

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 8, 2018
Time of Incident:	1:00 PM
Location of Incident:	██
Date of COPA Notification:	06/10/2019
Time of COPA Notification:	5:17 PM

At approximately 1:00 PM, November 8, 2018, the OEMC dispatched a call for service to 115 S. Pulaski, the Legler Regional Library, to assist an off-duty CPD officer threatened by a man armed with a knife. A physical and clothing description was broadcast, including the direction on foot that the perpetrator fled. Officers Riley, McManus and Pufpaf proceeded to the suspect's approximate location, observing an individual identified as complainant ██████████. Conducting an approximate two-minute investigatory stop, the officers concluded ██████████ was not the perpetrator. Afterward, officers told ██████████ he was free to leave.

II. INVOLVED PARTIES

Involved Officer #1:	Nicole McManus, Star# 12516, Emp# ██████████, Date of Appointment: 04/06/2015, Police Officer, UOA: 11 th District, DOB, Female, White
Involved Officer #2:	Matthew M. Pufpaf, Star# 19220, Emp# ██████████, Date of Appointment: 05/01/2013, Police Officer, UOA: 11 th District, DOB: ██████████ 1986, Male, White
Involved Individual #1:	████████████████████/1983, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer McManus	It is alleged that on or around November 6, 2018, at approximately 1:00 PM, at or near ██████████, Officer McManus:	

	1. Stopped [REDACTED] without justification, in violation of Rule 10.	Exonerated
	2. Detained [REDACTED] without justification, in violation of Rule 8.	Exonerated
	3. Searched [REDACTED] without justification, in violation of Rule 10.	Exonerated
	4. Failed to properly document the detention of [REDACTED] in violation of Rule 10.	Not Sustained
Officer Pufpaf	It is alleged that on or around November 6, 2018, at approximately 1:00 PM, at or near [REDACTED], Officer Pufpaf:	
	1. Stopped [REDACTED] without justification, in violation of Rule 10.	Exonerated
	2. Detained [REDACTED] without Justification, Rule 8.	Exonerated
	3. Searched [REDACTED] without justification, in violation of Rule 10.	Exonerated
	4. Failed to properly document the detention of [REDACTED] in violation of Rule 10.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
2. **Rule 10:** Inattention to duty.

Special Orders

1. **S04-13-09:** Investigatory Stop System
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1. U.S. Constitution: 4th Amendment

V. INVESTIGATION¹

a. Interviews

On July 8, 2019, Complainant, ██████████ (██████████) gave COPA an audio-recorded interview.² At approximately 1:00 PM, November 8, 2018, ██████████ exited his residence at ██████████. As he walked down the stairs to the sidewalk, two unmarked CPD vehicles, a tan Crown Victoria and a black SUV with emergency lighting activated, approached him in opposite directions on the street. As the black SUV pulled next to the tan Crown Victoria, an unknown officer said, “grab that guy right there.”³ An unidentified white male officer, with a beard, exited the Crown Victoria, identified as **Police Officer Matthew Pufpaf (“Officer Pufpaf”), Star# 19220, 11th District**, telling ██████████ to stop, then approached, and searched him. Two additional officers, a white female, identified as **Police Officer Nicole McManus (“Officer McManus”), Star# 12156, 11th District**, and a black male, identified as **Police Officer J’mal Riley, (“Officer Riley”), Star# 10298, 11th District**, also approached ██████████. He explained to the officers he was walking to his car, which contained his identification. He told the officers he lived at ██████████, and by running the plates on his 2002 Ford Escape, would confirm his information. Observing ██████████ wearing protective eyewear and earplugs, Officer Riley mentioned, “We wear those at the range. You could’ve been shooting a gun or anything.”⁴ Officer Pufpaf explained to ██████████ “You wouldn’t believe this, but you fit the exact description they [OEMC dispatch]⁵ just gave.”⁶

██████████ was wearing a black and grey skull cap, black jacket, and blue jeans. He was wearing a hooded sweatshirt underneath his black jacket, concealing a blue bank deposit pouch of money. While performing the search, Officer Pufpaf went underneath ██████████ jacket into his hooded sweatshirt, removing the bank deposit pouch of funds, proceeding to his CPD vehicle. ██████████ knows a protective patdown involves the outer layer of clothing. After the investigation, Officer Pufpaf returned the pouch to ██████████ who said no funds were missing. The officers never identified themselves to ██████████ nor gave him a contact card. He was not handcuffed and estimated the detention lasted seven to ten minutes. ██████████ believes the officers stopped him without reasonable suspicion.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Attachment 4

³ Attachment 4 at 4:40

⁴ Id at 7:28

⁵ Attachment 17

⁶ Id at 7:48

On December 31, 2019, **Officer Riley** gave COPA an audio-recorded interview.⁷ On November 8, 2018, Officer Riley was working in plainclothes with **accused Officers McManus and Pufpaf** with all parties in an unmarked CPD Crown Victoria. At approximately 1:00 PM, Officer Riley recalls an OEMC dispatch to “assist a P.O.”⁸ He recalls it involved assisting an off-duty police officer, working security at a library located at Pulaski and Wilcox, who was being threatened by a person armed with a knife. On-duty 11th District officers responding to the library broadcast a description of the offender received from the off-duty police officer. The offender was described as a black male, wearing a black hooded sweatshirt and blue jeans, fleeing on foot westbound on Monroe Street. Officers McManus, Pufpaf, and Riley proceeded from their southeast location towards the incident location. Additional broadcast information described the offender westbound through the alley on Monroe Street and southbound through yards. Officers McManus, Pufpaf, and Riley received further information the offender continued running southbound across Wilcox, approximately in the north alley of Adams near [REDACTED]. The officers drove down Adams and observed a person walking from the middle of the block on the north side of Adams, entering a vehicle. The person, identified as the [REDACTED] was wearing a black hooded sweatshirt and blue jeans. The officers performed an investigatory stop and detained him. [REDACTED] was primarily interacting with Officer Pufpaf, with Officer Riley providing security.

[REDACTED] was told he was stopped because he matched the description of the person involved in the library incident. Officer Riley believed [REDACTED] provided identification to Officer Pufpaf. [REDACTED] received a cursory patdown, because he immediately did not remove his hands from his pocket and held an arm close to his side. Knowing the offender from the library incident had a knife, and believing a concealed weapon was inside his jacket, Officer Pufpaf reached inside [REDACTED] jacket, under the arm close to his side. Officer Pufpaf recovered a blue zippered pouch containing a large sum of money. There was no recovery of a knife. Officer Riley believes [REDACTED] provided some form of identification to Officer Pufpaf. Officer Riley believes Officer Pufpaf completed an Investigatory Stop Report (ISR), but given the library incident’s dynamic, i.e., locating a person armed with a knife in the immediate area, he does not recall whether [REDACTED] received a receipt. Officer Riley recalls the incident lasting approximately one minute and twenty seconds.

On December 31, 2019, **Officer McManus** gave COPA an audio-recorded interview.⁹ On November 8, 2018, Officer McManus, Pufpaf, and Riley were working in and were assigned to an unmarked CPD vehicle assigned to the 11th District Mission Team. At approximately 1:00 PM, Officer McManus and her partners were near [REDACTED] responding to an OEMC dispatch of an off-duty officer threatened by a person with a knife. At W. Adams and Pulaski, Officer McManus and her partners observed a person in the middle of the street near a vehicle matching

⁷ Attachment 10

⁸ Attachment 10 at 6:44

⁹ Attachment 11

the offender's description. The person, identified as the complainant [REDACTED] was stopped and detained.

The officers told [REDACTED] to remove his hands from his pocket. Officer Pufpaf performed a patdown, removing a bag from underneath [REDACTED] arm. During the investigatory stop, Officer McManus was on the radio to OEMC dispatch and did not have physical contact with [REDACTED]. Upon investigation, Officer Pufpaf determined [REDACTED] was not the offender. She does not recall if [REDACTED] was told the reason for the stop. After completing the investigation, [REDACTED] was released at the scene. An ISR was completed, but [REDACTED] did not receive a receipt. Because of the library incident's dynamic, i.e., locating a person armed with a knife in the immediate area, the priority was the offender's location and apprehension. Officer McManus estimated [REDACTED] investigation was approximately one minute.

On December 31, 2019, **Accused Officer Pufpaf** gave COPA an audio-recorded interview.¹⁰ On November 8, 2018, Officers Pufpaf, McManus, and Riley responded to an OEMC dispatch of an off-duty police officer requesting assistance at 115 S. Pulaski, the Legler Regional Library. The incident involved an unknown male brandishing a knife at the off-duty officer and fleeing the scene. The offender's description was a black male, black hood, running westbound in the south alley of Monroe.¹¹ Officer Pufpaf drove the unmarked CPD vehicle westbound from the incident location and observed a person, identified as [REDACTED] walking from the north side to the street's south side. Upon seeing the officers approaching, he observed [REDACTED] "conceal something in his inner jacket."¹² Additionally, he fit the offender's description of a black male with approximate height and weight, wearing a dark jacket and blue jeans. Officers Pufpaf, McManus, and Riley made a stop, asking [REDACTED] to show his hands. While [REDACTED] complied and showed his hands, he continued to squeeze the unknown item within his jacket. That action drew the attention of Officer Pufpaf, believing it might be the knife, given in the description of the perpetrator or another unknown weapon. He conducted a protective patdown, recovered the item, finding it was a blue zipper bag. He patted the bag to ascertain whether it contained the knife but found none. [REDACTED] name was checked via his license, confirming his identity. Officer Pufpaf told [REDACTED] why he was stopped and the reason for the protective patdown, and he was free to leave. Officer Pufpaf believed the entire stop lasted approximately five minutes. Afterward, the officers continued to look for the offender in the area.

Officer Pufpaf completed an Investigatory Stop Report (ISR) documenting the stop. Although the ISR indicates a receipt being issued, Officer Pufpaf does not remember whether he did give it to [REDACTED]. Usually, he completes the ISR before the end of the watch. Officer Pufpaf does issue receipts for investigatory stops to investigated persons immediately afterward. He typically captures issuing the receipt on body-worn camera (BWC). However, in this instance,

¹⁰ Attachment 12

¹¹ Attachment 6

¹² Attachment 12 at 11:15

Officer Pufpaf may have turned off the BWC, and realizing he had not given [REDACTED] a receipt, then did so.

Digital Evidence

The BWC¹³ of **Officer Riley** shows [REDACTED] standing in the street when Officers Riley, McManus, and Pufpaf stopped him. [REDACTED] tells the officers, “I live right here.”¹⁴ Officer Pufpaf explains to [REDACTED] “you literally fit the exact description they [OEMC dispatch] gave.”¹⁵ Officer Pufpaf asked [REDACTED] for identification and observes [REDACTED] clutching an object underneath his left jacket arm, between his wrist and forearm. He asks [REDACTED] “what do you have right here,”¹⁶ grabbing his wrists. Officer Riley reaches and holds [REDACTED] left elbow. Officer Pufpaf recovers a small blue bag. He walks towards the unmarked CPD vehicle, asking [REDACTED] his name. He runs a name check from the plates on [REDACTED] car. Officer Pufpaf walks back to [REDACTED] returning the blue bag, explains why he suspected [REDACTED] was concealing a weapon and ended the investigation. The BWC shows Officer MacManus conducting radio transmissions to other officers regarding the stop. At no time did she have physical contact or question [REDACTED]. The BWC shows Officer Pufpaf initiated and led the investigatory stop.

The BWC¹⁷ from **Officer Pufpaf** shows walking towards [REDACTED] stopping momentarily, reaching inside [REDACTED] jacket, and retrieving a blue zipper bag. He asks [REDACTED] name for a name check. He confirms [REDACTED] name and address and walks back to him, returning the blue zipper bag. Officer Pufpaf apologizes to [REDACTED] for stopping him, turns, and says to Officers Riley and McManus, “it ain’t him.”¹⁸ The officers return to their unmarked CPD vehicle, leaving the area.

b. Documentary Evidence

The **Office of Emergency Management and Communications (OEMC)** Event Query# 1831207379 shows at approximately 12:54 PM, November 8, 2018, an OEMC dispatch to 115 S. Pulaski, the Legler Regional Library, occurred to assist an off-duty CPD officer threatened by a man armed with a knife.¹⁹ The physical description was a black male, 5’ 10”, last seen wearing a black hat, hooded sweatshirt, and blue jeans. A responding CPD unit last saw him in the south alley of Monroe Street, cutting through a yard. The perpetrator was prior observed running southbound through a yard at 4005 S. Wilcox. Officers McManus, Riley, and Pufpaf saw [REDACTED] in the middle of the street at [REDACTED], approximately a block south of the

¹³ Attachment 13

¹⁴ Attachment 13 at 0:33

¹⁵ Id at 0:35

¹⁶ Id at 0:44

¹⁷ Attachment 15

¹⁸ Attachment 15 at 1:25

¹⁹ Attachment 17

Wilcox location. He appeared the approximate height and weight, wearing a black hat, black hooded sweatshirt, black jacket, and blue jeans.²⁰

The **Investigatory Stop Report**²¹ (ISR)# ISR000697120 completed by Officer Pufpaf states that at approximately 1:00 PM, November 18, 2018, [REDACTED] investigatory stop occurred in the street near [REDACTED]. [REDACTED] physical description is a black male, 5'9", 187lbs, wearing a black jacket, a hooded sweatshirt, and a black knit cap. His physical and clothing description matched those of the perpetrator from the 115 S. Pulaski location, causing Officers Riley, McManus, and Pufpaf to stop [REDACTED]. Since the offender was described as armed with a knife, Officer Pufpaf performed [REDACTED] protective patdown with negative results. Further investigation confirmed [REDACTED] address as [REDACTED] and no outstanding warrants from the name check. The ISR indicates [REDACTED] received a receipt from the stop.

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** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it is more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See, e.g., *People v. Coan*, 2016 I.L. App (2d) 151036 (2016). Clear and Convincing can be defined as a

²⁰ Attachment 15 at 1:20

²¹ Attachment 18

“degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

VII. ANALYSIS

1. *The Stop and Detention of* ██████████

The Fourth Amendment of the United States Constitution and the Illinois Constitution of 1970 guarantees individuals’ right to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. A temporary investigative seizure conducted according to *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107- 14, must be supported by reasonable, articulable suspicion of criminal activity. A police officer may temporarily detain an individual for an investigatory stop when “the officer’s decision is based on specific, articulable facts which warrant the investigative stop intrusion.” *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing *Terry v. Ohio*, 392 U.S. 1, 21, (1968)); *People v. Stewart*, 242 Ill. App. 3d 599, 605 (1993)). Officers Riley, McManus, and Pufpaf, armed with a physical and clothing description of an offender that assaulted an off-duty CPD officer with a knife at 115 S. Pulaski, patrolled a several block location looking for the individual. Officers McManus, Riley, and Pufpaf saw ██████████ in the middle of the street at ██████████ approximately a block south of the Wilcox location, where the offender was last seen. Fitting the physical and clothing description and the incident’s proximity, the officers possessed reasonable articulable suspicion for a temporary stop and detention of ██████████ for further investigation. Based upon clear and convincing evidence, COPA exonerates Officers McManus and Pufpaf of the allegations of stopping and detaining ██████████ without justification.

2. *The search of* ██████████

Officers are not permitted to conduct a limited search for weapons during every valid investigatory stop. *People v. Sorenson*, 196 Ill. 2d 425, 433 (2001). “The officer may subject the person to a limited search for weapons . . . only if the officer reasonably believes that the person is armed and dangerous.” *Id.* According to CPD policy, “a protective patdown is a limited search during an investigatory stop in which the sworn member conducts a patdown of the outer clothing of a person for weapons for the protection of the sworn member or others in the area. If, during a protective patdown of the outer clothing, the sworn member touches an object which the sworn member reasonably believes is a weapon, the sworn member may reach into that area of the clothing and retrieve the object.”²² Since the offender was described as armed with a knife, and the totality of the circumstances, Officer Pufpaf had reasonable articulable suspicion to performed ██████████ protective patdown for a weapon. Upon observation, Officer Pufpaf e noticed ██████████ continued squeezing an unknown item underneath his jacket. That action drew the attention of Officer Pufpaf, believing it might be the knife given in the description of the perpetrator or another unknown weapon. He conducted a protective patdown, recovered the item,

²² S04-13-09, *Investigatory Stop System*

finding it was a blue zipper bag. He patted the bag to ascertain whether it contained the knife but found none. Based upon clear and convincing evidence, COPA exonerates Officers McManus and Pufpaf of the allegation of searching [REDACTED] without justification.

3. Failed to properly document the detention of [REDACTED]

Officer Pufpaf completed an ISR documenting the stop of [REDACTED]. However, he and Officer Riley did not recall whether [REDACTED] received a receipt for the investigatory stop. Officer McManus recalls a receipt was not issued to [REDACTED] citing the incident’s dynamic, i.e., locating a person armed with a knife in the immediate area; the priority was the offender’s location and apprehension. CPD policy requires completing a hard copy ISR and a receipt issued to the subject of the investigatory stop, listing the officer’s name, badge, and the reason for the stop. As the BWC video shows, the incident was fluid. Officers Riley, McManus, and Pufpaf confronted exigent circumstances, i.e., the expedience of action for locating and apprehending an armed person in the immediate area, creating a danger to officers and citizens at large in the area. Based upon clear and convincing evidence, COPA makes a finding of not sustained to the allegation against Officers McManus and Pufpaf for failing to document the detention of [REDACTED] properly.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer McManus	It is alleged that on or around November 6, 2018, at approximately 1:00 PM, at or near 4032 W. Adams St., Officer McManus:	
	1. Stopped [REDACTED] without justification, in violation of Rule 10.	Exonerated
	2. Detained [REDACTED] without justification, Rule 8.	Exonerated
	3. Searched [REDACTED] without justification, Rule 10.	Exonerated
	4. Failed to properly document the detention of [REDACTED] in violation of Rule 10.	Not Sustained

Officer Pufpaf	It is alleged that on or around November 6, 2018, at approximately 1:00 PM, at or near [REDACTED], Officer Pufpaf:	
	1. Stopped [REDACTED] without justification, in violation of Rule 10.	Exonerated
	2. Detained [REDACTED] without justification, Rule 8.	Exonerated
	3. Searched [REDACTED] without justification, Rule 10.	Exonerated
	4. Failed to properly document the detention of [REDACTED] in violation of Rule 10.	Not Sustained

Approved:

[REDACTED]

8-31-23

Date

Deputy Chief Administrator – Chief Investigator