

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	August 18, 2019 / 1:35 pm / 1599 W. 66th Street, Chicago IL 60636.
Date/Time of COPA Notification:	August 28, 2019 / 8:21 am.
Involved Officer #1:	Officer Michael Conroy / Star#11332 / Employee ID# [REDACTED] / DOA: December 14, 2012 / Unit: 007/312 / Male / White.
Involved Officer #2:	Officer Cesar Astorga / Star#14757 / Employee ID# [REDACTED] / DOA: February 2, 2015 / Unit: 006/716 / Male / Hispanic.
Involved Officer #3:	Officer Megan Fleming / Star#14875 / Employee ID# [REDACTED] / DOA: October 26, 2015 / Female / White.
Involved Individual #1:	[REDACTED] / Male / Black.
Case Type:	Improper Detention.

I. ALLEGATIONS¹

Officer	Allegation	Finding / Recommendation.
Officers Michael Conroy, Cesar Astorga and Megan Fleming	1. Stopping Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	2. Searching Mr. [REDACTED] without justification, in violation of Rule 6.	Exonerated.
	3. Searching Mr. [REDACTED] vehicle, without justification, in violation of Rule 6.	Exonerated.
	4. Failing to comply with S03-14-09, by failing to issue Mr. [REDACTED] an Investigatory Stop Receipt, in violation of Rule 6.	Sustained / 2- day suspension.
	5. Failing to comply with S03-14-09, by failing to complete an Investigatory Stop Report detailing the interaction with Mr. [REDACTED] in violation of Rule 6.	Sustained / 2-day suspension.

¹ COPA determined, absent a direct complaint, that allegations related to the search of [REDACTED] and [REDACTED] were not warranted by the evidence presented. Additionally, COPA sought statements from [REDACTED] and [REDACTED] however, neither responded. See Atts. 17 and 18.

II. SUMMARY OF EVIDENCE

Officers Michael Conroy, Megan Fleming, and Cesar Astorga (collectively “the Accused”) were on patrol when they observed a black Pontiac occupied by three males (Mr. [REDACTED] driver; Mr. [REDACTED] front seat passenger; and Mr. [REDACTED] rear seat passenger) two of which, [REDACTED] and [REDACTED] were not wearing seatbelts. The Accused conducted a traffic stop on the Pontiac. As Officer Conroy approached the Pontiac, he recognized [REDACTED] and [REDACTED] as active gang members who both had a history of illegal weapons possession.⁴ As the Accused were speaking with [REDACTED] the three males began to yell while acting aggressively towards the Accused,⁵ moving around the passenger compartment and concealing their hands. The Accused requested all three males to exit the vehicle. Upon the males exiting the vehicle, the males continued their aggressive behavior until they were detained in handcuffs. Based on the known history of [REDACTED] and [REDACTED] combined with the aggressive demeanor of all three males and their concealment of their hands, the Accused completed a protective pat down of the males and completed a limited search of the passenger compartment of the Pontiac. After completing the search, the Accused issued [REDACTED] three citations⁶ and released the males.

During their statements, the Accused all relayed that since [REDACTED] was issued traffic citations there was no need to complete and ISR and issue a stop receipt.

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.

² Att. 36.

³ Att. 37.

⁴ Additionally, the ISR’s detail that in a previous traffic stop both [REDACTED] and [REDACTED] were in a vehicle that contained a concealed firearm. *See* Atts. 8 and 9.

⁵ Officer Conroy explained the aggressive actions were clenching the fists and failing to comply with instructions to show his hands. The aggressiveness occurred until the males were secured in handcuffs. Officers Fleming and Astorga described [REDACTED] and [REDACTED] as irate.

⁶ The citations were for failing to wear a seatbelt, failing to provide a driver’s license, and failing to have a City sticker. Att. 1.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.⁷ If the evidence gathered in an investigation 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.⁸ 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."⁹

IV. ANALYSIS AND CONCLUSION

COPA finds that Allegations #1 , 2 and 3 against the accused are **exonerated**. A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law."¹⁰ "Reasonable Articulate Suspicion depends on the totality of the circumstances which the sworn member observed and the reasonable inferences that are drawn based on the sworn member's training and experience."¹¹ Additionally, in the State of Illinois occupants of a motor vehicle are required to wear a seat belt.¹² Further, a person who is lawfully detained can be subjected to a limited search – a protective pat down – for weapons if a Department member "develops additional [r]easonable [a]rticulable [s]uspicion that the [person] is armed and dangers or reasonably suspects that the person presents a danger of attack."¹³ This search can also encompass the immediately accessible area around the person.¹⁴

Here, the Accused observed at least two of the three occupants of a Pontiac failing to wear a seatbelt. Upon stopping the Pontiac, Officer Conroy immediately recognized [REDACTED] and [REDACTED] as persons with a history of being in a vehicle that contained firearms and illegally possessing firearms. Additionally, the three males failed to comply with commands to show their hands and became aggressive. In response to the males' actions, the Accused requested they exit the vehicle. As the males exited the Pontiac, they continued their aggressive demeanor until they were detained. Once the males were detained each were subjected to a protective pat down and a limited search of the Pontiac was completed. Since occupants in the Pontiac were not wearing seatbelts, the decision to stop the Pontiac were reasonable and proper. Once the traffic stop occurred, the males' demeanor, actions, and the known history of [REDACTED] and [REDACTED] made their exit and detentions reasonable and proper. Since the males were failing to comply with instructions to display their hands and their known history of [REDACTED] and [REDACTED] of weapons

⁷ *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).

⁸ *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁹ *Id.* at ¶ 28.

¹⁰ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

¹¹ S04-13-09 II(C), Investigatory Stop System (effective July 10, 2017, to current).

¹² 625 ILCS 5/12-603.1.

¹³ S04-13-09 VI (A)(1).

¹⁴ S04-13-09 VIII (A)(4)(b)

possession combined with their aggressive demeanor, the decision to complete a protective pat-down and limited scope search of the vehicle were reasonable and proper.

COPA finds that Allegations #4 and 5 against the accused are **sustained**. Department members who complete an investigatory stop are required to complete an investigatory stop report that details “[a]ll of the factors that support” the detention and *any* search of the person.¹⁵ Additionally, Department members “are required to provide” an Investigatory Stop Receipt to any individual subjected to a “[p]rotective [p]at [d]own or any other search” during an Investigatory Stop.¹⁶

Here, it is undisputed that ██████ was stopped, detained and subject to a search of his person and/or other personal effect – specifically his vehicle. It is further undisputed that the Accused failed to complete an Investigatory Stop Report detailing the interaction with ██████ and that ██████ was not issued an Investigatory Stop Receipt. These failures are in violation of Department policy and Rule 6.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Michael Conroy

i. Complimentary and Disciplinary History¹⁷

Officer Conroy’s complimentary history is comprised of 151 awards, including one Superintendent’s Honorable Mention, one Top Gun Arrest award, three Unit Meritorious Performance Awards, and 128 Honorable Mentions. He has no recent disciplinary history.

ii. Recommended Penalty

Here, it is undisputed that no ISR was completed to detail the interaction with ██████. Additionally, it is undisputed that ██████ was not provided with a stop receipt. The failures, despite the Accused’s assertion to the contrary, violated policy. Therefore, COPA recommends that the Accused receive a **2-day suspension**.

b. Officer Megan Fleming¹⁸

i. Complimentary and Disciplinary History

Officer Fleming’s complimentary history is comprised of 63 awards, including three Unit Meritorious Performance Awards, two Department Commendations, and 54 Honorable Mentions. Her recent disciplinary history includes a July 2018 sustained finding (Excessive Force/Unnecessary Physical Contact No Injury) resulting in a 15-day suspension.

¹⁵ S04-13-09 VIII (A)(1).

¹⁶ S04-13-09 VIII (A)(3).

¹⁷ Att. 38.

¹⁸ Att. 39

ii. Recommended Penalty

Here, it is undisputed that no ISR was completed to detail the interaction with [REDACTED]. Additionally, it is undisputed that [REDACTED] was not provided with a stop receipt. The failures, despite the Accused's assertion to the contrary, violated policy. Therefore, COPA recommends that the Accused receive a **2-day suspension**.

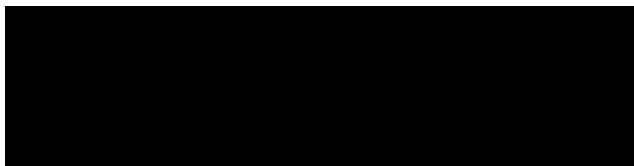
c. Officer Cesar Astorga¹⁹**i. Complimentary and Disciplinary History**

Officer Astorga's complimentary history is comprised of 142 awards, including one Joint Operations Award, two Unit Meritorious Performance Awards, one Joint Operations Award, and 125 Honorable Mentions. His recent disciplinary history includes a December 2020 sustained finding (Operations/Personnel Violations Traffic Pursuit No Injury) resulting in a 10-day suspension.

ii. Recommended Penalty

Here, it is undisputed that no ISR was completed to detail the interaction with [REDACTED]. Additionally, it is undisputed that [REDACTED] was not provided with a stop receipt. The failures, despite the Accused's assertion to the contrary, violated policy. Therefore, COPA recommends that the Accused receive a **2-day suspension**.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

5-18-2023

Date

¹⁹ Att. 40