

SUPPLEMENTAL SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	February 6, 2019 / 5:50 pm / 12700 South Indiana Avenue
Involved Officer #1:	Thomas Fennell, star #15220, employee ID # [REDACTED], Date of Appointment: October 31, 2012, Police Officer, Unit 005/716, DOB: [REDACTED], Male, White
Involved Officer #2:	Cynthia Cirello, star #15671, employee ID # [REDACTED], Date of Appointment: December 14, 2012, Police Officer, Unit 005, DOB: [REDACTED], 1985, Female, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], Male, Black

I. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Thomas Fennell	Allegations 1 – 3 remain the same from Original Summary Report. ² 4. It is alleged that on or about February 6, 2019, at approximately 5:50 pm, at or near 12700 South Indiana Avenue, Officer Fennell failed to identify himself when asked by [REDACTED].	Sustained/ 1-day suspension

II. SUMMARY OF EVIDENCE

COPA reopened this investigation due to a recommendation letter received from the Public Safety Office of Inspector General.³

Officer Fennell’s body worn camera (BWC)⁴ video shows [REDACTED] ([REDACTED] standing near the rear of his vehicle, handcuffed behind his back. Officer Thomas Fennell (Officer Fennell) searches him. [REDACTED] asks Officer Fennell for his name and badge number, and Officer Fennell responds, “I thought you said you weren’t talking. Why don’t you exercise that right?”⁵ [REDACTED] states he is exercising his right to know Officer Fennell’s name and badge number. Officer Fennell does not respond further.

¹ The Original Summary Report was signed on October 30, 2019, and the Civilian Office of Police Accountability (COPA) closed the case the following day. *See* Attachment 35.

² Note: COPA added Allegation 3, which alleges that Officer Fennell “fail[ed] to comply with S03-14 by failing to timely activate [his] body worn camera,” to the new Notification of Allegations to clearly show COPA as the complainant.

³ Attachment 36.

⁴ Attachment 23.

⁵ Attachment 23 at 0:44-0:46.

In an **interview with COPA on December 15, 2020, Officer Fennell⁶** stated, as he understands, Department policy requires him to provide his name and badge as soon as practical upon request. Officer Fennell explained if there may be safety or distraction risks that would delay providing the requested information. Officer Fennell admitted he did not immediately provide his information to [REDACTED] because of safety concerns for himself, his partner, [REDACTED] and [REDACTED] passenger. Officer Fennell cited the safety concerns as he was investigating [REDACTED] [REDACTED] was confrontational, it was night in a high crime area, and they were on a high traffic street. Officer Fennell believed it was reasonable to wait until the conclusion of his investigation to provide his information, but he could not recall whether he did. Officer Fennell asserted he did not intentionally deprive [REDACTED] of his identity. Officer Fennell noted his name, badge number and district of assignment are visible on his vest. He was focused on his investigation and assumes [REDACTED] was able to identify him.

The **Investigatory Stop Report (ISR)⁷** documenting the interaction with [REDACTED] notes Officer Fennell and his partner did not have Investigatory Stop Receipts that day, and they mailed the receipt to [REDACTED] home address.

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

⁶ Attachment 40.

⁷ Attachment 17.

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’s investigation determined Officer Fennell failed to identify himself to [REDACTED]. The Chicago Police Department (CPD) requires officers to correctly identify themselves by giving their name, rank and star numbers when so requested by a private citizen.⁸ The evidence shows [REDACTED] requested Officer Fennell’s name and badge number, but the officer did not identify himself. There is also no evidence that Officer Fennell or his partner mailed the Investigatory Stop Receipt to [REDACTED]. Therefore, COPA finds this allegation is **Sustained**.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

COPA finds Officer Fennell’s justification for failing to immediately identify himself— officer safety concerns— to be problematic. The factors Officer Fennell provided as safety concerns are present during nearly every traffic stop, yet officers routinely provide their identities without issue, and the Department has not written an exception to this rule for traffic stops. In addition to not complying with the Department’s rules, Officer Fennell’s response had the potential to aggravate the situation and cause a negative response from [REDACTED] rather than de-escalate the situation, as CPD policy requires. Therefore, COPA recommends a one-day suspension.

Approved:

[REDACTED]

2/24/2021

Matthew Haynam
Deputy Chief Administrator

Date

⁸ Rule 37, Rules and Regulations of the Chicago Police Department.

Appendix A

Assigned Investigative Staff

Squad#:	Six
Investigator:	Elizabeth Brett
Supervising Investigator:	Steffany Hreno
Deputy Chief Investigator:	Matthew Haynam