

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 21, 2019
Time of Incident:	12:07 a.m.
Location of Incident:	[REDACTED]
Date of COPA Notification:	March 25, 2019
Time of COPA Notification:	4:44 p.m.

On March 21, 2019, officers of the Chicago Police Department (CPD) initiated an Investigatory Stop of the complainant, [REDACTED] near his residence, [REDACTED]. The basis for the stop, according to Investigatory Stop Report (ISR) #000988364,¹ was that [REDACTED] had been observed in a high crime area and was in close proximity to a known address of interest. Further, according to the report, when [REDACTED] observed the officers, he quickly attempted to flee the area. [REDACTED] denied that he was fleeing from the officers. He was only attempting to enter his residence. [REDACTED] was subsequently detained by the officers, and a protective pat down was conducted, which proved negative. [REDACTED] was released without incident and given a contact card.

Subsequently, [REDACTED] complained to COPA that he had been illegally detained and searched, and that he had been doing nothing illegal at the time. As a result, COPA initiated this investigation into the incident. COPA finds the allegations are Sustained.

II. INVOLVED PARTIES

Involved Officer #1:	Steven Holden, Star# 8149, Employee ID# [REDACTED], Date of Appointment: November 30, 2012, Rank: Police Officer, Unit of Assignment: 003, DOB: [REDACTED], 1984, Male, Black
Involved Officer #2:	Dimar Vasquez, Star# 17910, Employee ID# [REDACTED], Date of Appointment: February 23, 2004, Rank: Police Officer, Unit of Assignment: 003, DOB: [REDACTED], 1983, Male, Hispanic
Involved Officer #3:	Yvette Carranza, Star# 13435, Employee ID# [REDACTED], Date of Appointment: February 29, 2016, Rank: Police Officer, Unit of Assignment: 003, DOB: [REDACTED], 1987, Female, Hispanic

¹ Attachment #13

Involved Individual #1: [REDACTED] DOB: [REDACTED], 1982, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Steven Holden	1. It is alleged by [REDACTED] that on or about March 21, 2019, at approximately 12:07 a.m., at or near [REDACTED] Police Officer Steven Holden, Star# 8149, detained [REDACTED] without justification.	Sustained
	2. It is alleged by [REDACTED] that on or about March 21, 2019, at approximately 12:07 a.m., at or near [REDACTED] Police Officer Steven Holden, Star# 8149, searched [REDACTED] without justification.	Sustained
Officer Dimar Vasquez	1. It is alleged by [REDACTED] that on or about March 21, 2019, at approximately 12:07 a.m., at or near [REDACTED] Police Officer Dimar Vasquez, Star# 17910, detained [REDACTED] without justification.	Sustained
	2. It is alleged by [REDACTED] that on or about March 21, 2019, at approximately 12:07 a.m., at or near [REDACTED] Police Officer Dimar Vasquez, Star# 17910, searched [REDACTED] without justification.	Sustained
Officer Yvette Carranza	1. It is alleged by [REDACTED] that on or about March 21, 2019, at approximately 12:07 a.m., at or near [REDACTED] Police Officer Yvette Carranza, Star# 13435, detained [REDACTED] without justification.	Sustained

2. It is alleged by ██████████ that on or about March 21, 2019, at approximately 12:07 a.m., at or near ██████████ ██████████ Police Officer Yvette Carranza, Star# 13435, searched ██████████ ██████████ without justification.

Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 1: Violation of any law or ordinance.
- 2. Rule 2: Any action which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- 3. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- 4. Rule 6: Disobedience of an order or directive, whether written or oral.

Federal Laws

- 1. 4th Amendment to the United States Constitution

State Laws

- 1. 725 ILCS 5/108-1.01²
- 2. Ill. Const.1970, Article I, Section 6

V. INVESTIGATION³

a. Interviews

In his interview with COPA on March 25, 2019,⁴ ██████████ stated that on March 21, 2019, at approximately 12:07 a.m., he was heading home, and attempting to enter his residence at ██████████ when he was approached from behind and startled by a CPD officer. The officer told ██████████ that he was conducting a mandatory pat down, and that he needed to search ██████████ replied that he did not want to be searched and became upset. ██████████ showed the officer his I.D., and another officer approached him and told him that he needed to be searched. As a result, ██████████ was removed to the area of where the police vehicle, an unmarked burgundy Ford Explorer, was parked. He was braced against the vehicle and searched. ██████████ was protesting the search when one of the officers told him that a crime had

² Sec. 108-1.01. Search during temporary questioning. When a peace officer has stopped a person for temporary questioning pursuant to Section 107-14 of this Code, and reasonably suspects that he or another is in danger of attack, he may search the person for weapons.

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Attachment #17

been committed in the neighborhood and that was the reason that they were searching [REDACTED]. [REDACTED] however, was not given a description of the suspect, nor a description of the crime. [REDACTED] also claimed that the officers were ridiculing him at the time.

[REDACTED] described the first officer who had stopped him as a dark-skinned, Latino male, 5'7", having no facial hair, and wearing just a police vest, but not a police uniform. He believed the officer's name was Velasquez. [REDACTED] described the second officer as an African-American male in his late 20's to early 30's, and possibly bald. [REDACTED] described the behavior of this officer as aggressive, and that the officer had called him a cry baby. He believed the officer's name was Holden. After the incident was over, this officer gave [REDACTED] a card.⁵

More officers then arrived on the scene, and [REDACTED] was handcuffed and taken to a blue-and-white, marked CPD vehicle, and searched again. Thus, according to [REDACTED] he had been searched twice. At this time, there were multiple officers at the scene, and one of these officers told [REDACTED] that he was being recorded on BWCs. [REDACTED] was subsequently released without being arrested.

In her first interview with COPA on May 13, 2019,⁶ **Officer Yvette Carranza, Star #13435**, stated that on March 21, 2019, she was on duty, and riding in a CPD vehicle with Officer Steven Holden, Star #8149, and Officer Dimar Vasquez, Star #17910. Officer Holden was driving, and Officer Vasquez was seated in the front passenger seat. Carranza was riding in the backseat. With respect to the incident which occurred at approximately 12:07 a.m., near [REDACTED] [REDACTED] she stated that they were travelling eastbound on Marquette Road when Officer Holden decided to conduct a street stop of an individual, later determined to be [REDACTED]. At the time, they were in plainclothes, but wearing police vests, which were clearly marked. They were patrolling the area because it was believed to be a high crime area involving illegal drug activity.

It was Officer Holden's decision to stop [REDACTED]. Officer Holden stated that [REDACTED] was acting in a suspicious manner, as he emerged from an alley. She could not provide specifics as to what exactly [REDACTED] had been doing to arouse suspicion. They then pulled over and stopped their vehicle, and all three officers exited the vehicle. [REDACTED] was called over to them. She, however, did not say anything to [REDACTED]. She did not tell [REDACTED] why he was being stopped but believed that Officer Holden may have told him. [REDACTED] however, became belligerent with being stopped, and questioned the officers as to why he was being stopped. She had not any prior interactions with [REDACTED]. A safety pat down was conducted of [REDACTED] because he was acting in a belligerent manner. She perceived [REDACTED] as a threat at the time, due to her small size. [REDACTED] was not searched beyond a protective pat down. [REDACTED] however, had been handcuffed. When asked if she knew who had placed [REDACTED] in handcuffs, she replied that she did not know who had handcuffed [REDACTED].

[REDACTED] was moved from the front of the building to the police vehicle while he was handcuffed. She observed no officer asking for consent to talk with, approach, stop, or search

⁵ ISR Receipt

⁶ Attachment #26

██████████ Her current partner, Officer Arrington,⁷ may have been present. ██████████ was not issued a citation, nor was not arrested. Officer Holden gave ██████████ a receipt for the street stop, and ██████████ was allowed to leave.

With respect to when she first had observed ██████████ she stated that she observed ██████████ walking toward the building, and not doing anything out of the ordinary. She did not observe any contraband on ██████████ person. She initially approached ██████████ from the right side, and ██████████ stiffened up. At the time, she believed that ██████████ was a flight risk. Officer Holden made the final decision to release ██████████. No officers drew their firearms during the event.

In her second interview with COPA on July 9, 2020,⁸ **Officer Yvette Carranza, Star #13435**, she provided a statement which was consistent with her first statement to COPA, except for with respect to the handcuffing of ██████████. She stated that she assisted with the handcuffing of ██████████. In her prior interview with COPA, she did not remember if she had assisted with the handcuffing of ██████████. After viewing her BWC,⁹ she acknowledged that she had assisted in handcuffing ██████████ along with Officer Vasquez. When she assisted in detaining ██████████ she had grabbed ██████████ right hand and moved it around toward his back. She believed she put one handcuff on ██████████ and did not know which officer's handcuffs were used. She and Officer Vasquez then walked ██████████ up to the front of the squad car, where Officer Holden conducted a name check, which came back negative. ██████████ was subsequently released. Relative to the ISR for the incident,¹⁰ which was written by Officer Holden, she did not observe ██████████ come out of the alley, but first observed him on the north side of the street on Marquette Road. ██████████ was walking toward a building. Before Officer Holden said that they were going to make a street stop, she did not recall if she had observed ██████████ in the alley. When she first observed ██████████ he was not doing anything out of the ordinary. He was not running away. He was not reaching into his pockets. ██████████ appeared to be avoiding them but was not doing anything suspicious, which would indicate that he had done something illegal.¹¹

In his interview with COPA on July 10, 2020,¹² **Officer Steven Holden, Star# 8149**, stated that on March 21, 2019, he was on patrol in a CPD vehicle, near ██████████. ██████████ due to an increase in calls involving drugs, gangs and weapons. He was driving the vehicle, Officer Yvette Carranza was in the backseat, and Officer Dimar Vasquez was in the front passenger seat. While driving westbound, he observed an individual walking northbound in an alley between Michigan and Indiana. The individual appeared to be fumbling around his pockets and waistband area.¹³ As a result of his experience, he suspected a possible narcotics transaction was involved, or that the individual was in possession of a weapon. He then made a U-Turn and observed the individual at the mouth of the alley. The individual looked in Officer Holden's direction, and then quickly attempted to gain access to the gate of the apartment complex. The individual was detained inside of the gate and immediately became belligerent. Holden then went

⁷ Officer Jeremy D. Arrington, Star #16330

⁸ Attachment #60

⁹ Attachment #20

¹⁰ Attachment #13

¹¹ Attachment #60 at 14:31

¹² Attachment #62

¹³ Attachment #62 at 07:09

back into the alley to make sure that no weapons or narcotics were dropped near the trash cans. Holden discovered nothing and returned to where the individual was being detained. He engaged in a conversation with the individual, and then conducted a name check, which came back negative. He then completed a contact card for the detention and handed it to the individual, who was released without incident.

With respect to who was in charge, Officer Holden stated that all three officers were equal, and that no one officer was in charge. Any one of the officers could have asked to make a street stop. In this particular case, Officer Holden decided to make the street stop due to what he observed in the alley.¹⁴ He could not recall if Officer Carranza told him if she had seen any suspicious activity in the alley, nor could he recall if Officer Vasquez told him if he had seen any suspicious activity in the alley. He said that it was his call to make the street stop and not their call. When he pulled the vehicle over, he went over the air to communicate with Dispatch to let them know their location. The other two officers had exited the vehicle. By the time he got to the front of the building where ██████████ was being detained, Officer Carranza and Officer Vasquez were already there. ██████████ was arguing loudly at that time. They were in the courtyard in front of the building. Several other officers appeared on the scene for officer safety.

When asked if he had given an order to pat ██████████ down, he responded that he didn't give an order. He admitted to telling the officers to pat down ██████████ but he did not consider it an order.¹⁵ The officers could have made their own judgment as to whether or not to pat down ██████████. He did not say to search ██████████ but said to pat down ██████████ on two occasions.¹⁶ He then clarified himself and stated that on the second occasion he said, "You can pat him down."¹⁷ On the first occasion he told the officers to pat down ██████████¹⁸ ██████████ was handcuffed, but he did not see if ██████████ was patted down. Officer Holden had gone into the alley to search for contraband, which was negative for contraband or guns. He then went back to the police vehicle and conducted a name check for ██████████ which was negative. ██████████ was then released and given a contact card. Because there are only two spots on the card for names, Officer Carranza's name was not included on the card.

Relative to the ISR,¹⁹ Officer Holden was the First Preparing Officer and Officer Vasquez was the Second Preparing Officer. Officer Carranza's name is not listed on the report, as there are only two spots for names. The ISR refers to RO's observing an individual in the alley. Officer Holden based the report on what he observed.²⁰ He described ██████████ actions, upon seeing the officers, as a skip-run type movement to get into the apartment complex. ██████████ was not running. He did not know, at the time, that ██████████ lived in the apartment complex where he had been detained. With respect to the language used in the report, "proximity to a known address of interest," Officer Holden declined to identify the address, indicating that it referred to an on-going investigation.²¹ They checked out that address several times that evening, but he did not include

¹⁴ Attachment #62 at 09:55

¹⁵ Attachment #62 at 12:33

¹⁶ Attachment #62 at 14:38 and 15:14

¹⁷ Attachment #62 at 15:50

¹⁸ Attachment #62 at 16:45

¹⁹ Attachment #13

²⁰ Attachment #13 at 21:33

²¹ Attachment #13 at 26:10

the address in his report because he did not think it was pertinent. When asked what exactly [REDACTED] had been doing in the alley that had aroused Officer Holden's suspicion in order to conduct a street stop, Officer Holden replied that he had observed [REDACTED] fumbling around with his waistband and his pockets.²² When Officer Holden was asked why that information was not included in his report, he replied that he had forgotten to put it in there. He acknowledged that he should have included it in the report. He did not recall if Officer Vasquez had reviewed the ISR to check its accuracy. Officer Holden reviewed the report to ensure that it was true and accurate. He confirmed that he told [REDACTED] that a pat down was not a search when [REDACTED] had complained about being searched.²³

Officer Holden observed [REDACTED] near some garbage cans when [REDACTED] was fumbling with his waistband in the alley. When Officer Holden told the other officers that he wanted to conduct a street stop on [REDACTED] he could not recall the exact words he used. The officers did not draw their weapons, because [REDACTED] at that time, was holding a bottle and bag of chips in his hands, and his hands were visible. He did not tell the other officers that he suspected [REDACTED] had a gun. It could have been narcotics, due to the narcotics-related calls they received in the area, as well as [REDACTED] hand movements near his waistband and his pockets while he was in the alley late at night.

In his interview with COPA on July 15, 2020,²⁴ **Officer Dimar Vasquez, Star #17910**, provided an account of the incident substantially similar to that of Officer Carranza. It was Officer Holden's idea to conduct the street stop of [REDACTED] but Officer Vasquez did not know what Officer Holden observed to warrant the stop. When he first observed [REDACTED] was not in the alley, but rather was on the sidewalk walking fast. Officer Vasquez described [REDACTED] movements as speed-walking. He never saw [REDACTED] in the alley. He did not tell [REDACTED] why he was being stopped because he did not know. Officer Holden later told him what he had seen [REDACTED] doing in the alley but was not sure exactly what Officer Holden had told him. Further, after reviewing his BWC again, Officer Vasquez confirmed during his pat down of [REDACTED] he had placed his hand into one of [REDACTED] pockets.²⁵ Officer Vasquez related that he conducted the pat down for officer safety in a high crime area.

b. Digital Evidence

BWC of Officer Steven Holden, Star #8149, recorded on March 21, 2019.²⁶ Initially, Officer Holden is observed driving his vehicle and then pulling up to where [REDACTED] has been confronted by Officers Vasquez and Carranza. Officer Holden exits his vehicle and approaches the front of the apartment building where [REDACTED] has been detained. [REDACTED] is arguing with the officers. Officer Holden states, "We just seen you come out the alley, whole lot of shit."²⁷ An argument ensues between Officer Holden and [REDACTED] who states that the officers are bothering him for no reason. [REDACTED] states that he was just going into his house. [REDACTED]

²² Attachment #62 at 31:59

²³ Attachment #62 at 35:54

²⁴ Attachment #64

²⁵ Attachment #65 at 03:11

²⁶ Attachment #49

²⁷ Attachment #49 at 12:07:59

offers to show the officers his I.D. Officer Holden states, "Pat him down."²⁸ Officer Holden then states, "This is a street stop."²⁹ [REDACTED] continues to argue and tells the officers not to touch him and that he has his I.D. [REDACTED] states, "Stop touching me."³⁰ Officer Holden repeats, "Pat him down."³¹ [REDACTED] continues to tell the officers not to touch him. Officer Carranza is observed approaching [REDACTED] from behind. She begins to handcuff [REDACTED].³² Officer Holden then proceeds down the alley with his flashlight illuminated. [REDACTED] can be heard arguing loudly in the background. After walking down the alley and checking trash cans, Officer Holden returns to the front of the apartment building where [REDACTED] is handcuffed, and standing in front of a police vehicle. [REDACTED] asks Officer Holden if he found anything. Officer Holden replies, "If I found something, I would have told you."³³ Then, he tells [REDACTED] to stop crying. Officer Holden returns to his vehicle. [REDACTED] is complaining about being searched. Officer Holden responds that it was a pat down, not a search. Officer Holden is observed working at the computer in his vehicle. He then exits the vehicle and continues to argue with [REDACTED]. He then pulls out a contact card and begins to fill it out. Upon completing the card, he identifies himself and hands the contact card to [REDACTED].³⁴ He identifies his partner as Officer Vasquez, who then removes the handcuffs from [REDACTED]. [REDACTED] then exits the area and walks toward the apartment building.

BWC of Officer Dimar Vasquez, Star #17910, recorded on March 21, 2019.³⁶ Initially, [REDACTED] is observed standing in front of an apartment building with a set of keys in his hands, and talking. There is no audio at this point. He appears upset. He hands his driver's license to Officer Vasquez, who is standing in front of him, and continues to appear upset at being confronted by the police. The audio commences with [REDACTED] telling the officers that he is just going into his home and does not want to be bothered. [REDACTED] is heard saying, "Stop touching me."³⁷ Officer Carranza is seen to [REDACTED] right and attempting to secure [REDACTED] arms.³⁸ Officer Carranza is observed placing handcuffs on [REDACTED].³⁹ [REDACTED] is visibly upset as he is escorted from the front of the building to the street by Officer Vasquez. [REDACTED] is then searched by Officer Vasquez.⁴⁰ [REDACTED] continues to ask why he is being searched but gets no response from the officers. [REDACTED] says that he went to the store and was going back to his house. [REDACTED] is handcuffed behind his back and standing near a police vehicle. [REDACTED] continues to verbally protest the stop and complains that the police stopped him for no reason. Officer Holden exits a police vehicle, and then walks toward [REDACTED].⁴¹ Officer Holden engages [REDACTED] in an argument but does not explain why [REDACTED] was stopped. Officer Holden pulls out a notepad and

²⁸ Attachment #49 at 12:08:34

²⁹ Attachment #49 at 12:08:37

³⁰ Attachment #49 at 12:08:42

³¹ Attachment #49 at 12:08:44

³² Attachment #49 at 12:08:54

³³ Attachment #49 at 12:10:49

³⁴ Attachment #49 at 12:14:25

³⁵ Attachment #49 at 12:14:42

³⁶ Attachment #19

³⁷ Attachment #19 at 12:08:44

³⁸ Attachment #19 at 12:08:52

³⁹ Attachment #19 at 12:09:00

⁴⁰ Attachment #19 at 12:09:29

⁴¹ Attachment #19 at 12:11:55

begins to write on it and comments that he saw ██████ walking up and down the alley.⁴² Officer Holden re-enters his police vehicle, while he continues to argue with ██████ and then returns to where ██████ is standing and shows him what is believed to be a contact card, explaining where his star number and his partner's star number are located on the document. Officer Vasquez then takes the handcuffs off ██████⁴³ Officer Holden then hands ██████ what is believed to be the contact card, and ██████ is released.⁴⁴

BWC of Officer Yvette Carranza, Star #13435, recorded on March 21, 2019.⁴⁵ Initially, the front of an apartment building comes into view, and then ██████ is observed arguing with several officers near the gated entranceway. The BWC is substantially similar to the BWC of Officer Vasquez.

c. Documentary Evidence

The **Investigatory Stop Report** #000988364⁴⁶ documents that ██████ was observed walking in an alley. ██████ looking in the direction of the officers and quickly attempted to enter the apartment complex. ██████ was stopped due to his actions and his proximity to an address of interest. ██████ was approached, became belligerent, and expressed his hatred towards the officers. ██████ was handcuffed and a protective pat down was conducted.

VI. 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** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.⁴⁷ If the evidence gathered in an investigation

⁴² Attachment #19 at 12:12:57

⁴³ Attachment #19 at 12:14:39

⁴⁴ Attachment #19 at 12:15:01

⁴⁵ Attachment #20

⁴⁶ Attachment #13

⁴⁷ 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).

establishes that it is more likely that the misconduct occurred, 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.⁴⁸ Clear and Convincing is 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."⁴⁹

VII. ANALYSIS

A. The Officers Were Not Justified in Stopping and Detaining ██████████

COPA finds that the preponderance of the evidence demonstrates that the officers were not justified in stopping and detaining ██████████. Officers are permitted to briefly stop a person to investigate potential crimes where the officer has reasonable articulable suspicion, based upon a totality of the circumstances, that the officer had a particularized and objective basis that the particular person is engaged in criminal activity.⁵⁰

According to the Investigatory Stop Report (ISR), which was consistent with the officers' statements to COPA, ██████████ was stopped because he was observed in a high crime area, late at night, the area was involved in recent narcotics activity including reporting officers' recent arrests in the area; ██████████ had been observed in close proximity to a known address of interest; and when he had observed the officers, ██████████ had "quickly attempted to gain access to the outer gate of the apartment complex."

The majority of the information underlying this stop was based upon the observations of Officer Holden. Only Officer Holden indicated that he saw ██████████ in the alley. He stated that while driving westbound on Marquette Road, he saw ██████████ walking in an alley "fumbling around his pockets and waistband area"⁵¹ which he believed was indicia of a possible narcotics transaction or that ██████████ was armed. Despite indicating it may be a "transaction" he did not claim to see anyone else in the alley. He also did not claim to see any "bulge" or other indicia of a weapon. Then after turning around, he says ██████████ saw the officers and made a "skip-run type" movement to get into the apartment complex. Officer Vazquez denied seeing ██████████ in the alley but did state that he saw ██████████ speed walk away. Officer Carranza articulated no basis for the stop, she said that when she first observed ██████████ he appeared to be avoiding them but was not running away or doing anything suspicious that would indicate that he had done something illegal. Therefore, the totality of the circumstances justifying the stop was that (1) one of the three officers saw ██████████ in the alley, alone, fumbling around his pockets and/or waist; and (2) two of the three officers saw ██████████ walking fast towards an apartment complex but only one officer

⁴⁸ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁴⁹ *Id.* at ¶ 28.

⁵⁰ *United States v. Watson*, 900 F.3d 892, 894-95 (7th Cir. 2018).

⁵¹ Attachment #62 at 07:09

indicated it was as a response to seeing police.⁵² These circumstances are insufficient to constitute reasonable suspicion.

First, Officer Holden articulated no support for his belief that ██████ was engaged in some sort of crime when touching his waist band.⁵³ He said it may be a drug transaction, but there was no one else in the alley that ██████ could have been transacting with. He did not articulate that ██████ was putting anything into his pockets, let alone something that he thought was contraband, or that he saw anything within the pockets consistent with a weapon or contraband.⁵⁴

Second, while unprovoked headlong flight from police is a *factor* in determining whether the officer had reasonable suspicion,⁵⁵ ██████ actions did not rise to a level of “flight” which would indicate he was engaged in something illegal. Officer Holden described it as a skip-run, but definitely not a run, in response to seeing the officers. While Officer Vazquez corroborated that ██████ was speed walking, he did not suggest that ██████ was doing so in response to seeing the officers. Officer Carranza contradicted the other two, saying that ██████ did not appear suspicious.

Even taking Officer Holden’s statement as true, this does not rise to a level of flight to justify a stop. Officers may make a *Terry* stop based on headlong flight in response to seeing police, taken together with other factors.⁵⁶ Here, ██████ did not engage in headlong flight, he, at most, slightly increased his speed in order to enter the apartment complex, which the officers should reasonably believe is his residence.⁵⁷

As discussed above, there were no additional factors which indicated ██████ was engaged in illegal activity, his “skip-run”/speed walk to the gate of an apartment complex does not constitute reasonable suspicion. Therefore, the officers had no justification to detain ██████

⁵² The ISR indicates that ██████ was in close proximity to a known address of interest. However, the officers provided no description of how ██████ was connected to this address, and COPA treats this information as part of ██████ being in a “high crime area.”

⁵³ COPA notes that Officer Holden did not include in the ISR that he had seen ██████ touching his waistband in the alley. However, COPA assumes for the sake of this report that Officer Holden did in fact make this observation, but nonetheless finds that the stop was not justified.

⁵⁴ Even if he had claimed to see a firearm, it would still not justify a stop because nothing in ██████ actions indicated that he was not lawfully permitted to possess a firearm. *See, United States v. Watson*, 900 F.3d 892, 896 (7th Cir. 2018) (“a mere possibility of unlawful use of a gun is not sufficient to establish reasonable suspicion. It must be sufficiently probable that the observed conduct suggests unlawful activity.”); *People v. Thomas*, 2019 IL App (1st) 170474 ¶36 (“We wish to emphasize that under the current legal landscape, police cannot simply assume a person who possesses a firearm outside the home is involved in criminal activity. . . . We thus caution against an ‘arrest first, determine licensure later’ method of police patrol.”)

⁵⁵ *Illinois v. Wardlow*, 528 U.S. 119, 121 (2000).

⁵⁶ In *Wardlow*, which first articulated the headlong flight rationale, the subject was standing with a group, in an area specifically targeted for drug transactions, and was seen holding an opaque bag before running away through a gangway and alley before being apprehended on another street. *See, Wardlow*, 528 U.S. at 121. *See, also, People v. Horton*, 2019 IL App (1st) 142019-B ¶ 64 (stating that when engaging in “headlong flight” analysis, “we cannot read *Wardlow* out of context” and must look at the totality of the circumstances which led to the holding that *Wardlow*’s flight was reasonable suspicion.) (citing *Wardlow*, 528 U.S. at 121).

⁵⁷ *See, Horton*, 2019 IL App (1st) 132019-B at ¶ 67-71 (holding there was not reasonable suspicion to stop a man based on “headlong flight” where he turned and ran into a home upon seeing police).

Moreover, each of the three officers actively, and improperly, participated in the detention. Officers Vasquez and Carranza exited the vehicle, ordered ██████ to stop, and began questioning him. Later, it was Officer Vasquez, with the assistance of Officer Carranza, who handcuffed ██████. Officer Holden initiated the stop by turning the vehicle and informing the other two officers of the putative justification to stop ██████. He then joined the other two officers who had already detained ██████ in the courtyard and took control of the questioning and ran the name search for ██████ as the detention continued.

Therefore, Allegation 1 against Officers Carranza, Vasquez, and Holden is **Sustained**.

B. The Officers Were Not Justified in Conducting a Pat Down Search of ██████

Moreover, the officers had no justification to conduct a pat-down search of ██████ in addition to the stop being unjustified. When determining whether a frisk was lawful a slightly different standard is applied than determining whether the initial stop was lawful.⁵⁸ In order to conduct a pat-down, “the officer must have some articulable suspicion that the subject is ‘armed and dangerous.’”⁵⁹

Here, the officers articulated no basis to believe ██████ was armed and dangerous. Officer Holden merely stated that he saw ██████ fumbling around his pockets and waistband area, he made no indication that he saw ██████ hiding something consistent with a weapon, or that he saw a “bulge” or other indicia of a weapon.⁶⁰ He did not articulate any conduct that ██████ had engaged in after the stop which he believed indicated ██████ was armed and dangerous. Officer Carranza gave no indication that she thought ██████ was armed, stating that she conducted the search because ██████ was belligerent.

Thus, the only justification the officers provided for the pat-down, beyond Officer Holden’s fleeting observations of ██████ in the alley, is that he was belligerent as they questioned him in his courtyard. The video does corroborate that ██████ was argumentative with the officers. However, the fact that ██████ was argumentative, without more (as discussed above, no other factors indicated that ██████ was armed), is insufficient to demonstrate that ██████ was armed and presently dangerous.⁶¹ Indeed, no officer even claimed that they believed ██████ was armed. Because there was no objective indication that ██████ was armed, nor did

⁵⁸ *United States v. Williams*, 731 F.3d 678, 686 (7th Cir. 2013) (citing *Ybarra v. Illinois*, 444 U.S. 85, 94 (1975)).

⁵⁹ *Id.* (“This separate standard is necessary to protect the public from frisks, which are ‘a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment.’ Thus, . . . such action should only be allowed when the officer can point to articulable facts that would establish the separate and specific condition that the detainee has a weapon or poses some danger.”).

⁶⁰ Notably, the officers observed ██████ at close range for approximately a minute prior to conducting the pat down, during which time they could have corroborated Officer Holden’s suspicion that ██████ hid a weapon in his pockets or waistband, however no officer indicated that they saw any indicia of a firearm during this time.

⁶¹ See, e.g., *United States v. Howell*, 958 F.3d 589, 600 (7th Cir. 2020)(holding that the pat-down of a man who acted nervous around officers but did not appear to have a weapon was improper).

the officers provide a subjective claim that [REDACTED] was armed, there was no justification to conduct a pat-down.

Additionally, even if a pat-down were permitted, Officer Vazquez's search went beyond what is justified in an investigatory stop. Officer Vazquez reached into both of [REDACTED] jacket pockets during the pat down and pulled out a bag of chips from one pocket. During a pat down search, officers are not permitted to reach into a subject's pockets, the search must be limited to a pat down of the outer clothing only.⁶² Once an officer conducting a pat down realizes that a pocket does not contain a weapon, they must discontinue the search of that pocket and may seize items unless it is immediately apparent that the item is contraband.⁶³ Officer Vazquez gave no indication that he felt a weapon in [REDACTED] pocket, and no reasonable officer would believe that the bag of chips was a weapon. Therefore, Officer Vazquez's search of the inside of [REDACTED] pockets and the removal of the bag of chips exceeded the permissible bounds and violated the Fourth Amendment.⁶⁴

Moreover, while Officer Vasquez was the primary officer engaged in the search, he did so at the direction of Officer Holden. While COPA concedes that Officer Holden was not a supervisor and did not "order" the other two officers to search [REDACTED] they were clearly following his lead. He initiated the stop, based on solely his observations. Then, the other two officers did not frisk [REDACTED] to until Officer Holden said so. He does not escape responsibility because he did not directly participate in the search that he set in motion and directed.

Finally, although Officer Carranza also participated assisted in handcuffing [REDACTED] she did not participate in the actual search, nor did she direct any officer to search [REDACTED]

Therefore, Allegation 2 against Officers Vasquez and Holden is **Sustained**, and Allegation 2 against Officer Carranza is **Unfounded**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

Officer Steven Holden (Star# 8149)

- i. **Complimentary and Disciplinary History:** Officer Holden has received a total of 86 complimentary awards and recognitions including 1 life saving awards. He has 1 Reprimand for an improper search from 2022.

- i. **Recommended Penalty:**

COPA has considered Officer Holden's complimentary history and lack of disciplinary history. Officer Holden unlawfully detained [REDACTED] and ordered an unlawful search of him. Officer

⁶² *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993).

⁶³ *Id.* at 376-77.

⁶⁴ *See, e.g. People v. White*, 2020 IL App (1st) 171814 ¶ 27 (holding that removal of a pill bottle that no reasonable officer could believe was a firearm, was improper search).

Holden’s actions lead to the interaction and misconduct in this case. COPA recommends Officer Holden receive a 10-day Suspension and Fourth Amendment Training.

Officer Dimar Vasquez (Star# 17910)

i. Complimentary and Disciplinary History: Officer Vasquez has received a total of 90 complimentary awards and recognitions including 3 life saving awards. He has no recent disciplinary history or SPARs.

ii. Recommended Penalty

COPA has considered Officer Vasquez’s complimentary history and lack of disciplinary history. Officer Holden unlawfully detained [REDACTED] and conducted an unlawful search of him. COPA recognizes that his actions were, in part, the product of Officer Holden’s assertions. Therefore, COPA recommends a 5-day Suspension and Fourth Amendment Training.

Officer Yvette Carranza (Star# 13435)

i. Complimentary and Disciplinary History: Officer Carranza has received a total of 97 complimentary awards and recognitions including 1 Superintendent Award of Valor. She has no recent disciplinary history or SPARs.

ii. Recommended Penalty

COPA has considered Officer Carranza’s complimentary history and lack of disciplinary history. Officer Carranza unlawfully detained [REDACTED] COPA recognizes that her actions were, in part, the product of Officer Holden’s assertions. Therefore, COPA recommends a 3-day Suspension and Fourth Amendment Training.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the above findings and recommendations.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

January 24, 2023
Date