

## SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	June 23, 2020 / 7:30 pm / [REDACTED], [REDACTED].
Date/Time of COPA Notification:	June 24, 2020 / 1:03 pm.
Involved Member #1:	Officer David Arauz / Star #4101 / Employee ID# [REDACTED] / DOA: June 25, 2018 / Unit: 007/211 / Male / Hispanic.
Involved Member #2:	Officer Michael Nelson / Employee ID# [REDACTED] / DOA: September 18, 2017 / Male / White. <sup>1</sup>
Involved Member #3:	Officer Juan Pintor Jr / Star #6255 / Employee ID# [REDACTED] / DOA: October 16, 2017 / Unit: 007/716 / Male / White.
Involved Member #4:	Officer Daniel Symons / Star #10534 / Employee ID# [REDACTED] / DOA: April 25, 2016 / Unit: 007/716 / Male / White.
Involved Member #5:	Officer Pedro Venegas / Star #9624 / Employee ID# [REDACTED] / DOA: November 16, 2017 / Unit: 007/716 / Male / Hispanic.
Involved Member #6:	Officer William Watson / Star #8986 / Employee ID# [REDACTED] / DOA: April 25, 2016 / Unit: 002 / Male / Black.
Involved Individual #1:	[REDACTED] / Male / Black.
Involved Individual #2:	[REDACTED] a.k.a. [REDACTED] / Male / Black. <sup>2</sup>

<sup>1</sup> On July 21, 2020, Officer Nelson separated from CPD, prior to providing COPA with a statement. Additionally, after leaving CPD, Officer Nelson obtained employment with the Chicago Fire Department. COPA referred the allegations against Officer Nelson to the Office of Inspector General for the City of Chicago. Att. 12 and CMS Notes CO-0083265, CO-0084663, and CO-0085625.

<sup>2</sup> During a statement to COPA, Ms. [REDACTED] asserted that [REDACTED] was in fact [REDACTED] however, COPA is uncertain if [REDACTED] and [REDACTED] are the same person. CPD records document a [REDACTED] and [REDACTED] as the individuals CPD detained. Therefore, for clarity purposes, COPA will refer to [REDACTED] as such and not [REDACTED]

**I. ALLEGATIONS<sup>3</sup>**

<b>Member</b>	<b>Allegation</b>	<b>Finding</b>
Officers Arauz, Venegas, and Watson	1. Detained ██████████ without justification.	Exonerated.
	2. Failed to complete an Investigatory Stop Report.	Unfounded.
Officers Arauz and Venegas	3. Failed to issue ██████████ an Investigatory Stop Receipt.	Sustained
Officer Watson	3. Failed to issue ██████████ an Investigatory Stop Receipt.	Unfounded.
Officers Pintor and Symons	1. Detained ██████████ aka ██████████ and/or ██████████ without justification.	Exonerated.
	2. Entered the home of ██████████ without justification.	Exonerated.
	3. Trampled ██████████ children without justification.	Not Sustained.
Officer Venegas	4. Displayed his weapon without justification.	Exonerated.
Officer Pintor and Symons	4. Displayed his weapon without justification.	Unfounded
Officer Arauz	4. Displayed his taser without justification.	Exonerated.
Officer Venegas	5. Failed to activate his body worn camera in violation of S03-14 Body Worn Cameras.	Sustained

**II. SUMMARY OF EVIDENCE<sup>4</sup>**

Chicago Police Department (CPD) Officers David Arauz, Michael Nelson, Pedro Venegas, William Watson, Juan Pintor, Daniel Symons, and Ramirez<sup>5</sup> (collectively “the Officers”) responded to reports of a stolen vehicle located in front of ██████████. Upon arrival in the area of the stolen vehicle, the Officers observed a sizeable crowd of adults and children, to include ██████████ and ██████████ congregating in the area around the stolen vehicle.

Officer Venegas exited his vehicle and observed ██████████ adjust his waistband, take a bladed stance, and flee on foot. Officers Venegas, Arauz, and Ramirez pursued ██████████ on foot. During the pursuit, Officer Arauz drew his taser and Officer Venegas unholstered his firearm. As ██████████ fled, he made his way onto the porch of a residence approximately one block away from the stolen vehicle. Once ██████████ was on the porch, Officers Venegas and Arauz pointed their respective

<sup>3</sup> Allegations were renumbered for the purpose of this report. The allegation numbering in this report matches the order in CMS.

<sup>4</sup> COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence.

<sup>5</sup> No first name or other identifying information was obtained by the interviewing COPA Major Case Specialist.

weapons at ██████<sup>6</sup> ██████ turned towards officers, raised his hands, lost his balance, and fell backwards.<sup>7</sup> Officers Venegas and Arauz lowered their weapons and detained ██████ in handcuffs. They completed a search of ██████ person and escorted him to Officer Watson's vehicle.<sup>8</sup> ██████ was placed in Officer Watson's vehicle and transported back to the location of the stolen vehicle. After further investigation, ██████ was released without additional enforcement action.

At the same time ██████ fled, Officer Pintor observed ██████ flee on foot while holding his waistband. Officers Pintor, Symons, and Nelson pursued ██████ toward ██████. ██████ fled into the residence, knocking down children as he ran past them.<sup>9</sup> The officers followed ██████ into the residence. Once ██████ was inside, he fled into a bedroom and closed and secured the door. The officers forced entry into the bedroom, detained ██████ in handcuffs, conducted a pat down of his person, and completed a search of the area where ██████ was detained for possible weapons. After additional investigation, ██████ was released without further enforcement action.

During her statement to COPA, Ms. ██████ alleged that CPD members "trampled" her children as they pursued ██████ also alleged that CPD members damaged her bedroom door while locating and detaining ██████<sup>10</sup>

During their statements to COPA, the Officers asserted that ██████ and ██████ actions caused them to believe that ██████ and ██████ were possibly armed, and that both were connected to the stolen vehicle.<sup>11</sup> Additionally, Officer Symons denied intentionally making contact with any juveniles, and he explained that he observed ██████ collide with the juveniles as he ran into the residence.<sup>12</sup> Officer Arauz explained that he drew his taser while pursuing ██████ because he observed Officer Venegas draw his firearm, and that led him to believe that Officer Venegas observed something he did not.<sup>13</sup> Officer Arauz acknowledged that he did not provide ██████ an Investigatory Stop Receipt, in part because he was only assisting Officer Venegas.<sup>14</sup> Further, Officer Venegas could not explain why he did not issue ██████ an Investigatory Stop Receipt and why he failed to activate his body worn camera.<sup>15</sup> For his part, Officer Watson asserted that he only assisted in transporting ██████ and he did not participate in ██████ detention or the search of his person.<sup>16</sup> Finally, Officer Pintor asserted that he did not make any contact with any juvenile children.<sup>17</sup>

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<sup>6</sup> Att. 30 at 00:56.

<sup>7</sup> Att. 28 at 01:45; Att. 30 at 01:01.

<sup>8</sup> Att. 27 at 01:28; Att. 28 at 02:43.

<sup>9</sup> Att. 29 at 01:35.

<sup>10</sup> COPA's preliminary investigation resulted in a determination that the damage to ██████ bedroom door did not warrant allegations.

<sup>11</sup> Att. 34, pg. 15, lns. 9 to 12; Att. 35, pg. 23, lns. 3 to 10.

<sup>12</sup> Att. 34, pg. 19, lns. 14 to 24 and pg. 20, lns. 1 to 14.

<sup>13</sup> Att. 37, pg. 9, lns. 9 to 13.

<sup>14</sup> Att. 37, pg. 20, lns. 8 to 24 and pg. 21, lns. 1 to 3.

<sup>15</sup> Att. 35, pg. 16, lns. 8 to 15 and pg. 19, lns. 8 to 20.

<sup>16</sup> Att. 38, pg. 12, lns. 6 to 8.

<sup>17</sup> Att. 39, pg. 13, lns. 15 to 17.

### III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>18</sup> 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. 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.”<sup>19</sup>

### IV. ANALYSIS AND CONCLUSIONS

#### a. Detention, Display of Weapons, and Pursuit into a Residence

COPA finds that Allegation #1 against Officers Arauz, Venegas, Watson, Pintor and Symons, that they improperly detained ██████████ and ██████████ Allegation #2 against Officers Pintor and Symons, that they improperly entered ██████████ residence; Allegation #4 against Officers Venegas and Arauz, that they improperly displayed a firearm and/or Taser; are all **exonerated**. COPA also finds that Allegation #4 against Officers Pintor and Symons, that they improperly displayed a firearm, is **unfounded**.

CPD members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.<sup>20</sup> Reasonable articulable suspicion is defined as “an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion.”<sup>21</sup> Additionally, CPD

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<sup>18</sup> 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).

<sup>19</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>20</sup> Att. 49, S04-13-09 II(A), Investigatory Stop System (effective July 10, 2017, to current).

<sup>21</sup> Att. 49, S04-13-09 II(C).

members, acting in accordance with the doctrine of Hot Pursuit, are permitted to enter a residence without a warrant when they possess reason to believe a fleeing subject presents a risk of escape, destruction of evidence, or a danger to others.<sup>22</sup>

Here, the Officers responded to reports of a stolen vehicle. Upon arrival at the location, the Officers observed several individuals, including [REDACTED] and [REDACTED] congregating around the stolen vehicle. When the Officers approached the individuals, both [REDACTED] and [REDACTED] fled on foot. As [REDACTED] and [REDACTED] fled, the Officers observed them holding their waistbands, causing the Officers to believe they might be armed. These observations, combined with reports of the stolen vehicle, established reasonable suspicion that [REDACTED] and [REDACTED] were connected to the stolen vehicle and might be armed. Therefore, COPA finds the Officers' decision to detain [REDACTED] and [REDACTED] was reasonable and proper.

As noted above, [REDACTED] grabbed his waistband as he fled.<sup>23</sup> This action prompted Officers Venegas and Arauz to point their firearm and Taser, respectively, at [REDACTED]. COPA finds that [REDACTED] flight and his hand movements around his waist, combined with his initial proximity to the stolen vehicle, caused Officers Venegas and Arauz to reasonably believe that [REDACTED] was armed and involved in the vehicle theft. Therefore, the Officers' decision to point their weapons at [REDACTED] to gain his compliance was reasonable and proper, especially considering that Officers Venegas and Arauz lowered their weapons as soon as [REDACTED] surrendered.

Further, as [REDACTED] fled, he too was holding his waistband as he ran into a residence. [REDACTED] flight and his hand movements around his waist, combined with his proximity to the stolen vehicle and his entry into a residence, created a reasonable belief that [REDACTED] was armed, involved in the vehicle theft, and presented a threat to any occupants in the residence. Therefore, COPA finds that Officers Pintor and Symons' decision to pursue [REDACTED] into the residence was reasonable and proper given the totality of the circumstances.

Finally, Officers Pintor and Symons' respective body worn camera videos do not show either officer displaying their firearm or any other weapon as they pursued [REDACTED]. Even if Officers Pintor and/or Symons pointed their firearms at [REDACTED] this action would be reasonable and proper for the reasons discussed above.

#### **b. Contact with Juveniles**

COPA finds Allegation #3 against Officers Pintor and Symons, that they "trampled" [REDACTED] children, is **not sustained**. COPA was unable to locate any evidence, other than the statements of [REDACTED] and the Officers, that supports or refutes the allegation. Further, body worn camera footage depicts [REDACTED] pushing children out of his way as he fled into the residence, and it is unclear if this act was the "trampling" [REDACTED] alleged to COPA. For these reasons, COPA finds there is insufficient evidence to prove or disprove the allegation by a preponderance of the evidence.

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<sup>22</sup> *Pyont v. New York*, 445 U.S. 573 (1980).

<sup>23</sup> This action is indicative of a fleeing subject being armed.

### c. Investigatory Stop Report and Receipt

COPA finds that Allegation #2 against Officers Arauz, Venegas, and Watson, that they failed to complete an Investigatory Stop Report, is **unfounded**. However, Allegation #3 against Officers Arauz and Venegas, that they failed to provide ██████ with an Investigatory Stop Receipt, is **sustained**. Finally, COPA finds that Allegation #3 against Officer Watson, that he failed to provide ██████ with an Investigatory Stop Receipt, is **unfounded**.

CPD members who complete an investigatory stop are required to complete an Investigatory Stop Report that details “[a]ll of the factors that support Reasonable Articulate Suspicion in order to temporarily detain an individual for investigation.”<sup>24</sup> However, if the member completes a detention based on probable cause and there is another CPD report that details the probable cause for the stop, the member is not required to complete an Investigatory Stop Report.<sup>25</sup> Additionally, “Upon the completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.”<sup>26</sup>

Here, it is undisputed that ██████ and ██████ were subjected to an investigatory stop and that the Officers completed Investigatory Stop Reports detailing the detentions.<sup>27</sup> Because the Officers completed Investigatory Stop Reports, they complied with CPD policy.

Additionally, while ██████ was detained, he was subjected to a permissible protective pat down by Officers Arauz and Venegas. That protective pat down obligated Officers Arauz and Venegas to provide an Investigatory Stop Receipt to ██████ however, none was provided. This failure violated CPD policy and Rules 2, 3, 5, and 6.

Further, despite Officer Watson’s presence during the search of ██████ he was merely a support officer and did not participate in the search. As a result, it was not Officer Watson’s responsibility to issue ██████ an Investigatory Stop Receipt. Therefore, COPA finds this allegation is unfounded.

### d. Body Worn Camera

COPA finds Allegation #5 against Officer Venegas, that he failed to activate his body worn camera, is **sustained**. CPD members are required to activate their body worn cameras “at the beginning of an incident” or “as soon as practical” for “all law-enforcement-related activities.”<sup>28</sup>

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<sup>24</sup> Att. 49, S04-13-09 VIII (A)(1).

<sup>25</sup> Att. 49, S04-13-09 VII (B)(1)(a).

<sup>26</sup> Att. 49, S04-13-09 VIII (A)(3).

<sup>27</sup> Atts. 13 and 19.

<sup>28</sup> “Law-enforcement-related activities include but are not limited to: calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” Att. 50, S03-14 III(A)(2) (a-r), Body Worn Cameras (effective April 30, 2018 to present).

Here, it is undisputed that Officer Venegas failed to active his body worn camera until after [redacted] and [redacted] were detained and the Officers were further investigating their connection to the stolen vehicle. This failure violated CPD policy and Rules 2, 3, 5, and 6.

**V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Arauz**

**i. Complimentary and Disciplinary History<sup>29</sup>**

Officer Arauz has received 69 various awards and one reprimand in 2022 for a court appearance violation.

**ii. Recommended Penalty**

COPA has found that Officer Arauz failed to issue an Investigatory Stop Receipt as required by CPD policy. This violation is unacceptable, especially considering the purpose of the receipt is to provide citizens with a record of their interaction with CPD members. It is for this reason, combined with Officer Arauz’s history, that COPA recommends a **1-day suspension**.

**b. Officer Venegas**

**i. Complimentary and Disciplinary History<sup>30</sup>**

Officer Venegas has received 92 various awards. He has no sustained disciplinary history in the last five years.

**ii. Recommended Penalty**

COPA has found that Officer Venegas failed to issue an Investigatory Stop Receipt as required by CPD policy. This violation is unacceptable, especially considering the purpose of the receipt is to provide citizens with a record of their interaction with CPD members. Additionally, it is undisputed that Officer Venegas failed to timely activate his body worn camera. It is for these reasons, combined with Officer Venegas’ history, that COPA recommends a **3-day suspension**.

Approved:

[redacted] #13  
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Steffany Hreno  
*Director of Investigations*

11/29/2022  
\_\_\_\_\_  
Date

<sup>29</sup> Att. 51.

<sup>30</sup> Att. 52.