accused officers are seen standing near Mr. [REDACTED] vehicle. It shows the sergeant arrive and speak to Mr. [REDACTED] about his driver's license and the car rental agreement. It also captures Mr. [REDACTED] driving off after the sergeant asks him to exit the vehicle. There is no footage of the initial encounter between the accused officers and Mr. [REDACTED] and there is nothing in the footage that corroborates the allegation that the officers threatened to bust out the car window, were rowdy, or reached for their guns.

It should be noted that Mr. [REDACTED] alleged that he captured the alleged misconduct on his cellphone but declined to share this information with COPA.

c. Documentary Evidence

The OEMC Event Query Report documents that a supervisor was requested to the scene.

The Clerk of the Circuit Court of Cook County, Illinois⁶ confirms that a warrant was issued, on September 19, 2018, for Mr. [REDACTED]. The charges related to this warrant include Resisting a Police Officer and Fleeing/Alluding Police Officers.

⁴ Att. 7

⁵ Att. 12

⁶ Att. 13

VI. ANALYSIS

There is no evidence to prove that the accused officers detained Mr. [REDACTED] illegally. Mr. [REDACTED] alleged the officers tried to open his car door and detain him. Officer Biszewski alleged that he did not try to open the car door and that he told Mr. [REDACTED] the reason for the detainment was because he smelled a marijuana odor coming from his car. There is no digital evidence that captured the initial interaction between Mr. [REDACTED] and the accused officers. Therefore, this allegation cannot be sustained.

The allegation that the accused officers failed to document the investigatory stop should be sustained. Both of the officers admitted that they failed to document the stop. Even though the officers may have been unsure of Mr. [REDACTED] identity, a report should have been generated.

The allegation that the accused officers failed to activate their body worn cameras during the event must be unfounded. The officers have not been issued body worn cameras.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Beszewski

i. Complimentary and Disciplinary History

1. There is no complimentary history for this officer.

ii. Recommended Penalty, by Allegation

1. Allegation No. 4

Aggravating factors include that fact that the accused forgot to document the field stop. Mitigating factors include the fact that the accused was not certain of Mr. [REDACTED] identity.

b. Officer Gammonley

i. Complimentary and Disciplinary History

1. There is no complimentary history for this officer.

ii. Recommended Penalty, by Allegation

1. Allegation No. 4

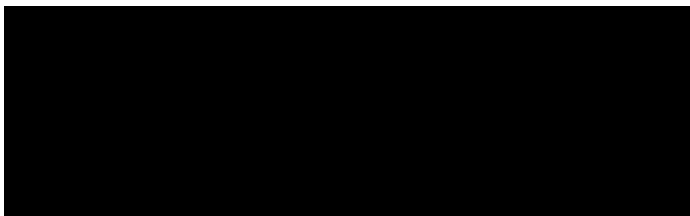
Aggravating factors include the fact that the accused forgot to document the field stop. Mitigating factors include the fact that the accused was not certain if it was correct procedure to document the stop because the person had fled, and he was not certain of his identity.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
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Approved:



Angela Hearts-Glass
First Deputy Chief Administrator

11-4-19

Date

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Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	J. Looper
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass
*Attorney:	David Berland