## SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

#### I. EXECUTIVE SUMMARY

Date of Incident:May 10, 2021Time of Incident:7:15 PMLocation of Incident:4216 W Maypole Ave.Date of COPA Notification:May 11, 2021Time of COPA Notification:3:05 PM

Complainant alleges that he and his stepson were stopped and investigated by the accused officers without justification. During this stop, the accused officer allegedly searched the complainant's bag and seized his firearm without justification. The complainant also alleged that an officer was smoking his cigarette during the entire investigation.

### II. INVOLVED PARTIES

Involved Officer #1:	Edward Zeman, Star# 19750, Employee# , Date of Appointment: April 25, 2016, PO, Unit of Assignment: 011, DOB: , 1986, Male, White
Involved Officer #2:	Curtis Alequin, Star# 110028, Employee#, Date of Appointment: May 16, 2017, PO, Unit of Assignment: 011, DOB:, 1994, Male, White
Involved Individual #1:	DOB: , 1993, Male, Black
Involved Individual #2:	Minor, Male, Black

#### III. ALLEGATIONS

Officer	Allegation	Finding
Officer Edward Zeman	It is alleged that on or about May 10, 2021, at or after approximately 07:15 pm, at 4216 W Maypole Ave., Officer Edward Zeman, Star #19750, committed misconduct thorough the following acts or omission:	

<sup>&</sup>lt;sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

	1. Detained without justification.	Not Sustained
	2. Searched bag without justification.	Not Sustained
	3. Smoked a cigarette while on duty during the investigatory stop of	Sustained
	4. Failed to activate his body-worn camera in a timely fashion.	Sustained
Officer Curtis Alequin	It is alleged that on or about May 10, 2021, at or after approximately 07:15 pm, at 4216 W Maypole Ave., Officer Curtis Alequin, Star #110028, committed misconduct thorough the following acts or omission:	
	1. Detained without justification.	Not Sustained
	2. Searched bag without justification.	Not Sustained
	3. Failed to activate his body-worn camera in a timely fashion.	Not Sustained
	4. Made a false or misleading Investigatory Stop Report (ISR)	Sustained

## IV. APPLICABLE RULES AND LAWS

### Rules

- 1. **Rule 2**: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- 2. **Rule 3**: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- 3. **Rule 5**: Failure to perform any duty.
- 4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- 5. **Rule 9**: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

- 6. **Rule 10**: Inattention to duty.
- 7. **Rule 11:** Incompetency or inefficiency in the performance of duty.
- 8. **Rule 55**: Holding cigarette, cigar, or pipe in mouth while in uniform and in official contact with the public.

## General Orders

- 1. G03-02
- 2. G06-01

# Special Orders

1. S03-14

## Federal Laws

- 1. U.S. Const. 1st Amendment
- 2. U.S. Const. 8<sup>th</sup> Amendment

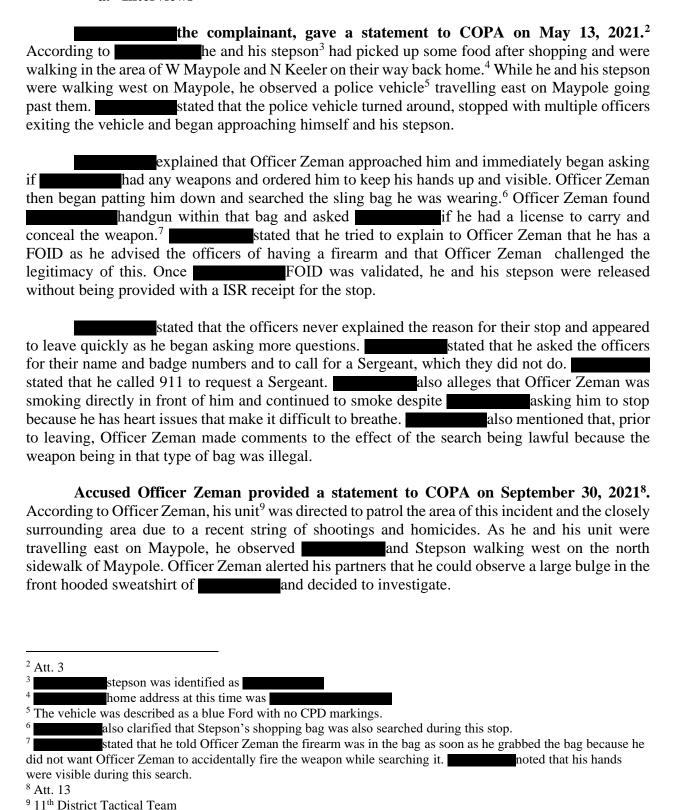
### State Laws

- 1. 720 ILCS 5/7-5
- 2. 50 ILCS 706/10-5
- 3. 430 ILCS 66/1

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#### V. INVESTIGATION

#### a. Interviews



Prior to Officer Zeman exiting his vehicle, he claims swung a black Nike satchel he was wearing behind his back. Officer Zeman claimed that, in his experience, he has recovered several firearms concealed in similar bags. This specific movement in that style of bag, gave Officer Zeman the suspicion that may have been concealing a firearm. As Officer Zeman approached he stated that he asked multiple times if he had any weapons on him and received no response. Officer Zeman then simultaneously pats down the bulge in the front hooded pocket and the Nike bag. When Officer Zeman felt this bag, he stated that it felt consistent with a handgun based on his experience. 10
Officer Zeman then stated that he opened the bag <sup>11</sup> and recovered a black semi-automatic handgun with a magazine. At this moment, advised Officer Zeman that he has a concealed carry license (CCL) in the same bag the weapon was recovered from. Officer Zeman then stated he recovered identification and gave it to Officer Alequin to run through OEMC. CCL was validated and cleared through OEMC and was released on scene. Officer Zeman stated that he did not have any ISR receipts at the time, so he gave piece of paper with his name and star number on it.
Officer Zeman was asked what his reasonable and articulable suspicion was for investigating Officer Zeman stated that he believed the bulge and the bag on was indicative of him potentially concealing a firearm illegally. Officer Zeman was asked specifically about the suspicious bulge he mentioned previously and what he found suspicious about it. Officer Zeman reiterated that it was not so much the shape of the bulge being consistent with a firearm, but rather it hanging as though something heavy like a firearm was weighing it down. Officer Zeman had mentioned previously that avoidance of eye contact with the officers also appeared suspicious to him. When asked about this, Officer Zeman referred to his thirteen years in law enforcement experience and reading body language to say that avoiding eye contact with law enforcement can be a sign of deception or suspicious behavior. 12
Officer Zeman was asked once more what suspicious behavior he believed and Stepson to have been involved with. Officer Zeman, again referred to his experience as a police officer, citing instances where people have been armed while carrying grocery bags and still shot someone. He insisted that moving his Nike bag toward his back heightened his suspicions that was armed. Officer Zeman also noted once more that the area is known for violent gang activity and shootings so and Stepson carrying several bags did not make a difference to him.
Officer Zeman was asked about the ISR for this incident, specifically the moment moves his bag behind his back. According to the ISR, moves the bag as Officer Zeman approaches him and grabs the suspicious bulge. Officer Zeman stated that he
Officer Zeman claimed that he could observe the Nike bag was weighed down based on the way that it swung around back. This is also documented in the ISR.  11 Officer Zeman stated he believed the bag was already unzipped and open prior to searching it.  12 Officer Zeman was asked if he was trained and educated that avoiding eye contact is suspicious behavior. He did not directly say yes or no. He only referred to his experience.  13 Officer Zeman was shown the BWC of Officer Alequin where it appears front hoodie pocket is holding what appears to be a large "Subway" sandwich bag sticking visibly out of the pocket.

believes there to be an unintended error in the timeline of the ISR. He clarified that had moved the bag prior to him exiting the patrol vehicle. Officer Zeman also stated that he did not author the ISR, but Officer Alequin did. When asked if he reviewed the ISR for accuracy prior to submitting it, he stated that he did not review it because he trusted his partner, who was also on scene, to accurately detail the events.

Officer Zeman was reminded that there is a large portion of audio missing from the interaction due to a late activation of his body-worn camera. He was asked what was said during their initial contact, to which he replied that he was asking if he had any weapons on him and explaining the reason for investigating him. Officer Zeman was then asked why his body-worn camera was activated late. Officer Zeman stated that due to the nature of the stop and his concern for his own safety and the safety of his partners, his focus was on securing first as quickly as possible. Officer Zeman was asked why, if he was concerned for officer safety prior to the stop, his body-worn camera was not activated prior to exiting the vehicle. Officer Zeman stated that he was suspicious of the bulge but became increasingly concerned for officer's safety once moved his bag, which could not be seen on body-worn camera footage.

According to Officer Alequin, he was patrolling with his team, when Officer Zeman observed something suspicious. Officer Alequin then exited the patrol vehicle and approached to assist Officer Zeman who was in the process of removing a firearm from bag. Officer Alequin stated that he ran dentification recovered by Officer Zeman through OEMC and was released on scene. An ISR was then completed for the investigation.

Officer Alequin was asked what observations, his own or Officer Zeman's, drew his attention to and his stepson. Officer Alequin stated that he did not recall making any observations of his own prior to the investigation. He only recalled observing Officer Zeman removing firearm as he came to assist. Officer Alequin stated that he could not recall asking if he had a valid FOID, but based on common practice, he typically would ask that of a subject. Officer Alequin also could not recall whether Officer Zeman asked permission to search.

Officer Alequin was questioned about the ISR from this incident. A brief portion of the ISR was read to Officer Alequin where it describes moving his Nike bag behind his back as Officer Zeman conducted a pat-down of his front hooded sweatshirt pocket where the suspicious bulge was observed. Officer Alequin was asked at what point had moved his Nike bag behind his back if, according to body-worn camera footage, bag was already behind his back. Officer Alequin stated that it was an unintentional error in laying out the timeline of events for the ISR as he wrote it. He stated that he and Officer Zeman were busy that day and he was attempting to type out the ISR prior to the end of their tour of duty. Officer Alequin reaffirmed that he was only trying to document the investigation based on Officer Zeman's observations and he made a mistake in the timeline.

<sup>15</sup> Portions of concern for accuracy within the Att. 1 are highlighted.

<sup>&</sup>lt;sup>14</sup> Att. 16

<sup>&</sup>lt;sup>16</sup> Officer Alequin reviewed his BWC (Att. 8) and Officer Zeman's BWC (Att. 9) prior and during interview.

Regarding the description of firearm in the ISR, Officer Alequin was asked how he knew the description of how the bag felt, if he had not personally observed or felt it. Officer Alequin stated that he was reiterating what Officer Zeman described to him. Officer Alequin was asked if Officer Zeman reviewed the ISR for accuracy prior to submitting it to which he said no because they worked together for years, and he believed he accurately reflected Officer Zeman's observations. Officer Alequin was then asked if he believes the ISR accurately reflects what took place during their investigation of Officer Alequin believed that he accurately described the investigation except for when moved his bag. Officer Alequin stated it was a mistake of sequencing events and was completely unintentional. Officer Alequin was also asked why he authored the ISR if what is documented was all based-on Officer Zeman's observations. Officer Alequin stated that he and Officer Zeman each had responsibilities they were sharing and his was to handle ISRs on that day.
Officer Alequin was then asked about the late activation of his body-worn camera. Officer Alequin stated that he always attempts to activate his camera in a safe and timely manner believing that he started it as he began exiting the patrol vehicle. It was not until Officer Alequin was running identification through OEMC that he realized his camera was not actually recording. Officer Alequin was asked if he could recall any conversations or dialogue he or Officer Zeman may have had with during the period of footage without audio, to which he said no, he could not recall.
b. Digital Evidence
COPA obtained body-worn camera footage for Officer Zeman and Alequin as well as POD footage from this incident. The body-worn camera (BWC) footage for both officers proved to be the most useful pieces of digital evidence. The POD footage COPA was able to obtain did not provide any additional perspectives of this incident and ultimately proved non-beneficial for the investigation.
Officer Zeman's BWC footage begins inside the vehicle while he and his partners are on patrol. Officer Zeman exits the vehicle and approaches and his stepson, <sup>17</sup> who both appear to be walking along the sidewalk with items in hand. <sup>18</sup> Upon contacting Officer Zeman grabs the front hoodie pocket of while simultaneously reaching for a small sling-style Nike bag resting along back. Officer Zeman grabs the sling bag and immediately pulls it to the front side of and reaches inside to remove a black handgun, <sup>19</sup> one loaded magazine, and wallet.
Officer Zeman goes through wallet and removes driver's license before placing the wallet back inside bag. Officer Zeman passes license to Officer Alequin who steps away to request information through OEMC to verify

Stepson is not searched or patted down during this investigation.

18 Example 17 Stepson is not searched or patted down during this investigation.

18 Example 18 It is carrying a one-gallon jug of water in his left hand. Stepson has a fountain drink in his left hand and a Nike shopping bag and a paper takeout food bag in his right hand.

<sup>&</sup>lt;sup>19</sup> Glock 27

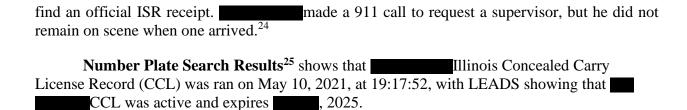
was legally carrying and concealing this firearm. While Officer Alequin has stepped away, calls 911 to request a supervisor to the scene because he feels that he is being harassed.
Officer Zeman was notified by Officer Alequin that is legal to carry and has no warrants. Officer Zeman then goes to his patrol vehicle to retrieve a piece of paper because he did not have the official Investigatory Stop Report (ISR) receipts to provide with his officer information. As he is returning to Officer Zeman deactivates his camera. <sup>20</sup>
Officer Alequin's BWC footage account of the incident was generally consistent with that of Officer Zeman.  Both officers' cameras appear to be activated late. Officer Zeman's footage only picks up approximately 53 seconds of audio which begins at the 2:00 minute mark. Officer Alequin's footage picks up approximately 1:34 minutes of audio which also does not begin until the 2:00 minute mark. This is an indication of late activations of BWC equipment given that there is a buffer of two minutes from the time of activation where audio is not recorded. Meaning, the two minutes without audio occurred prior to officers activating their cameras. It's also important to note that both BWC entries capture Officer Zeman actively smoking a cigarette while in uniform and in the performance of this investigation.
c. Documentary Evidence
COPA obtained the Investigatory Stop Report (ISR) 011132642 <sup>21</sup> from this incident. According to the ISR, the accused officers were on "directed patrol" due to high rates of gang violence and narcotics traffic. As they were patrolling, the officers observed walking west on Maypole Avenue with a "large suspicious bulge" in his front hoodie pocket. Officer Zeman approached and identified himself as a police officer while also advising the reason he was being stopped.
According to the ISR, the accused officers were on "directed patrol" due to high rates of gang violence and narcotics traffic. As they were patrolling, the officers observed walking west on Maypole Avenue with a "large suspicious bulge" in his front hoodie pocket. Officer Zeman approached and identified himself as a police officer while also advising

<sup>22</sup> It is never explicitly mentioned in the ISR, but Officer Zeman removes the firearm.

<sup>&</sup>lt;sup>20</sup> Officer Zeman's BWC footage only picks up the last 53 seconds of audio. Indicating a late activation due to there being a two-minute audio buffer when activated.

<sup>&</sup>lt;sup>21</sup> Att. 1

<sup>&</sup>lt;sup>23</sup> did not produce or hand the officers his license or CCL. Officer Zeman removes wallet from his bag and pulls out his driver's license.



**OEMC Event Query 2113013165**<sup>26</sup> This report reflects that on May 10, 2021, at 19:23:29 a stop occurred at

**OEMC Event Query 2113013244**<sup>27</sup> This report reflects that on May 10, 2121, at 19:28:45 Calls OEMC to report harassment and connected to COPA.

#### VI. LEGAL STANDARD

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

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct descried 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 has found to be 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 IL App (2d) 151036 (2016). 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." Id. at ¶ 28.

<sup>26</sup> Attachment 5

<sup>&</sup>lt;sup>24</sup> Supervisor code was listed as 1164 in ISR.

<sup>&</sup>lt;sup>25</sup> Attachment 7

<sup>&</sup>lt;sup>27</sup> Attachment 6

#### VII. ANALYSIS

For Allegation 1 against both Officer Zeman and Officer Aleguin stating that they without justification, the allegation is **Not Sustained.** documented as having a suspicious bulge in his front hoodie pocket, avoiding eye-contact with officers, and moving his Nike bag from the front of his body to behind his back. According to Officer Zeman, these observations coupled with a string of violent gang crime and shootings in the area gave him reasonable suspicion to believe may be concealing an illegal may have refused to identify himself as a CCL holder carrying firearm. Additionally, a firearm, even after being directly asked by Officers Zeman or Alequin; however, late BWC activation resulted in this initial conversation not being captured by BWC. Additionally, moving his Nike bag is not captured on camera, and according to Officer Zeman, this occurred prior to officers exiting the patrol vehicle, which is not what the ISR describes. Had Officer Zeman observed make movements suggestive of carrying a firearm couple failure to self-identify as a CCL hold, especially when directly asked, may have giving rise to probable cause to detain however, available evidence does not sufficiently establish this fact. Accordingly, allegations 1 against both officers is Not Sustained.

For **Allegation 2** against **Officer Zeman and Officer Alequin** stating he searched the bag of without justification, this allegation is **Not Sustained.** Again, for the same reasons outlined in the above paragraph, allegation 2 against officer Zeman is Not Sustained.

For Allegation 4 against Officer Zeman and Allegation 3 against Officer Alequin in that both failed to activate their body-worn camera in a timely fashion, this allegation is Sustained in violation of rules 2, 3, 5, 6, and 11. Although Officer Zeman activates his body-worn camera during this incident, there is a programmed audio buffer that causes a loss of audio until the 2:00 minute mark. This means the initial dialogue between Officer Zeman and was not captured. In his statement to COPA, Officer Alequin related that he thought that his BWC was activated when he exited the police vehicle and realized that it was not while running Sander's information through OEMC. Officer Alequin could not provide an adequate explanation for his failure to activate his BWC. S03-14 requires department members to activate their BWC for the entirety of all law enforcement activities, which did not occur.

For **Allegation 3** against **Officer Zeman** stating he smoked a cigarette while on duty during the investigatory stop of this allegation is **Sustained** in violation of rules 2, 3, and 55. There is sufficient evidence to corroborate allegation that Officer Zeman was smoking a cigarette during the investigation. It was captured on both Officer Zeman's camera and Officer Alequin's camera. Officer Zeman did not deny the allegation as well during his interview, going so far as to say he knows that it is a CPD rule violation.<sup>28</sup>

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<sup>&</sup>lt;sup>28</sup> Rule 55 of Chicago Police Department's rules and regulations.

more reasonable belief that may be trying to conceal something from them. In actuality, had moved his Nike bag before the officers even exited their vehicle. This movement could have been made for any number of reasons, if did in fact move his bag as Officer Zeman described. Although this ISR is not accurate, COPA does not believe it was the intention of Officer Alequin to be dishonest. Rather COPA would argue that the ISRs accuracy suffers because Officer Alequin authored it based on Officer Zeman's observations rather than his own.

#### VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

#### a. Officer Edward Zeman

### i. Complimentary History

1. 2019 Crime Reduction Award (1), Annual Bureau Award of Recognition (1), Attendance Recognition Award (1), Department Commendation(11), Emblem of Recognition-Physical Fitness (1), Honorable Mention (281), Honorable Mention Ribbon Award (1), Police Officer of the Month Award (2), Problem Solving Award (1), Special Commendation (2), Superintendent's Award of Tactical Excellence (1), Top Gun Arrest Award (5), Traffic Stop of the Month Award (1) and Unit Meritorious Performance Award (1). Total 310

## ii. Disciplinary History

- SPAR Log# 563150, Incident Date July 29, 2021, Completed Date November 3, 2021, Disciplinary Action Reprimand, Transgression Type 024 smoking violation; Log# 562534, Incident Date June 17, 2021, Completed Date October 4, 2021, Disciplinary Action 1 Day Off, Transgression Type 005 Court Appearance Violation; Log#562533, Incident Date June 11, 2021, Completed Date October 1, 2021, Disciplinary Action Reprimand, Transgression Type 005 Court Appearance Violation; and Log#560450, Incident Date August 28, 2020, Completed Date September 28, 2020, Disciplinary Action Reprimand, Transgression Type 025 Preventable Accident.
- Sustained Complaints: 2019-0003444, Incident Date August 24, 2019, Complaint Date August 26, 2019, Completed Date March 17, 2021 Sustained Operation/Personnel Violations Inadequate Failure to Provide Service- Disciplinary Action Taken 100 reprimand.

#### iii. Recommended Penalty: 3-Day Suspension

### b. Officer Curtis Alequin

## i. Complimentary History

**1.** 2019 Crime Reduction Award (1) and Honorable Mention (58) = Total 59

## ii. Disciplinary History

SPAR Log# 562303, Incident Date – May 14, 2021, Completed Date – July 6, 2021 – Disciplinary Action – Reprimand, Transgression Type – 005 – Court Appearance Violation; Log# 562152, Incident Date – April 27, 2021, completed date – May 21, 2021, Disciplinary Action – Reprimand, Transgression Type – 025 – Preventable Accident; and Log# 560163 – Incident Date – June 5, 2020, Completed Date – June 16, 2020, Disciplinary Action – Reprimand, Transgression Type – 025 Preventable Accident.

### iii. Recommended Penalty: 3-Day Suspension



Matthew Haynam

Deputy Chief Administrator – Chief Investigator

Date 1/3/2024