

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 31, 2019
Time of Incident:	11:00 pm
Location of Incident:	7900 S. Halsted
Date of COPA Notification:	August 1, 2019
Time of COPA Notification:	3:35 pm

On July 31, 2019, at approximately 11:00 pm, Officer Moylan, and Sergeants¹ Vazquez and Okon, conducted a traffic stop of [REDACTED] (driver) and [REDACTED] (front seat passenger), for driving without headlights and in a bicycle lane in an area designated as a hot spot for gang, drug, and violent activity. After their emergency equipment was activated, [REDACTED] made movements towards the center console. Once the car was curbed, PO Moylan approached [REDACTED] for license and insurance, but she did not have them. PO Moylan asked her to exit the vehicle. Sgt. Vazquez, who had approached the passenger side, asked [REDACTED] for his identification, then instructed him to exit the vehicle while maintaining visibility of his hands. Instead, as [REDACTED] exited the vehicle, he slid his hand down his left leg, causing Sgt. Vazquez to believe there might have been a weapon or other contraband in the vehicle. [REDACTED] was handcuffed and the passenger area of the vehicle was searched. [REDACTED] complained that the handcuffs were too tight. Sgt. Vazquez observed that they were not too tight and determined he would not yet remove or loosen them because he did not yet believe it was safe to do so.

The next day, August 31, 2019, [REDACTED] filed a complaint in the 6th District alleging her vehicle was searched without her permission and her gear shift was damaged. An initiation report was forwarded to COPA.² During its investigation, COPA observed additional policy violations committed by the officers which were **Sustained**.

II. INVOLVED PARTIES

Involved Sergeant #1:	Anthony J. Okon, Star #1565, Emp. ID # [REDACTED], Date of Appointment: September 29, 2014, Sergeant, Unit 006, Male, White
Involved Sergeant#2:	Harry Vazquez Jr., Star #1650, Emp. ID # [REDACTED], Date of Appointment: April 28, 2014, Sergeant, Unit 007, Male, Hispanic
Involved Officer #1:	

¹ During this incident on July 31, 2019, Officers Vazquez and Okon were police officers. However, they have since been promoted to sergeants and will be addressed by their new title in this SRI report.

² Att. 1

Brian J. Moylan, Star #9880, Emp ID # [REDACTED], Date of Appointment: August 31, 2015, PO, Unit 001 / 353, Male, White

Involved Individual #1: [REDACTED] 29 years of age, Female, Black

Involved Individual #2: [REDACTED] 31 years of age, Male, Black

I. ALLEGATIONS

Officer	Allegation	Finding
Sergeant Anthony J. Okon	It is alleged by DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about July 31, 2019, at approximately 11:00 to 11:45 pm, at or near 7923 S. Halsted, near Aida Liquor Store, Chicago, IL, Sergeant Okon committed misconduct through the following acts or omissions:	
	1. Stopped and detained [REDACTED] without justification.	Exonerated
	2. Stopped and detained [REDACTED] without justification.	Exonerated
	3. Failed to loosen the handcuffs of [REDACTED] upon request.	Not Sustained
	4. Searched [REDACTED] vehicle, without justification.	Exonerated
	5. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Not Sustained
	6. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Not Sustained
	7. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Not Sustained
	8. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Not Sustained

Sergeant Harry Vazquez Jr.	<p>It is alleged by COPA DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about July 31, 2019, at approximately 11:00 to 11:45 pm, at or near 7923 S. Halsted, near Aida Liquor Store, Chicago, IL, Sergeant Vazquez committed misconduct through the following acts or omissions:</p>	
	1. Stopped and detained [REDACTED] without justification.	Exonerated
	2. Stopped and detained [REDACTED] without justification.	Exonerated
	3. Handcuffed [REDACTED] without justification.	Exonerated
	4. Handcuffed [REDACTED] too tightly, without justification.	Not Sustained
	5. Refused to loosen [REDACTED] handcuffs upon request.	Not Sustained
	6. Searched [REDACTED] without justification.	Exonerated
	7. Searched [REDACTED] vehicle, without justification.	Exonerated
	8. Caused damage to the shift gear of [REDACTED] vehicle during the illegal search of her vehicle.	Not Sustained
	9. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Sustained
	10. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Sustained
	11. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Sustained
	12. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Sustained

Officer Brian J. Moylan	It is alleged by COPA DC Angela Hearts-Glass, on behalf of the Civilian Office of Police Accountability, that on or about July 31, 2019, at approximately 11:00 to 11:45 pm, at or near 7923 S. Halsted, near Aida Liquor Store, Chicago, IL, Officer Moylan committed misconduct through the following acts or omissions:	
	1. Stopped and detained [REDACTED] without justification.	Exonerated
	2. Stopped and detained [REDACTED] without justification.	Exonerated
	3. Searched [REDACTED] without justification.	Exonerated
	4. Failed to loosen the handcuffs of [REDACTED] upon request.	Not Sustained
	5. Searched [REDACTED] vehicle, without justification.	Exonerated
	6. Searched [REDACTED] purse and other personal belongings during the illegal search of her vehicle, without justification.	Exonerated
	7. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Not Sustained
	8. Failed to complete an Investigatory Stop Report during your interaction with [REDACTED] in violation of Special Order 04-13-09.	Not Sustained
	9. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Not Sustained
	10. Failed to provide [REDACTED] with an Investigatory Stop Receipt, in violation of Special Order 04-13-09.	Not Sustained

III. APPLICABLE RULES AND LAWS

Rules

1. Rule 6 - Disobedience of an order or directive, whether written or oral.
 2. Rule 8 – Disrespect to or maltreatment of any person, while on or off duty.
 3. Rule 10 – Inattention to duty.
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General Orders

1. GO 01-01 – Vision, Mission Statement and Core Values (Effective May 21, 2019 to present).
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Special Orders

1. SO 04-13-09 – Investigatory Stop Report (ISR) (Effective July 10, 2017 to present).
 2. SO 04-14-09 – Illinois Traffic and Pedestrian Stop Statistical Study (TSSS) – effective March 23, 2018 to present).
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State Law

1. 725 ILCS 5/107-14 – Temporary questioning without arrest – (Effective January 1, 2016 to present).
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IV. INVESTIGATION³

a. Digital Evidence

The body-worn camera (BWC) video recording of PO Moylan captured [REDACTED] stating that she knew her vehicle lights were not activated when she moved from one side of the street to the other. PO Moylan asked [REDACTED] for her driver's license and insurance to which [REDACTED] replied that she did not have it on her. PO Moylan asked [REDACTED] to exit the vehicle, escorted her to the back of the squad car, and briefly patted down her jacket. Sgt. Okon then stayed with [REDACTED] who was not handcuffed, while PO Moylan walked over to the passenger side of [REDACTED] vehicle. Sgt. Vazquez can be heard asking [REDACTED] to exit the vehicle and to keep his hands where he could see them. [REDACTED] can be seen sliding his hands down his left leg near his ankle area.⁴ Sgt. Vazquez immediately grabbed [REDACTED] and stated words to the effect of, "What the fuck are you doing?" "Don't fucking do that." PO Moylan can be heard telling [REDACTED] that the way he came up it appeared as if he was reaching down to his side. Sgt. Vazquez and PO Moylan handcuffed [REDACTED] and PO Moylan felt his right pocket, then reached inside at the same time [REDACTED] stated that he had a pocketknife on the right side.⁵ Officer [REDACTED] pulled out several items

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 Att. 8 at 0:55.

⁵ Att. 8 at 6:55.

including keys from [REDACTED] pants pocket and threw them on the front seat.⁶ Sgt. Vazquez asked [REDACTED] to spread his legs, felt around his waistband, and [REDACTED] belt buckle fell to the ground.⁷

PO Moylan then searched the front passenger seat area of [REDACTED] vehicle and held up a clear cup. He then examined a pocketknife he found in the door pocket. He searched the back passenger area including inside bags. He briefly looked in the front seat passenger area again while Sgt. Okon searched the driver's area, and then searched the back passenger area again. Sgt. Vazquez gave PO Moylan [REDACTED] identification card, and PO Moylan ran [REDACTED] and [REDACTED] names on the police vehicle's computer. PO Moylan did not issue [REDACTED] a citation and terminated the recording as he approached them.

Sgt. Vazquez's BWC captured a similar view as he approached [REDACTED] vehicle on the passenger side. Sgt. Vazquez can be heard asking [REDACTED] for his identification and telling him that they had no seatbelt on and drove in the bicycle lane. [REDACTED] handed Sgt. Vazquez his ID and was asked to step out of the vehicle. [REDACTED] complained, "I just did this shit ten minutes ago."⁸ Sgt. Vazquez asked [REDACTED] to step out again, which [REDACTED] took his time to do. As [REDACTED] started to step out, Sgt. Vazquez told him to keep his hands where he could see them.⁹ As [REDACTED] exited the vehicle, he reached down by his ankle and Sgt. Vazquez immediately grabbed his arms asking him what he was doing. Officer Vazquez told [REDACTED] to put his hands behind his back and began to handcuff him asking, "what is wrong with you, Bro?"¹⁰ [REDACTED] denied that he reached down, and PO Moylan told him they saw him reaching down towards his side.¹¹ As both PO Moylan and Sgt. Vazquez were handcuffing [REDACTED] told them about a pocketknife on the "right side."¹² Sgt. Vazquez searched [REDACTED] and brought him to the rear of the police vehicle.

On the way, [REDACTED] complained that his handcuffs were too tight, and Sgt. Vazquez told [REDACTED] that they were not too tight and that he was not going to loosen them up right now.¹³ Sgt. Vazquez told him, "I didn't know what you were doing, you should have kept your hands where I could see them...for whatever reason, you decided to move your hands and then I got scared. So now I'm not taking this cuff off."¹⁴ [REDACTED] complained the handcuffs were tight again and Vazquez, who was standing right behind him, said: "No it's not. I'm looking right at it, it's not tight... I'm looking right at it dude, you got space, it might be a little tight but you got space."¹⁵ [REDACTED] continued that he was losing circulation. Sgt. Vazquez said he would call an ambulance so [REDACTED] would be well-taken care of.¹⁶ Sgt. Vazquez tried to explain that from his point of view, he did not know why [REDACTED] reached down: "You got to understand, I don't know what you're doing."¹⁷

⁶ Att. 8 at 1:20, 4:15; Att. 7 at 7:24, 8:27

⁷ Att. 8 at 1:36.

⁸ Att. 7 at 2:40.

⁹ Att. 7 at 2:58.

¹⁰ Att. 7 at 3:04.

¹¹ Att. 7 at 3:13.

¹² Att. 7 at 3:21.

¹³ Att. 7 at 4:08

¹⁴ Att. 7 at 4:40.

¹⁵ Att. 7 at 6:37

¹⁶ Att. 7 at 5:00.

¹⁷ Att. 7 at 7:00.

Sgt. Vazquez gave PO Moylan [REDACTED] ID to do a name check and then searched [REDACTED] vehicle. He searched the front passenger seat including the center console. He tried to lift the gear shift cover with his fingers, then pried it open with a tool and searched under it.¹⁸ When he was done, he pushed it back into place.¹⁹

Sgt. Vasquez then approached a smiling [REDACTED] who asked again if Sgt. Vazquez would loosen up his handcuffs.²⁰ Sgt. Vazquez told him they were about to leave.²¹ [REDACTED] said he was no threat to Sgt. Vazquez, and Sgt. Vazquez responded that [REDACTED] was a threat because Sgt. Vazquez told [REDACTED] to keep his hands where he could see him and Sgt. Vazquez did not know whether [REDACTED] was trying to shoot him or not. Sgt. Vazquez said he did not know who [REDACTED] was and was not going to take a chance. Sgt. Vazquez explained that he wanted to go home at the end of his shift.²² Sgt. Vazquez said, “you guys have a good night,” and uncuffed [REDACTED].²³ Sgt. Vazquez said again told [REDACTED] to “have a good night,” to which [REDACTED] responded, “you all be safe man,” and fist bumped Sgt. Vazquez.²⁴

Sgt. Okon’s BWC captured part of the conversation between Sgt. Vazquez and [REDACTED] about the handcuffs, and his search of the front and back driver’s side of the vehicle.²⁵ After the search, Sgt. Okon approached [REDACTED] and asked him if he was “cool.”²⁶ [REDACTED] told Sgt. Okon that the cuffs were tight.²⁷ [REDACTED] then engaged in a casual conversation with Sgt. Okon, asking him his name, and telling him he was pro-police.” [REDACTED] mentioned that his belt-buckle was knocked off during the search of him and his handcuffs were too tight, but recognized, “that’s what you all got to do... you all trying to crack down on this shit.”²⁸ [REDACTED] can be seen moving around as Sgt. Vazquez tells him, “I told you to keep your hands where I can see them and the first thing you did was slide your hands down.” Sgt. Vazquez told [REDACTED] that he did not know who he ([REDACTED] was, and he was not taking a chance.

b. Interviews

Numerous attempts were made to contact and interview [REDACTED] and [REDACTED]. Letters were mailed, personal visits were conducted, telephone calls were made, and voice messages were left in their voice mailbox systems. All attempts were met with negative results.

As a result of the lack of cooperation from [REDACTED] and [REDACTED] COPA obtained an **override letter**²⁹ from the Bureau of Internal Affairs and received confirmation to continue the investigation.

¹⁸ Att. 7 at 7:48.

¹⁹ Att. 7 at 8:11- 8:28.

²⁰ Att. 7 at 8:41

²¹ Att. 7 at 8:42

²² Att. 7 at 8:50

²³ Att. 7 at 9:11.

²⁴ Att. 7 at 9:30.

²⁵ Att. 9 at 4:38 – 6:11.

²⁶ Att. 9 at 6:25.

²⁷ Att. 9 at 6:27.

²⁸ Att. 9 at 7:07.

²⁹ Att. 16.

In his statement to COPA,³⁰ on August 4, 2021, **Officer Brian J. Moylan**, related that he did not have an independent recollection of the events and was relying on his BWC video to answer questions. While on patrol, he observed [REDACTED] driving without headlights, and Sgt. Vazquez noted she was driving in the bicycle lane. (Later they would observe that she and passenger [REDACTED] were not wearing seatbelts, as well). Upon activation of their emergency equipment, [REDACTED] made movements toward his side. Upon approaching the driver's side of the vehicle, PO Moylan asked [REDACTED] for her driver's license and insurance, but she was unable to provide them. [REDACTED] admitted that she just moved her vehicle from one side of the street to the other without activating the vehicle lights. PO Moylan asked [REDACTED] to exit the vehicle, patted her jacket briefly for any weapons due to a bulge in the front of her jacket, and left her at the rear of the squad car with Sgt. Okon. He then walked over to the passenger side of the vehicle where Sgt. Vazquez appeared to be on "high alert" asking [REDACTED] to exit the vehicle and instructing him to keep his hands visible.³¹

PO Moylan stated that [REDACTED] appeared nervous and as he exited the vehicle, he made a quick movement with his hands sliding them down toward his ankle. PO Moylan and Sgt. Vazquez, believing he was possibly concealing a weapon, grabbed [REDACTED] arms, handcuffed him, and patted him down. [REDACTED] was stiff and hesitant about being handcuffed, however PO Moylan quickly explained to [REDACTED] that he was being handcuffed due to his demeanor, quick movements with his hands and stiffened arms when exiting the vehicle. PO Moylan stated that did not hear [REDACTED] complain of the handcuffs being tight, or of any pain or injury. PO Moylan did not hear or see Sgt. Vazquez refuse to loosen the handcuffs. He did not recall seeing any injury to [REDACTED]

PO Moylan searched [REDACTED] vehicle. In the front passenger seat area, he located a cup that smelled of alcohol and had a little bit of liquid still in it. He continued to search in the front seat passenger area and the back seat passenger area for more alcohol or weapons. PO Moylan explained that he believed there was reasonable suspicion to search the passenger area based on [REDACTED] making suspicious movements in [REDACTED] car after activating their emergency equipment to pull [REDACTED] car over; [REDACTED] reaching down towards his ankle after being asked to keep his hands visible; [REDACTED] non-compliance with verbal commands; [REDACTED] nervous demeanor; the discovery of open alcohol; and the fact that the area was a designated hot spot as a high crime area, with drug and gang and violent activity. PO Moylan was unaware of any damage done to the vehicle.

PO Moylan stated that they used their discretion to give [REDACTED] a break and did not issue her any traffic citations.

PO Moylan did not believe he personally completed Investigative Stop Reports (ISRs) for [REDACTED] and [REDACTED] or provide them with ISR receipts, but was not sure if one of his partners did.³²

³⁰ Att. 44.

³¹ PO Moylan described Sgt. Vazquez's demeanor as being on high alert and having tunnel vision toward [REDACTED] and his movements.

³² Att. 56, pgs. 65-66.

In his statement to COPA,³³ on August 26, 2021, **Sergeant Harry Vazquez Jr.**, stated that he observed [REDACTED] driving in the bicycle lane (and later not wearing a seatbelt), at which point he activated the emergency lights and the spotlight of her vehicle. At that time, [REDACTED] reached over to the center console. [REDACTED] appeared to either place or grab something near that area. Once [REDACTED] vehicle was curbed, Sgt. Vazquez approached the passenger side of [REDACTED] vehicle while PO Moylan approached the driver's side. PO Moylan asked [REDACTED] for her driver's license and insurance, but she did not have them available and was asked to exit the vehicle. Sgt. Vazquez asked [REDACTED] who appeared agitated, for his identification. Sgt. Vazquez then asked [REDACTED] to exit the vehicle while instructing [REDACTED] to keep his hands visible. As [REDACTED] exited he vehicle, he dropped his left hand down out of Sgt. Vazquez's view. PO Moylan assisted Sgt. Vazquez in grabbing and handcuffing [REDACTED]. Sgt. Vazquez believed that [REDACTED] had a weapon or was hiding a weapon.

Sgt. Vazquez and PO Moylan searched [REDACTED] and escorted him to where [REDACTED] was located. Sgt. Vazquez heard [REDACTED] complaining about the handcuffs being tight, but after a visual check in which he saw enough space, Sgt. Vazquez determined that they were not too tight. Sgt. Vazquez explained that he did not loosen them because of [REDACTED] previous actions when he exited the vehicle, and he did not think it was safe and feasible at that time while they were still searching the vehicle and not yet assured that there were no weapons. Sgt. Vazquez had known people to run while in handcuffs. At the end of the stop after Sgt. Vazquez unhandcuffed [REDACTED] and told [REDACTED] to "have a good night," [REDACTED] told Sgt. Vazquez to "be safe," and [REDACTED] gave Sgt. Vazquez a fist bump.

Sgt. Vazquez searched the passenger area, center console, and gear shift of [REDACTED] vehicle. Sgt. Vazquez used his handcuff key to pry the gear shift compartment open, explaining that it is held down by clips, and it pops in and out. He further explained that he had found guns there in the past and was aware of many other occasions where guns were found there by other officers. Once he finished looking there, he popped it back into place. Sgt. Vazquez described that there was reasonable articulable suspicion for the search based on the area being a designated hot spot violent zone; [REDACTED] suspicious movements two separate times; and [REDACTED] non-compliance.

Sgt. Vazquez took responsibility for failing to complete an ISR report for [REDACTED] and [REDACTED] and failing to provide them with an ISR receipt. Sgt. Vazquez said that he was the officer who was supposed to have filled out the reports and receipts, but he got side-tracked by a gun arrest shortly thereafter.³⁴

In his statement to COPA,³⁵ on August 26, 2021, **Sergeant Anthony Okon**, stated that he did not have any independent recollection of the incident and based his answers from watching his BWC video. Sgt. Okon described himself as the assisting officer, taking the lead of his partners who could see better from the front seat, while he was seated in the back seat. Sgt. Okon provided a similar account as PO Moylan and Sgt. Vazquez regarding the reasons for the traffic stop. He further described [REDACTED] as being agitated when Sgt. Vazquez asked him to exit the vehicle and

³³ Att. 58.

³⁴ Att. 58, pgs. 54, 58-59.

³⁵ Att. 48.

Sgt. Okon observed a brief struggle. Sgt. Okon heard Sgt. Vazquez say words to the effect of, “Stop reaching, what are you reaching for, don’t do that,”³⁶ and became alarmed.

Sgt. Okon stated that he heard ██████ complain about the handcuffs one time, and he heard Sgt. Vazquez refuse to loosen the cuffs at that point because ██████ did not follow verbal commands and Sgt. Vazquez was in fear for his safety. Sgt. Okon trusted Sgt. Vazquez’s judgment. Although Sgt. Okon did not check the hand cuffs himself, he did not believe the cuffs were too tight because ██████ was not wincing in pain or on the ground writhing in pain. In fact, Sgt. Okon recounted that ██████ was smiling when he complained, and when Sgt. Vazquez uncuffed him, ██████ gave Sgt. Vazquez a fist bump, meaning everything was alright.

Sgt. Okon explained that he conducted a brief, systematic weapons search of the front and rear driver’s side of the vehicle. He did this because it was a designated hot spot for crime, ██████ was non-compliant, and since ██████ was reaching for something, he wanted to see if anything had been tossed.

Sgt. Okon stated that ISRs are supposed to be completed by the end of the shift or whenever feasible, but he thinks they might have gotten sidetracked by a gun arrest 10-15 minutes after this traffic stop. He stated that the business officer usually does the paperwork, and in this case, he thought that was PO Moylan but the officers in the front seat work it out. Sgt. Okon admitted he should have clarified that it was done in this case.

c. Documentary Evidence

The **Initiation Report**³⁷ of Sergeant Regina Rutledge-Willis documented that on August 1, 2019, ██████ came into the 006th District and registered a complaint regarding her maroon 2010 Nissan Altima being searched without permission, and damage to the gear shift. ██████ related that she was parked in front of Aida Liquor store, near 7900 S. Halsted, when an Officer Vazquez asked her and her front passenger, ██████ to exit the vehicle. After exiting, Officer Vazquez searched the vehicle and caused damage to the gear shift by the console. ██████ alleged that there were four officers at the scene, and she recalled seeing Star #15833, who is not the accused.

COPA obtained various Department reports including **Caboodle** GPS records, and **Web MIS name** and **plate search reports** that documented that the named officers conducted the traffic stop of ██████ and ██████

V. 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.

³⁶ Att. 48 at 10:22.

³⁷ Att. 1.

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 occurred and violated Department policy.³⁸ 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.³⁹ 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."⁴⁰

VI. ANALYSIS

a. Allegations #1 and #2 against Sgt. Okon, Sgt. Vazquez, and PO Moylan - stopped and detained [REDACTED] and [REDACTED] without justification.

COPA finds the Department members were justified in stopping and detaining [REDACTED] and [REDACTED] during this traffic stop due to traffic infractions and, therefore, find these allegations to be **Exonerated**.

CPD directives state that probable cause exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and the subject has committed it."⁴¹ Courts have found that "[w]hen a police officer believes that a driver has committed a minor traffic offense, probable cause supports the stop."⁴²

Here, Sgt. Okon, Sgt. Vazquez, and PO Moylan indicated that [REDACTED] drove in the bicycle lane, did not have the vehicle lights activated, and both [REDACTED] and [REDACTED] were not wearing their seatbelts. The BWC videos capture the members providing [REDACTED] and [REDACTED] these reasons for the traffic stop. Further, [REDACTED] can be heard admitting that she knew she did

³⁸ *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).

³⁹ *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁴⁰ *Id.* at ¶ 28.

⁴¹ Att. 26, S04-13-09(II)(D) Investigatory Stop System (Effective July 10, 2017 to present).

⁴² *Jones v. Elkhart*, 737 F.3d 1107, 1114 (7th Cir. 2013) quoting, *United States v. Garcia-Garcia*, 633 F.3d 608, 612 (7th Cir. 2011)

not have her vehicle lights activated and did not have her driver's license.⁴³ The BWC videos also show that [REDACTED] and [REDACTED] were not wearing their seatbelts when approached by the members. Therefore, COPA concludes by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper and that the members possessed probable cause to stop and temporarily detain [REDACTED] and [REDACTED]. As such, COPA finds Allegations #1 and #2 to be **Exonerated**.

b. Allegation #3 against PO Moylan and Allegation #6 against Sgt. Vazquez –searched [REDACTED] without justification.

COPA finds that the Allegations that Sgt. Vazquez and PO Moylan searched [REDACTED] without justification is **Exonerated**.

“[A]n officer making a traffic stop may order passengers to get out of the car pending completion of the stop.”⁴⁴ Further, a police officer may perform a protective pat-down search where, after making a lawful stop, the officer has a reasonable articulable suspicion that he or another is in danger of attack because the subject is armed and dangerous.⁴⁵ CPD defines a protective pat down as: “A limited search during an investigatory stop in which a sworn member conducts a pat down of the outer clothing of a person for weapons for the protection of the sworn member or others in the area.”⁴⁶ CPD defines reasonable articulable suspicion as “an objective legal standard that is less than probable cause, but more than a hunch or general suspicion. Reasonable Articulate Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member’s training and experience.”⁴⁷ Therefore, “[f]or a protective pat down, a sworn member must possess specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area.”⁴⁸ Further, if an officer who, during the pat down, “touches an object the sworn member reasonably believes is a weapon” to reach into that area of clothing and retrieve the object.⁴⁹

The location of occurrence in a high crime area involving drug activity, shootings and gang violence can be considered as part of the totality of the circumstances facing the officer at the time of the stop.⁵⁰ Also, a subject’s furtive movements, especially after being asked to keep his hands visible, could support the reasonable suspicion that the defendant was armed.⁵¹ Further, a “bulge in a suspect’s clothing is a circumstance contributing to reasonable suspicion that he is armed and presently dangerous.”⁵²

⁴³ Att. 8 at 00:05.

⁴⁴ Maryland v. Wilson, 519 U.S. 408, 415 (1997).

⁴⁵ People v. Sorenson, 196 Ill. 2d 425, 432 (2001).

⁴⁶ Att. 26, S04-13-09(II)(C) Investigatory Stop System (Effective July 10, 2017 to present).

⁴⁷ Att. 26, S04-13-09(II)(C) Investigatory Stop System (Effective July 10, 2017 to present).

⁴⁸ Att. 26, S04-13-09(II)(C) Investigatory Stop System (Effective July 10, 2017 to present).

⁴⁹ Att. 26, S04-13-09(II)(B)

⁵⁰ United States v. Brown, 188 F.3d 860, 865 (1999).

⁵¹ People v. Richardson, 2017 IL App (1st) 130203-B, P27

⁵² United States v. Colbert, 54 F.4th 521, 529 (7th Cir. 2022)

Here, Officer Moylan and Sgt. Okon related that the area was a designed hotspot for crime involving gangs, narcotics, weapons, and violence. Next, both Sgt. Vazquez and PO Moylan saw ██████ made furtive movements inside ██████ vehicle after they turned on their emergency equipment to effectuate a traffic stop. Then, when Sgt. Vazquez instructed ██████ to exit the vehicle and to keep his hands visible, ██████ ignored the directive and instead slid his hands down his leg to his ankle. Further, PO Moylan stated that there was a large bulge in ██████ left pocket, and when he was feeling it, he felt “some type of hard object in there which could have been a weapon.”⁵³ PO Moylan removed the contents of the pocket as ██████ announced there was a pocketknife on the right side.⁵⁴ Sgt. Vazquez and PO Moylan stated in their statements they patted down and searched ██████ for safety reasons.

Therefore, COPA finds by clear and convincing evidence that the conduct described in the allegation occurred, but it was lawful and proper because the members had reasonable articulable suspicion to believe ██████ may have been armed and dangerous. As such, COPA these Allegations against Sgt. Vazquez and PO Moylan are **Exonerated**.

c. Allegation #3 against Sgt. Vazquez - handcuffed ██████ without justification.

COPA finds that Allegation #3 against Sgt. Vazquez is **Exonerated**.

Officers may use handcuffs during an investigatory stop to protect law enforcement officers, the public, or the suspect from the undue risk of harm.⁵⁵ Here, for all of the same reasons the pat down and search of ██████ was justified, so too was the use of handcuffs during the brief duration of the investigatory stop. Therefore, COPA finds by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper. As such, COPA finds this Allegation to be **Exonerated**.

d. Allegations #4 and #5 against Sgt. Vazquez - handcuffed ██████ too tightly without justification and refused to loosen ██████ handcuffs upon request.

COPA finds that Allegations #4 and #5 against Sgt. Vazquez be **Not Sustained**.

Allegations of excessive force are analyzed under the Fourth amendment and its “reasonableness standard.”⁵⁶ Under certain circumstances, overly tight handcuffs can be considered excessive force.⁵⁷ “Discomfort and pain from handcuffs are not by themselves proof of

⁵³ Att. 56, pgs. 28-29.

⁵⁴ Although it appears ██████ may have been referring to the right side of the vehicle, not him personally, as it appears the pocketknife was found inside the front passenger seat door pocket.

⁵⁵ People v. Fields, 2014 IL App (1st) 130209, P27.

⁵⁶ Sow v. Fortville Police Dep’t, 636 F.3d 293, 303 (7th Cir. 2011) *20.

⁵⁷ Tibbs v. City of Chicago, 469 F.3d 661, 666 (7th Cir. 2006).

unconstitutional force.”⁵⁸ Serious injury as a result of too tight handcuffs requiring medical care may suggest excessive force.⁵⁹ Unspecified complaints of tightness, without more, do not.⁶⁰

Here, for the little more than six minutes ██████ was handcuffed,⁶¹ he repeatedly complained to Sgt. Vazquez that the handcuffs were tight, and once claimed his circulation was cut off, but was seen smiling while complaining and carrying on a casual conversation with Sgt. Okon.⁶² He also fist bumped Officer Vazquez at the end of the stop. Moreover, ██████ never filed any type of complaint about the handcuffs and failed to cooperate in COPA’s investigation. As such, it is unknown if ██████ experienced any serious injuries from the handcuffing and/or if he sought medical treatment.

For his part, Sgt. Vazquez told COPA that when ██████ complained about the handcuffs, Sgt. Vazquez conducted a visual check and could see “space,” but could not remember if he conducted a physical check by placing his finger inside them.⁶³ Sgt. Vazquez stated that he did not observe injuries to ██████ wrists, and that ██████ looked “fine.”⁶⁴ Sgt. Vazquez explained that he used handcuffs every day and is usually good at putting them on and looking at them to see if there is space.⁶⁵ He did not have trouble removing the handcuffs and did not see any injuries when he did.⁶⁶ Sgt. Vazquez noted that the handcuffs were on for about five minutes, and ██████ did not request medical assistance for numbness or pain.⁶⁷

On the BWC video, after ██████ complains that his handcuffs are tight, Sgt. Vazquez, who is standing right behind ██████ can be heard stating: “No it’s not. I’m looking right at it, it’s not tight... I’m looking right at it dude, you got space, it might be a little tight but you got space.”⁶⁸

Based on the foregoing, COPA concludes that although the handcuffs may have caused ██████ some discomfort and may have been somewhat tight, the preponderance of the evidence does not establish excessive force. Therefore, COPA finds these allegations **Not Sustained**.

⁵⁸ Peirick v. Dudek, 2022 U.S. Dist. (N.D. Ill.) LEXIS 142505, *17.

⁵⁹ See, Payne v. Pauley, 337 F.3d 767 (7th Cir. 2003)(claim allowed to considered by the jury where the subject lost feelings in her hands and officers refused to loosen the handcuffs when she told them, and had two carpal tunnel surgeries as a result).

⁶⁰ See, Tibbs v. City of Chicago, 469 F.3d 661, 666 (7th Cir. 2006) (Claim of unreasonably tight handcuffs was not allowed to be considered by a jury where the subject was handcuffed for 25 – 30 minutes, likely suffered discomfort and pain, and experienced redness on his wrists for less than two days, but only complained once to the officer about the handcuffs without elaborating on any injury such as numbness or degree of pain, and did seek medical care for an alleged wrist injury); Sow v. Fortville Police Dep’t, 636 F.3d 293, 303 (7th Cir. 2011) *20 (subject only complained once to officers, did not elaborate, and did not complain of injury to the jail or seek medical treatment); Peirick v. Dudek, 2022 U.S. Dist. (N.D. Ill.) LEXIS 142505, *17 (subject repeatedly told the officers the handcuffs were too tight, but did not elaborate on his pain).

⁶¹ Att. 7 at 4:32:50 to 4:39:05

⁶² Att. 7 at 4:38:25; Att. 9 at 4:36:54.

⁶³ Att. 58, pgs. 18, 31, 33, 50

⁶⁴ Att. 58, pg. 33.

⁶⁵ Att. 58, pgs. 33, 51.

⁶⁶ Att. 58, pgs. 33-34.

⁶⁷ Att. 58, pg. 35

⁶⁸ Att. 7 at 4:36:20

e. Allegation #3 against Sgt. Okon, and Allegation #4 against PO Moylan – that the members failed to loosen the handcuffs of ██████ upon request.

COPA finds that Allegation #3 against Sgt. Okon and Allegation #4 against PO Moylan be **Not Sustained**.

In addition to the discussion above, Sgt. Okon admitted that he heard ██████ complain about the handcuffs being tight, but he did not believe ██████ because it did not appear ██████ was in pain and he relied on Sgt. Vazquez's assessment that it was not safe at that time to remove or loosen the handcuffs. Sgt. Okon noted that ██████ was smiling when he complained about the handcuffs and that when Sgt. Vazquez uncuffed him, ██████ gave Sgt. Vazquez a fist bump, meaning everything was alright. PO Moylan denied hearing ██████ complain about the handcuffs and it is not clear from the BWC video whether PO Moylan was able to hear any of the complaints.

As such, the preponderance of the evidence supports findings of **Not Sustained** on these Allegations against Sgt. Okon and PO Moylan.

f. Allegation #4 against Sgt. Okon, Allegation #7 against Sgt. Vazquez, and Allegation #5 against PO Moylan - searched ██████ vehicle, without justification – and Allegation #6 against PO Moylan - searched ██████ purse and other personal belongings during the illegal search of her vehicle.

COPA finds that these Allegations are **Exonerated**.

After conducting a traffic stop, if the police have a reasonable suspicion based on specific and articulable facts to believe that a vehicle occupant may be armed and dangerous, they may conduct a protective search for weapons of the passenger compartment of the automobile. Michigan v. Long, 463 U.S. 1032, 1048-49 (1983). The scope of the search includes areas where a weapon may be placed or hidden. Long, 463 U.S. at 1049. This includes containers whether opened or closed. New York v. Belton, 453 U.S. 454, 460-61 (1981).

Here, where the pat down and search of ██████ was justified as discussed above, so too was the search for weapons of the passenger compartment of ██████ automobile and any containers present therein that could accommodate a weapon. That includes ██████ purse and other bags. This is especially so after ██████ informed the officers that there was a knife on the “right side,” and the knife was not found on ██████ person.

Additionally, here, the discovery of open alcohol supported the search of the vehicle. See, United States v. Ross, 456 U.S. 798 (1982) (“the officers had probable cause to search the vehicle once they observed the open alcohol within the passenger’s compartment of the vehicle. That probable cause allowed them to search anywhere in the vehicle that an open can of beer could have been, which included the locked glove compartment”).

Therefore, COPA finds by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper, and so these allegations against the members are **Exonerated**.

g. Allegation #8 against Sgt. Vazquez -- caused damage to the shift gear of [REDACTED] vehicle during the illegal search of her vehicle.

COPA finds that Allegation #8 against Sgt. Vazquez that he caused damage to the gear shift of [REDACTED] vehicle to be **Not Sustained**.

As stated above, the search of [REDACTED] vehicle was justified and that included compartments where a weapon could be placed or hidden. Here, Sgt Vazquez told COPA that from his training and experience, he was aware that the gear shift compartment was a place that weapons could be hidden. He had found guns hidden there on previous occasions and was aware that fellow officers have found them there as well.⁶⁹ He did not recall if the compartment was loose, but explained that the compartments pop in and out with clips that hold them in and he normally uses his fingernail to pry them open, but his nail was broken and so he used his handcuff key in this case.⁷⁰ He further stated that after he looked at it, he popped it back in as he found it. The BWC video does show Sgt. Vazquez using a tool to pry the compartment open and then pushing it back in.⁷¹ Without additional evidence such as testimony from the complainant explaining the damage or photograph documenting it, COPA cannot find there is a preponderance of the evidence that Sgt. Vazquez damaged the gear shift compartment. As such, COPA finds this Allegation to be **Not Sustained**.

h. Allegations #5 - #8 against Sgt. Okon; Allegations #7 - #10 against PO Moylan; and Allegations #9 - #12 against Sgt. Vazquez - failure to complete an Investigatory Stop Report for [REDACTED] and Lavell [REDACTED] and Failure to provide [REDACTED] and [REDACTED] an Investigatory Stop Receipt.

COPA finds that these Allegations against Sgt. Okon and PO Moylan are **Not Sustained**, but **Sustained** against Sgt. Vazquez.

Department members who complete an investigatory stop are required to complete an ISR that details all the factors that support the detention of the subjects.⁷² An investigative stop occurs when a person is temporarily detained and questioned based on a Reasonable Articulate Suspicion that the person is committing, about to commit or has committed a criminal act. During an Investigatory Stop the members must provide necessary reasons to dispel or confirm the member's Reasonable Articulate Suspicion of criminal activity. Upon the completion of an Investigatory Stop that involves a Protective Pat Down or any other Sworn members who conduct an Investigatory Stop, Probable Cause stop when no other document captures the reason for the detention, and, if applicable, a Protective Pat Down or other search in a public place, are required to submit an Investigatory Stop Report into the Investigatory Stop Database. All the factors that support Reasonable Articulate Suspicion to temporarily detain an individual for investigation search,

⁶⁹ Att. 26, pgs. 25-26

⁷⁰ Att. 26, pg. 26.

⁷¹ Att. 7 at 04:38:05.

⁷² S04-13-09 VIII(A)(1).

sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.⁷³

In this instance, both [REDACTED] and [REDACTED] were asked to exit the vehicle, both were patted down, and [REDACTED] vehicle was searched. For these reasons, an ISR should have been completed for each [REDACTED] and [REDACTED] and ISR receipts should have been provided.

All three members acknowledged that it was their responsibility to make sure ISRs were completed, and receipts given. Sgt. Okon stated that he was the assisting officer in the back seat, and believed it was the “business officer” who would have been responsible for filling out the paperwork. He thought that the officers in the front seat “work it out,” and in this case, he thought it was PO Moylan.⁷⁴ Nonetheless, he acknowledged that he should have made sure it was done.⁷⁵ He believed that a gun arrest they had 10-15 minutes later sidetracked them from doing the paperwork.⁷⁶ PO Moylan stated that he did not believe he personally completed Investigative Stop Reports (ISRs) for [REDACTED] and [REDACTED] or provide them with ISR receipts, but was not sure if one of his partners did.⁷⁷ Sgt. Vazquez stated that it was his “fault” for failing to complete an ISR report for [REDACTED] and [REDACTED] and for failing to provide them with an ISR receipt because he was supposed to do it. Sgt. Vazquez said that he got side-tracked by a gun arrest shortly thereafter.⁷⁸

For these reasons, COPA finds by a preponderance of the evidence that these allegations against Sgt. Vazquez be **Sustained**, and against PO Moylan and Sgt. Okon, **Not Sustained**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sgt. Vazquez

i. Complimentary and Disciplinary History

Sgt. Vazquez has received 144 various awards in just over five years on the job including:

Annual Bureau Award of Recognition for accomplishing a mission with a superior and exemplary in a group or team that has demonstrated motivation, excellence, successful collaboration, and dedication to duty that positively influenced the department;⁷⁹

Top Gun Arrest Award for exceptional commitment to recovery of firearms.⁸⁰

⁷³ *Id.*

⁷⁴ Att. 57, pgs. 10, 48, 51.

⁷⁵ Att. 57, pg. 51.

⁷⁶ Att. 57, pg. 33.

⁷⁷ Att. 56, pgs. 65-66.

⁷⁸ Att. 58, pgs. 54, 58-59

⁷⁹ Att. 59, pg. 8; S0-101-01 (II)(O)

⁸⁰ Att. 59, pg. 8; S0-101-01 (II)(AB)

Traffic Stop of the Month Award for excellence in conducting a professional traffic stop.⁸¹

Department Commendation for an outstanding act or achievement that brings great credit to the Department and involves performance above and beyond that required by the member’s basic assignment⁸²; and

Honorable Mention Ribbon Award for demonstrating outstanding performance and has received at least 50 Honorable mentions.⁸³

Sgt. Vazquez also received a Spar: in 2022 for Preventable Accident in which no disciplinary action was taken.⁸⁴

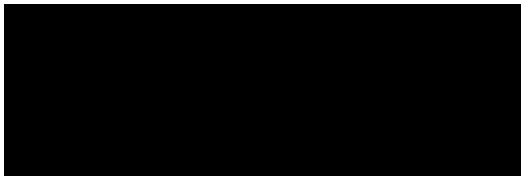
ii. Recommended Penalty, by Allegation

Sgt. Vazquez failed to comply with Special Order S04-13-09 by failing to complete Investigatory Stop Report for [REDACTED] and [REDACTED] and for failing to provide them with an Investigatory Stop Receipt.

In mitigation, COPA will consider Sgt. Vazquez’s complimentary history and the fact that he was honest and forthcoming in his interview with COPA, taking full responsibility for failing to complete the ISRs and receipts. In aggravation, COPA will consider Sgt. Vasquez’s disciplinary history.

Thus, **COPA recommends a Violation Noted.**

Approved:



3/30/2023

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

⁸¹ Att. 59, pg. 8; S0-101-01 (II)(AA)

⁸² Att. 59, pg. 8; S01-01-01 (II)(T) Description of and Eligibility for Department Awards (Effective September 2019 – to Present)

⁸³ Att. 59, pg. 8; and S0-101-01 (II)(X)

⁸⁴ Att. 59, pg. 7