



Log # 2022-4337

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On October 14, 2022, the Civilian Office of Police Accountability (COPA) received a telephone complaint from [REDACTED] reporting alleged misconduct by a member of the Chicago Police Department (CPD). [REDACTED] alleged that on October 6, 2022, while with her children and her cousin [REDACTED] a police response to an incident at [REDACTED] School, located at 3434 W 77th St. resulted in her juvenile son, [REDACTED] being arrested without justification by Officer Thomas McDonnell and Officer Martin Kirkel. She also alleged that Officer Kirkel held her car keys without justification; the entirety of her vehicle was searched without her consent by Officer Kirkel, Officer Bradley Bullington, and Officer Adam Stark; Officer Kirkel and Officer McDonnell both failed to arrest individuals that allegedly attacked her and her family; and that Sergeant (Sgt.) Clara Cinta failed to properly direct officers under her supervision when she failed to direct them to make arrests related to [REDACTED] requests and failed to both provide [REDACTED] with a police report and to direct her subordinates to complete a police report.² Upon review of the evidence, COPA served additional allegations that Officers Kirkel, Bullington, and Stark failed to document the search of [REDACTED] vehicle in an Investigatory Stop Report and that Officer McDonnell failed to timely activate his body-worn camera (BWC) upon arrival to the scene.

Following its investigation, COPA reached sustained findings regarding the allegation brought against Officer Kirkel for failing to include the search of [REDACTED] vehicle in an Investigatory Stop Report and the allegation brought against Officer McDonnell for his failure to timely activate his BWC at the beginning of the incident.

II. SUMMARY OF EVIDENCE³

On October 6, 2022, at approximately 4:30 pm, CPD received calls related to a criminal trespass and fight outside of [REDACTED] School, located at [REDACTED]. These

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, police reports, civilian interviews, and officer interviews.

calls eventually escalated to a potential active shooter situation at the school.⁴ Callers related that multiple individuals were fighting outside of the school before one ran into the school with a gun. School staff told responding officers that they had observed a young Black male running inside of the school while clutching his waist, where what appeared to be the butt of a handgun was protruding.⁵ Faculty also recounted that the young man was wearing a white hoodie that said "GAP" on the front, black pants with white stripes, and white shoes.⁶

██████████ and her cousin ██████████ were also at ██████████ picking up ██████████ son from school. In her statement to COPA on October 26, 2022, ██████████ explained that she was in her Jeep, and ██████████ had exited the vehicle to retrieve his son when ██████████ got into a disagreement with a group of teenagers that were near the school's entrance.⁷ When ██████████ heard ██████████ yelling, she exited her vehicle to see what was going on, and she also became part of the altercation with the teenagers, explaining that the individuals jumped on her and ██████████ and attacked them. ██████████ noted that her children were in the Jeep, and they also came to assist her and ██████████ explained that she and ██████████ received various injuries because of this physical altercation. ██████████ said that one of her children, ██████████ was also being attacked by the group and that he retreated into the school for safety.

Shortly afterwards, ██████████ exited the school and returned to the Jeep, and ██████████ recalled police had started to arrive and began to surround her vehicle. ██████████ said that the officers would not listen to her when she tried to explain to them that she, ██████████ and her children had been attacked, but instead told her that school faculty had called them regarding a young man running through the school with a gun, and ██████████ fit that description. ██████████ and her children were then instructed to exit the Jeep, and ██████████ and ██████████ were detained with handcuffs on the sidewalk outside of the car.⁸ ██████████ recounted that the officers took her keys out of the Jeep's ignition and held them for an extended period of time, searched the entirety of her vehicle, and later refused to write a police report related to the attack she and ██████████ had experienced or to arrest the individuals involved. She emphasized that ██████████ was arrested for trespassing even though no firearm was ever recovered,⁹ and officers took him away and did not let her join him during transport even after they were made aware that ██████████ was only 16 and that she was his mother.

BWC footage depicted officers arriving at ██████████ at approximately 4:34 pm following calls of a fight outside of the school that escalated to a potential active shooter situation. Officers entered the school and were told by school staff that a young man wearing a white hoodie and black jogger pants ran through the school with what looked like a firearm tucked into his waistband.¹⁰ This eyewitness description of the offender was related to other responding officers

⁴ Att. 14, pg. 3. *See also* Atts. 18 and 19.

⁵ Att. 14, pg. 3.

⁶ Att. 14, pg. 3.

⁷ Att. 11.

⁸ Atts. 16, 17, and 11.

⁹ Att. 13.

¹⁰ Att. 6, BWC of Officer Bullington, at 2:50.

over the radio by Officer Bullington.¹¹ Officer Bullington, along with other officers, then conducted a protective sweep of the school, looking through and securing the cafeteria, kitchen, classrooms, and restrooms. It could then be heard over Officer Bullington's police radio that officers had someone matching the description of the alleged offender outside of the school in a dark blue Jeep.¹²

At around the same time outside of the school, officers were arriving and surrounding a blue Jeep parked on the side of the street. Officers Kirkel and McDonnell told [REDACTED] and [REDACTED] – the passengers of the Jeep, along with [REDACTED] children, including [REDACTED] – that they had arrived because they received reports of a juvenile running through the school with a gun, wearing a white hoodie and black jogger pants.¹³ Phrases such as “white sweater, black jogging pants,” and “male Black as the offender,” could be heard over officers' radios throughout the interaction.¹⁴ [REDACTED] was wearing a white hoodie with the words “GAP,” printed on the front, along with black track pants. As the officers were interacting with [REDACTED] and [REDACTED] near the Jeep, a crowd of teenagers gathered around the Jeep, screaming and yelling at [REDACTED] and [REDACTED] and the officers attempted to disperse them.¹⁵ Officer Kirkel then relayed over the radio that they had someone matching the description of the offender in the back seat of a Jeep right outside of the school.¹⁶ [REDACTED] and [REDACTED] were then taken out of the car, and Officer Kirkel told [REDACTED] “They described him,” referencing [REDACTED].¹⁷ Both [REDACTED] and [REDACTED] were then handcuffed, and Officer Kirkel explained to [REDACTED] and [REDACTED] that they were both being detained. At the same time, the other officers were still attempting to disperse the crowd of teenagers gathered near and around the Jeep.

Officers Kirkel and McDonnell, along with other officers, then instructed [REDACTED] and her children to exit the Jeep.¹⁸ Officer Kirkel further explained, “They said you guys had a gun,” and, “They described you, dude,” in to reference [REDACTED].¹⁹ Officer Bullington explained to [REDACTED] and [REDACTED] that the officers would check the Jeep, and if there was no gun “everyone can get out of here.”²⁰ [REDACTED] and [REDACTED] were then brought to stand by the fence with Officer McDonnell.

Officers Kirkel, Bullington, and Stark then conducted a thorough search of [REDACTED] Jeep.²¹ Officer Kirkel began by searching the passenger seat before then moving to the backseat, middle console, and all of the bags and backpacks in the vehicle.²² Officer Kirkel also searched

¹¹ Att. 6 at 2:50.

¹² Att. 6 at 7:29.

¹³ Att. 2, BWC of Officer Kirkel, at 3:40.

¹⁴ Att. 2 at 4:04, 4:47, and 6:32.

¹⁵ Att. 2 at 5:00 and 9:00.

¹⁶ Att. 2 at 7:44 and 8:10.

¹⁷ Att. 2 at 10:49.

¹⁸ Att. 2 at 12:00.

¹⁹ Att. 2 at 12:07.

²⁰ Att. 2 at 12:20.

²¹ Att. 2 at 14:46.

²² Att. 2 at 15:30.

the trunk.²³ Officer Bullington searched the passenger back seat as well as the driver's seat.²⁴ He also searched the side door compartments, under the driver's seat, the middle console, and a lunch box he found inside the vehicle.²⁵ Officer Stark searched the back seat on the driver's side, under the back seat, and in backpacks located inside the vehicle.²⁶ He also searched the trunk.²⁷ No contraband was discovered as a result of the search. Throughout the interaction, Officer Kirkel had [REDACTED] car keys.²⁸ When [REDACTED] asked who had her keys, Officer Kirkel responded that he did.²⁹ Following the search of the vehicle, Sgt. Cinta said that other officers would be coming by in a squad car to do a show-up with an eyewitness to potentially identify the offender.³⁰ [REDACTED] was then led back towards the school by Officers Kirkel and McDonnell, along with others.

Back inside the school, Sgt. David Dubois spoke with a member of the school's custodial staff, who confirmed that she was an eyewitness to the incident. She related that she had seen someone run through the school with what appeared to be a gun in his waistband, and she would be able to identify him if she saw him again.³¹ Officers then planned to conduct a show-up with the eyewitness via a squad car. [REDACTED] was then positively identified by the eyewitness as the person who had run through the school and was also confirmed to not be a student at [REDACTED].³² The positive identification can additionally be heard coming over the officers' radios as they stood with [REDACTED] and [REDACTED].³³ [REDACTED] was then placed under arrest for trespassing.³⁴ As [REDACTED] was led towards the squadrol, Officer Kirkel explained to [REDACTED] that [REDACTED] had been arrested because he had been positively identified as the person that had run through the school.³⁵ [REDACTED] was then transported to the 8th District for processing. [REDACTED] was released from handcuffs and refused an ISR receipt related to the stop.

III. ALLEGATIONS

Sgt. Clara Cinta, Star #1077:

1. Failing to direct police officers under her supervision to arrest individuals that attacked [REDACTED] after [REDACTED] related that she wanted them arrested.
 - *Exonerated.*
2. Failing to complete a police report (or cause officers under her supervision to complete a police report) for [REDACTED] for damage to her vehicle, and/or her injuries

²³ Att. 2 at 16:13.

²⁴ Att. 6 at 14:11.

²⁵ Att. 6 at 14:11.

²⁶ Att. 7 at 23:00.

²⁷ Att. 7 at 24:14.

²⁸ Att. 6 at 11:46.

²⁹ Att. 2 at 29:32.

³⁰ Att. 2 at 26:23.

³¹ Att. 4 at 18:15. *See also* Att. 10 at 17:45.

³² Att. 10 at 26:56.

³³ Att. 2 at 27:50.

³⁴ Att. 13.

³⁵ Att. 2 at 29:37.

sustained in a battery that had just occurred, and/or her stolen telephone when [REDACTED] related that she wanted a report completed.

- *Exonerated.*

Officer Thomas McDonnell, Star #16859:

1. Arresting [REDACTED] without justification.
- *Exonerated.*
2. Failing to arrest individuals that attacked [REDACTED] after [REDACTED] related that she wanted them arrested.
- *Exonerated.*
3. Failing to activate his body-worn camera in a timely manner.
- *Sustained.* Violation of Rules 2, 3, 5, 6, and 10.

Officer Martin Kirkel, Star #13946:

1. Arresting [REDACTED] without justification.
- *Exonerated.*
2. Searching [REDACTED] car without justification.
- *Exonerated.*
3. Seizing [REDACTED] car keys without justification.
- *Exonerated.*
4. Failing to arrest individuals that attacked [REDACTED] after [REDACTED] related that she wanted them arrested.
- *Exonerated.*
5. Failing to document his search of [REDACTED] car in an Investigative Stop Report.
- *Sustained.*
- Violations of Rules 2, 3, 5, 6, and 10.

Officer Bradley Bullington, Star #8684:

1. Searching [REDACTED] car without justification.
- *Exonerated.*
2. Failing to document his search of [REDACTED] car in an Investigative Stop Report.
- *Exonerated.*

Officer Adam Stark, Star #18655:

1. Searching [REDACTED] car without justification.
 - *Exonerated.*
2. Failing to document his search of [REDACTED] car in an Investigative Stop Report.
 - *Exonerated.*

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question any of the individuals (sworn or unsworn) who provided statements.

V. ANALYSIS³⁶**a. Arrest of [REDACTED]**

It has first been alleged that Officer Martin Kirkel and Officer Thomas McDonnell arrested [REDACTED] without justification. Here, [REDACTED] was arrested based on a violation of 720 ILCS 5/21-5-A, Criminal Trespass to State Land.³⁷ A person commits criminal trespass to state supported land when he or she enters onto land supported either in whole or in part with State funds (or federal funds administered or granted through State agencies or any building on the land), after receiving, prior to the entry, notice that the entry is forbidden, or remains upon the land or in the building after receiving notice to depart, and who interferes with another person's lawful use or enjoyment of the building or land.³⁸

On the date of this incident, the police responded to [REDACTED] after multiple calls of a person running through the school who appeared to be armed with a firearm.³⁹ The callers described this person as a Black male wearing a white hoodie and black joggers.⁴⁰ This physical description was also related to officers when they entered the school; BWC footage depicts school custodial staff explaining that she observed a male running through the school wearing the above clothing items with what appeared to be a black handle [REDACTED] out of his waistband.⁴¹ This observation and the description of the alleged offender is also included on the reports authored following the incident.⁴² After the description of the offender was related to other responding officers over the radio, Officer Kirkel radioed back that he and Officer McDonnell had someone matching the offender's description located in the backseat of a blue Jeep parked outside of the

³⁶ For a definition of COPA's findings and standards of proof, *see* Appendix B.

³⁷ Att. 13, pg. 1.

³⁸ Att. 12.

³⁹ Att. 19.

⁴⁰ Att. 19.

⁴¹ Att. 6 at 2:50. *See also* Att. 10 at 17:45; Att. 4 at 18:15.

⁴² Atts. 13 to 17.

school, ██████⁴³ A show-up was later conducted with an eyewitness, and after viewing ██████ on the street, the eyewitness positively identified him as the offender that ran through the school.⁴⁴

These events were further illuminated by the officers in their respective interviews with COPA. Officer Bullington, in his interview with COPA on October 24, 2022, explained that immediately upon his arrival inside the school, he was gold by school faculty that a male in a white hoodie was the alleged offender and potential active shooter,⁴⁵ and the offender was specifically described as wearing a “white hoodie with G-A-P, on it, black joggers with white stripes and white shoes, and something about his hair, I can’t remember though.”⁴⁶ In his own interview with COPA on October 12, 2023, Officer Kirkel similarly recounted that on the date of this incident, “officers inside [the school] related that school staff told them that they observed a male Black wearing a white hoodie and black pants, ran inside the school. A custodial member, or a staff member, I can’t remember which, did tell them that they saw this individual with what they believed was a handgun sticking out from his waist.”⁴⁷ Officer Kirkel additionally recalled observing ██████ nearby (and later inside) the Jeep upon their arrival to the school, as he and Officer McDonnell were on the sidewalk outside: “Me and Officer McDonnell are kind of milling around listening to radio traffic on the sidewalk, and I think at that point the descriptions of the offender start coming out over the radio, and we’re realizing simultaneously that this person matches that description.”⁴⁸ Officer Kirkel explained that the officers then detained ██████ with handcuffs, explaining that the factors of reasonable articulable suspicion that justified the temporary detention of ██████ included the description of the offender, which ██████ matched, as well as the potential of him being armed after being observed with what appeared to be a firearm by an eyewitness.⁴⁹ He recounted, “Now that this is all coming out on the radio, we believe we have that person right in front of us, and at which time we reasonably believe that he was the offender that was armed . . . and he’s seated in the car, so we ask him to get out of the car, and he complies.”⁵⁰ Officer Kirkel then confirmed that ██████ went from being merely detained to being under arrest when “another assist car brings a witness, and they positively identify him as the one that ran through the school armed with a gun.”⁵¹ This account was corroborated by Officer McDonnell in his interview with COPA on October 11, 2023. Officer McDonnell similarly recalled that officers were alerted to ██████ after observing him outside the school following a flash message over the radio describing the alleged offender as wearing a white GAP hoodie and black joggers.⁵² He also related that ██████ was then detained based on that description until other officers conducted a show-up and a witness positively

⁴³ Att. 2 at 7:44, 8:10.

⁴⁴ Att. 10 at 24:00 to 26:56.

⁴⁵ Att. 24 at 9:00.

⁴⁶ Att. 24 at 14:45.

⁴⁷ Att. 23 at 14:28.

⁴⁸ Att. 23 at 13:40.

⁴⁹ Att. 23 at 14:30.

⁵⁰ Att. 23 at 14:40.

⁵¹ Att. 23 at 15:58.

⁵² Att. 22 at 12:20.

identified him as a person that entered the school when he was not supposed to; It was at that time that [REDACTED] was placed under arrest.⁵³

COPA finds by clear and convincing evidence that Officers Kirkel and McDonnell did not arrest [REDACTED] without justification. First, the eyewitness's recollection of the offender that had run through the school and appeared to be armed was given to responding officers and over the radio as a Black male wearing black joggers and a white hooded sweatshirt that said GAP,⁵⁴ a physical description that matched [REDACTED] appearance that day. Sgt. Dubois can also be seen on BWC footage reviewing security video recordings at the front desk of the school and confirming the physical description of the offender based on what he saw on the video.⁵⁵ Further, the eyewitness (who was also a member of the school's custodial staff) told the officers that she would be able to identify this offender if she saw him again,⁵⁶ after which a show-up was conducted and the witness confirmed that it was [REDACTED] who she saw running through the school.⁵⁷ It was only after the eyewitness's positive identification that [REDACTED] placed under arrest based on a violation of 720 ILCS 5/21-5-A. As stated above, in basic summary, a person commits criminal trespass to state supported land when he or she enters onto land supported either in whole or in part with State funds, after receiving, prior to the entry, notice that the entry is forbidden, or remains upon the land or in the building after receiving notice to depart, and who interferes with another person's lawful use or enjoyment of the building or land. The officers had probable cause to believe that [REDACTED] presence inside [REDACTED] School constituted criminal trespass to state land because [REDACTED] was not a student at the school.⁵⁸ Additionally, it was confirmed in reports authored related to the incident that [REDACTED] did not have permission to enter the school while it was closed for afterschool activities.⁵⁹ Therefore, COPA finds that **Allegation #1 against Officer Martin Kirkel and Allegation #1 against Officer Thomas McDonnell are Exonerated.**

b. Failure to Arrest Individuals That Attacked [REDACTED]

It has next been alleged that Officer Martin Kirkel and Officer Thomas McDonnell committed misconduct when they failed to arrest individuals that attacked [REDACTED] after [REDACTED] said she wanted them arrested. [REDACTED] told COPA that she and her cousin, [REDACTED] had engaged in a physical altercation with a group of teenagers outside of [REDACTED] prior to the officers' arrival. She alleged that officers would not listen to her when she attempted to explain that she and [REDACTED] had been attacked by the group of teenagers, and that the same teenagers were surrounding her car and yelling while the officers detained [REDACTED] and [REDACTED]. A group of teenagers surrounding the Jeep and are visible on BWC footage from all involved officers, and the officers attempted to disperse them. Officers can also be seen on BWC footage [REDACTED] both [REDACTED] and [REDACTED] to describe their alleged attackers after [REDACTED] explained the previous

⁵³ Att. 22 at 14:35.

⁵⁴ Att. 6 at 2:50; Att. 10 at 17:45; Att. 4 at 18:15. *See also* Atts. 13 to 17.

⁵⁵ Att. 4 at 9:54.

⁵⁶ Att. 4 at 18:15; Att. 10 at 17:45.

⁵⁷ Att. 4 at 18:15; Att. 10 at 17:45.

⁵⁸ Att. 10 at 26:56; Att. 13, pg. 3; Att. 14, pg. 3.

⁵⁹ Att. 13, pg. 3. *See also* Att. 17, pg. 2.

altercation, but neither [REDACTED] nor [REDACTED] provided any physical descriptions of anyone specifically.⁶⁰

In his interview with COPA, Officer Kirkel explained he was not aware of a prior interaction between a group of teenagers and [REDACTED] nor did he recall [REDACTED] telling him that she and [REDACTED] had engaged in a physical altercation with the group prior to the officers' arrival.⁶¹ Officer Kirkel also did not recall [REDACTED] telling him that she wanted anyone in the group arrested, and he explained that he was not directed by any supervisor on scene to make any related arrests.⁶² Officer McDonnell told COPA that he was not initially aware of a prior physical altercation between a group of teenagers and [REDACTED] and [REDACTED] but he recalled that [REDACTED] told him about the altercation after everyone had dispersed.⁶³ Specifically, he recalled that [REDACTED] "said that she was in a fight with multiple kids, and then they were fighting back with her."⁶⁴ After reviewing his BWC footage, Officer McDonnell acknowledged that [REDACTED] had generally stated during the incident, "You should arrest those people," but that she did not bring his attention to any specific individuals.⁶⁵ Officer Mc Donnell also did not recall any supervisors on scene directing the officers to make any arrests related to the teenagers.⁶⁶ Sgt. Cinta, one of the supervisors present, told COPA that while [REDACTED] did say that some sort of fight or altercation had taken place previously, by the time she voiced this, the individuals she was referring to were gone.⁶⁷ Further, Sgt. Cinta recounted that [REDACTED] never gave officers any specific descriptions of who should be arrested and for what offense, or what specifically happened during the incident.⁶⁸ Sgt. Cinta emphasized that [REDACTED] gave no details or physical descriptors of these individuals, but just solely stated she wanted them arrested because of a fight.⁶⁹

COPA finds, by clear and convincing evidence, that Officers Kirkel and McDonnell did not commit misconduct by not arresting the individuals that [REDACTED] alleged attacked her. While [REDACTED] generally stated that she wanted the people who she had previously engaged with arrested, she gave no detailed descriptions of these offenders or what they had done to her that would warrant an arrest. Sgt. Cinta confirmed this and further recounted that [REDACTED] did not even mention arrests until after the crowd had dispersed, which would have made her request impossible without any additional details to further their investigation. In sum, Officers Kirkel and McDonnell could not have made any arrests based on such vague, general statements alone. Further, and as explained by Sgt. Cinta, the priority of the officers on scene was the active shooter

⁶⁰ Att. 2 at 4:20.

⁶¹ Att. 23 at 17:25.

⁶² Att. 23 at 17:25.

⁶³ Att. 22 at 15:35.

⁶⁴ Att. 22 at 15:35.

⁶⁵ Att. 22 at 16:50.

⁶⁶ Att. 22 at 16:50.

⁶⁷ Att. 26 at 10:30

⁶⁸ Att. 26 at 10:30

⁶⁹ Att. 26 at 11:18.

call and the safety of the school's students and faculty versus the alleged battery that had occurred prior to their arrival.⁷⁰

Because ██████████ did not name or provide any physical descriptions of her alleged attackers, nor did she offer any further details about what occurred during their interaction, it would not have been feasible for Officer Kirkel and Officer McDonnell to make any arrests based on her request alone. The officers did not commit misconduct by not arresting the individuals that ██████████ had fought with previously, even after ██████████ said that she wanted arrests to be made. Therefore, COPA finds that **Allegation 4 against Officer Martin Kirkel** and **Allegation 2 against Officer Thomas McDonnell** are **Exonerated**.

c. Search of ██████████ Vehicle

It has next been alleged that Officer Martin Kirkel, Officer Bradley Bullington, and Officer Adam Stark searched ██████████ car without justification. Although officers who have stopped a car to issue a routine traffic citation may conduct a *Terry*-type search, including a pat-down of the driver and passengers if there is reasonable suspicion that they are armed and dangerous, they generally may not conduct a search of the car unless they arrest the driver instead of merely issuing a citation.⁷¹ Nevertheless, as held by the United States Supreme Court in *Michigan v. Long*, officers may conduct a “protective search” of a vehicle without a warrant, limited to those areas in which a weapon may be placed or hidden, where they have reasonable suspicion that the stopped motorist may be armed and may gain immediate control of weapons.⁷² The Court also held that the officers in *Long* did not act unreasonably in taking preventive measures to ensure that there were no weapons within the stopped motorist's immediate grasp before permitting him to reenter his vehicle.⁷³ Such a protective search is authorized even if a subject is under police restraint at the time the search is conducted because the subject may be able to escape such restraint, or may later regain access to the vehicle.⁷⁴ This includes the reasonable belief that the subject will return to the vehicle following the conclusion of the stop.⁷⁵ The Court further noted that “balancing required by *Terry* clearly weighs in favor of allowing the police to conduct an area search of the passenger compartment to uncover weapons, as long as they possess

⁷⁰ Att. 26 at 12:30.

⁷¹ See *Atwater v. City of Lago Vista*, 532 U.S. 318 (2001) (holding that police officers, in their discretion, may arrest a motorist for a minor traffic offense rather than issuing a citation); *New York v. Belton*, 453 U.S. 454 (1981) (holding that officers who arrest an occupant of a vehicle may make a contemporaneous search of the entire passenger compartment, including closed containers); *Thornton v. United States*, 541 U.S. 615 (2004) (explaining that the *Belton* rule applies regardless of whether the arrestee exited the car at the officer's direction, or whether he did so prior to confrontation); *Arizona v. Gant*, 556 U.S. 332, 351 (2009) (holding that the *Belton* rule applies “only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that the vehicle contains evidence of the offense of arrest.”); *Arkansas v. Sullivan*, 532 U.S. 769 (2001) (holding that a pretextual arrest of motorist who has committed a traffic offense is permissible even if purpose is to search vehicle for evidence of other crime).

⁷² *Michigan v. Long*, 463 U.S. 1032 (1983).

⁷³ *Long*, 463 U.S. at 1051.

⁷⁴ *Long*, 463 U.S. at 1051-52; see also *United States v. Holmes*, 376 F.3d 270, 280 (4th Cir.2004).

⁷⁵ *Long*, 463 U.S. at 1051-52.

an articulable and objectively reasonable belief that the subject is potentially dangerous.”⁷⁶ However, in order to conduct a lawful protective search of a stopped vehicle under *Long*, courts have heavily emphasized that an officer must possess a reasonable belief of both (1) the suspect's dangerousness and (2) the possibility that the suspect might gain immediate control of any weapons inside the vehicle.⁷⁷ The totality of the circumstances must be considered in determining whether the requisite reasonable suspicion exists to conduct such a frisk of a vehicle.⁷⁸ Regarding the physical scope of a protective sweep of a vehicle and which areas are permissible to be searched, such a search should be limited to areas where a weapon could reasonably be. For example, it has been held by the 7th Circuit that locked glove compartments are within the boundaries of searches under *Long*.⁷⁹ The 7th Circuit has also held that related to the specific issue of a vehicle's trunk that is readily accessible from inside the passenger compartment, there is no reason to distinguish that accessible area from any other.⁸⁰ In analyzing whether the scope of a search is permissible, courts will generally consider “whether an item located in the area in question was generally, 'even if not inevitably,' within reach.”⁸¹

After [REDACTED] and [REDACTED] children were removed from the Jeep and [REDACTED] and [REDACTED] were handcuffed, Officers Kirkel, Bullington, and Stark conducted a protective sweep of the entirety of the vehicle. Body-worn camera footage depicts Officer Kirkel beginning his search on the passenger side and [REDACTED] around the seat before moving to the backseat, [REDACTED] inside all backpacks and bags inside the vehicle, the middle console, and then the vehicle's trunk.⁸² Officer Kirkel also confirmed his participation in the search in his interview with COPA. He said that the officers' basis for conducting the search was because [REDACTED] matched the description of an offender that was seen potentially armed and running through the school.⁸³ He also explained that when he and other officers arrived, “he [REDACTED] was outside of the vehicle, so they had been milling around this car for a while, and then when they get into the car we ask them to get out, so this whole car he could have had access to, so that's why we searched the whole thing, I mean this weapon could be hidden in any nook and cranny . . . we thought this guy was an active shooter, so that's why we got into that car.”⁸⁴ Officer Bullington's search consisted of the back seat on the passenger side, around and under the driver's seat, side compartments of the vehicle, inside the middle console, and inside a lunch box.⁸⁵ In his interview with COPA, Officer Bullington similarly recalled searching those areas of the vehicle.⁸⁶ He told COPA that his understanding of the scope of a protective search of a vehicle during an investigatory stop based on reasonable articulable suspicion that a weapon may be present to be “anywhere where the firearm could be hidden,

⁷⁶ *Long*, 463 U.S. at 1051-52.

⁷⁷ *United States v. Holmes*, 376 F.3d 270, 276 (4th Cir. 2004); *see also* *United States v. Griffin*, 589 F.3d 148, 154 (4th Cir. 2009).

⁷⁸ *United States v. McCoy*, 513 F.3d 405, 411 (4th Cir. 2008).

⁷⁹ *See* *United States v. Holifield*, 956 F.2d 665, 668-69 (7th Cir. 1992).

⁸⁰ *See* *United States v. Arnold*, 388 F.3d 237, 240 (7th Cir. 2004).

⁸¹ *See* *New York v. Belton*, 453 U.S. 454, 460 (1981).

⁸² Att. 2 at 15:30.

⁸³ Att. 23 at 18:44.

⁸⁴ Att. 23 at 20:05.

⁸⁵ Att. 2 at 14:11; Att. 6 at 14:10.

⁸⁶ Att. 24 at 12:07.

anywhere where a weapon could be hidden,” including any bags or purses inside the vehicle.⁸⁷ Lastly, Officer Stark’s participation in the search included the area under the vehicle’s backseat, inside backpacks and bags located inside the vehicle, and inside the trunk.⁸⁸ He also opened the spare tire storage door on the floor of the trunk.⁸⁹ Officer Stark told COPA that he searched the vehicle because he believed it could contain a weapon that an alleged offender possessed related to a potential shooting.⁹⁰ He recalled the search as “a search of the area . . . I believe he was in the backseat, so it was a search of the area of backseat, there was a book bag and stuff that was gone through . . . And then we searched the back of the vehicle, where he could’ve thrown the weapon, and possibly hid the weapon underneath where the spare tire is.”⁹¹ Officer Stark also explained that he believed the parameters of a protective sweep of a vehicle related to reasonable articulable suspicion that a weapon may be present or a passenger may be armed to be “any area accessible to the offender,”⁹² and further emphasized that “when you’re in an SUV, you basically have access to the whole interior of the SUV . . . being that the whole cavity of the car is open, the gun could be, basically anywhere, so we searched the whole thing.”⁹³

COPA finds, by clear and convincing evidence, that the search of [REDACTED] vehicle by Officer Kirkel, Officer Bullington, and Officer Stark was justified. As discussed above, in order to conduct a lawful protective search of a stopped vehicle, officers must possess both a reasonable belief of both (1) a suspect’s dangerousness and (2) the possibility that they might gain immediate control of any weapons inside the vehicle.⁹⁴ First, the officers had reasonable suspicion that [REDACTED] was either armed or concealing a weapon because he matched the description of an offender observed by school staff running through the school with what appeared to be a firearm sticking out of his waistband. Next, the officers also had reasonable belief that [REDACTED] could have gained control of any weapons that may have been inside the Jeep, as he could have re-gained access to any firearms in the vehicle as soon as he was able to reenter the car.⁹⁵ Therefore, the officers’ search of the vehicle after [REDACTED] was removed from the vehicle and detained was not without justification. Further, that the officers’ search included the entirety of the vehicle, including the Jeep’s trunk, does not mean that the search automatically exceeded the boundaries delineated in *Long*. Generally, an officer armed solely with reasonable suspicion that a motorist or passenger may be armed may not search the trunk of a vehicle when the person would not have been able to reach a weapon located there.⁹⁶ Here, however, because [REDACTED] was sitting in the backseat of the

⁸⁷ Att. 24 at 12:40.

⁸⁸ Att. 7 at 22:57.

⁸⁹ Att. 7 at 22:57.

⁹⁰ Att. 25 at 13:09.

⁹¹ Att. 25 at 13:30.

⁹² Att. 25 at 14:15.

⁹³ Att. 25 at 14:20.

⁹⁴ *United States v. Holmes*, 376 F.3d 270, 276 (4th Cir.2004); *see also United States v. Griffin*, 589 F.3d 148, 154 (4th Cir. 2009).

⁹⁵ A protective search of a vehicle is authorized even if the subject is under police restraint at the time of the search due to the risk that the subject could re-gain control of a weapon upon their return to the vehicle, or the subject may be able to escape such restraint. *See Michigan v. Long*, 463 U.S. 1032, 1051-52 (1983); *see also United States v. Holmes*, 376 F.3d 270, 280 (4th Cir. 2004).

⁹⁶ *See Valance v. Wisel*, 110 F.3d 1269, 1278 (7th Cir.1997).

vehicle, it is reasonable to infer that he would have full access to the entirety of the vehicle, including the trunk, from where he sat. As stated above, searches under *Long* should be directed to locations that both could contain a weapon and "to which the suspect may have access."⁹⁷

The officers' reasonable belief that [REDACTED] was potentially in possession of or could gain access to a weapon justified the protective search of [REDACTED] vehicle for weapons. Because the officers likely had the authority conduct a protective vehicle search of [REDACTED] car based on factors that gave rise to reasonable articulable suspicion of possible criminal activity, both the basis of the search of the vehicle and its scope were legally permissible and did not exceed the appropriate parameters of a protective search under *Long*. Therefore, COPA finds that **Allegation 2 against Officer Martin Kirkel, Allegation 1 against Officer Bradley Bullington, and Allegation 1 Officer Adam Stark, are Exonerated.**

d. Holding of [REDACTED] Car Keys

It has next been alleged that Officer Martin Kirkel committed misconduct when he seized [REDACTED] car keys without justification. Officer Bullington initially removed the keys from the ignition of [REDACTED] Jeep, after which he immediately handed them off to Officer Kirkel.⁹⁸ Officer Kirkel then kept the keys throughout the incident. [REDACTED] asked who had her keys, and Officer Kirkel responded that he did.⁹⁹ She also asked for the keys multiple times at the end of the incident, and she was told that she could have them in a second.¹⁰⁰ In his interview with COPA, Officer Kirkel recalled that he was in possession of [REDACTED] car keys while on scene. He also recalled [REDACTED] asking him for her keys back, but a supervisor explained to her that she needed to wait. Officer Kirkel justified his holding of the car keys, explaining, "Our arrestee was previously in this vehicle, where a handgun could have been . . . we were holding on to the car to complete our investigation, we were still reviewing cameras, the vehicle's involvement, talking to witnesses, canvassing the areas, it's kind of a huge accusation that there was a school shooter, so we wanted to . . . investigate properly."¹⁰¹

COPA finds, by clear and convincing evidence, that Officer Kirkel was justified in holding [REDACTED] keys. The keys were held solely for the duration of the officers' investigation related to the calls that they had received regarding a person with a gun inside the school. After observing [REDACTED] inside [REDACTED] Jeep wearing a white GAP hoodie and black joggers, which matched the description of the offender given by an eyewitness, officers then detained [REDACTED] based on reasonable articulable suspicion of criminal activity and began to conduct their investigation. Because [REDACTED] was inside [REDACTED] vehicle prior to his detention, the Jeep was relevant to the investigation, and was later searched for weapons. [REDACTED] the keys, and the Jeep itself were not seized until after the officers had developed reasonable articulable suspicion of criminal activity.

⁹⁷ See *United States v. Holifield*, 956 F.2d 665, 669 (7th Cir. 1992).

⁹⁸ Att. 6 at 11:46.

⁹⁹ Att. 2 at 29:32.

¹⁰⁰ Att. 2 at 29:37.

¹⁰¹ Att. 23 at 22:38.

Further, following the show-up, during which the eyewitness positively identified [REDACTED] as the person she saw inside the school, [REDACTED] keys were returned to her, and she was free to leave.

Because [REDACTED] car keys were seized related to an active investigation regarding a person alleged to be trespassing through a school while potentially armed with a weapon, and further, that a passenger inside [REDACTED] vehicle matched the physical description of the offender given by an eyewitness, Officer Kirkel was justified in holding the keys until the investigation was completed. Officer Kirkel thus did not seize the keys without justification, and the keys were given back to [REDACTED] upon the completion of the investigation and once the scene was secure. Therefore, COPA finds that **Allegation 3 against Officer Martin Kirkel is Exonerated.**

e. Failure to Document Search of [REDACTED] Vehicle in ISR

It has next been alleged that Officer Martin Kirkel, Officer Bradley Bullington, and Officer Adam Stark committed misconduct when they failed to document their search of [REDACTED] car in an Investigative Stop Report. CPD Special Order S04-13-09 requires that officers who conduct an investigatory stop, a probable cause stop when no other document captures the reason for the detention, or a protective pat down or other search in a public place are required to submit an investigatory stop report.¹⁰² Here, two investigatory stop reports were completed: one for [REDACTED]¹⁰³ and one for [REDACTED]¹⁰⁴ While the report authored for [REDACTED] documents that the stop involved a blue Jeep Cherokee with the license plate [REDACTED] the report documenting [REDACTED] stop indicates that no vehicle was involved.¹⁰⁶ Further, neither of the narrative sections in either report documents that a search of a vehicle took place; instead, the narratives only document that [REDACTED] was sitting inside a Jeep.¹⁰⁷ When asked by COPA why the search of the vehicle was not included in either [REDACTED] or [REDACTED] report, Officer Kirkel explained, “I don’t know why it wasn’t listed in the narrative, it should have been, but since it was on body-camera, it’s documented there, it’s documented in the arrest report, case report, it could have just been overlooked on accident.”¹⁰⁸ In his own interview, Officer Bullington explained, “I was the assist, and to my knowledge the ISRs were done . . . um, to the narrative of it, I’m not sure why they didn’t put why the search of the car was in there or not . . . but I don’t know why they didn’t put the search of the vehicle into the narrative.”¹⁰⁹ Officer Stark told COPA that he had no involvement in writing the investigatory stop reports, stating that “the belief was that those were taken care of by those other officers that initiated the stop.”¹¹⁰

¹⁰² Att. 21, S04-13-09(VIII)(A)(1), Investigatory Stop System (effective July 10, 2017, to present).

¹⁰³ Att. 17.

¹⁰⁴ Att. 16.

¹⁰⁵ Att. 16, pg. 1.

¹⁰⁶ Att. 17, pg. 1.

¹⁰⁷ Att. 16, pg. 1. *See also* Att. 17, pg. 1.

¹⁰⁸ Att. 23 at 21:50.

¹⁰⁹ Att. 24 at 13:25.

¹¹⁰ Att. 25 at 15:45.

COPA finds, by a preponderance of evidence, that Officer Kirkel, as one of the officers that initiated the stop of [REDACTED] and [REDACTED] the author of one of the two investigatory stop reports, and a participant in the search of [REDACTED] Jeep, was required to assure that the search was documented in at least one of the two investigatory stop reports completed related to this incident. As explained above, a stop that includes a protective search of any kind is required to be documented in an investigatory stop report.¹¹¹ While one of the reports documents that a vehicle was involved in the stop of [REDACTED] the mere checking of a box acknowledging the vehicle's existence does not meet the requirement delineated by S04-13-09, which explicitly states that such a search is to be documented in an investigatory stop report. Further, while Officer Kirkel explained that although the vehicle search was not documented in the narrative of either investigatory stop report, he claimed the search was documented in both the arrest report and case report.¹¹² However, neither of those reports document a vehicle search.¹¹³

On the other hand, COPA finds by clear and convincing evidence that Officers Bullington and Stark, as later-arriving, assisting officers who participated in the search of the vehicle but were not present for and did not assist in making the initial stop, reasonably relied on the officers who conducted the investigatory stops of [REDACTED] and [REDACTED] and who authored the associated reports to include all details of the stop in their reports, including their search of [REDACTED] Jeep.

Therefore, COPA finds that **Allegation 5 against Officer Martin Kirkel is Sustained**, and **Allegation 2 against Officer Bradley Bullington and Allegation 2 Officer Adam Stark are Exonerated**.

f. Supervisory Allegations

It has next been alleged that Sgt. Clara Cinta committed misconduct when she failed to direct police officers under her supervision to arrest individuals that attacked [REDACTED] after [REDACTED] related that she wanted them arrested. It has also been alleged that Sgt. Cinta committed misconduct when she failed to complete a police report (or cause officers under her supervision to complete a police report) at [REDACTED] request to document damage to her vehicle, injuries sustained during a battery that had just occurred, and the theft of her phone.

In her interview with COPA on October 31, 2023, Sgt. Cinta recalled that she arrived at [REDACTED] following a call for a disturbance at a school that had escalated to an active shooter situation.¹¹⁴ She added that she was one of the last supervisors to arrive on scene. Sgt. Cinta recalled a younger girl on scene tell her that some people “tried to run up on them,” and “they hit them first,” so she assumed there had been some sort of fight that had occurred prior to her

¹¹¹ Att. 21, S04-13-09(VIII)(A)(1).

¹¹² Att. 23 at 24:30.

¹¹³ See Atts. 13 and 14.

¹¹⁴ Att. 26 at 7:59.

arrival.¹¹⁵ Sgt. Cinta also recounted that while ██████████ also related that some sort of fight had taken place, by the time she voiced this to the officers, none of the individuals she seemed to be referring to were still there,¹¹⁶ and at that point, “it was not feasible to have an arrest.”¹¹⁷

Sgt. Cinta explained that ██████████ never gave officers any specific descriptions of who should be arrested and for what offense, nor did she ever explain what specifically happened during the incident.¹¹⁸ Sgt. Cinta emphasized that ██████████ never gave details or physical descriptors of these individuals, but solely stated she wanted people to be arrested.¹¹⁹ Regarding ██████████ requests for a police report to be completed related to damage to her vehicle, her stolen phone, and injuries sustained stemming from this altercation, Sgt. Cinta recalled, “I tried to explain to her that we could do a report, and she said that there was no point, and ‘what are you guys going to do anyways,’ [referencing ██████████ response] and I explained to her, ‘if you come back to the school and point them out, and you see them, you can call us and we can arrest them,’ and she didn’t want anything to do with it.”¹²⁰ Sgt. Cinta explained that she also tried to approach both ██████████ and ██████████ a second time about reports at the end of the incident, but that ██████████ outright refused a report and ██████████ just stepped away from her.¹²¹ She recounted that she spoke with ██████████ sister on scene and explained the process of ██████████ reports and that reports could be completed either on scene or at the station, but ██████████ stepped in and said that he did not want to stick around for a report because the kids that attacked them allegedly lived nearby.¹²² The sergeant again told ██████████ sister that they could do the reports at the station. While Sgt. Cinta did explain that she would not have been the one to complete such a report, and that it would have been the responsibility of the officers that dealt with ██████████ on scene, she did not recall what she told the arresting officers regarding any police reports.¹²³

Sgt. Cinta can be heard on her own BWC footage explaining to ██████████ that she can file a police report for the battery and car damage, and that the next time those individuals come to the school, they could be arrested, and ██████████ responded, “So what?”¹²⁴ Sgt. Cinta also asked ██████████ several times at the end of the incident if she wanted a report for her car and for the battery,¹²⁵ but ██████████ refused and ██████████ stated, “Yeah do it,” but then walked away, giving no further information about the incident, damage, or injuries sustained.¹²⁶ Sgt. Cinta can also be heard explaining to ██████████ sister the process for completing reports,¹²⁷ and Sgt. Cinta explained that if ██████████ wanted a report done at the station, they could later press charges and

¹¹⁵ Att. 26 at 9:56.

¹¹⁶ Att. 26 at 10:30

¹¹⁷ Att. 26 at 12:20.

¹¹⁸ Att. 26 at 10:30

¹¹⁹ Att. 26 at 11:18.

¹²⁰ Att. 26 at 11:22.

¹²¹ Att. 26 at 12:45.

¹²² Att. 26 at 13:43.

¹²³ Att. 26 at 14:45.

¹²⁴ Att. 5 at 26:40.

¹²⁵ Att. 5 at 41:15.

¹²⁶ Att. 5 at 41:34.

¹²⁷ Att. 5 at 47:30.

arrest the offenders the next time they were seen at the school.¹²⁸ [REDACTED] is also depicted on BWC footage refusing Sgt. Cinta's offer to come to the station to file a report related to his broken tooth.¹²⁹

COPA finds, by clear and convincing evidence, that Sgt. Cinta did not commit misconduct when she did not direct officers under her supervision to arrest individuals that attacked [REDACTED] after [REDACTED] related that she wanted them arrested, nor did she committed misconduct when she did not complete a police report (or cause officers under her supervision to complete a police report) for [REDACTED]. First, as other officers on scene related in their interviews, while [REDACTED] stated that she wanted the people who she had previously engaged with arrested, she gave no detailed descriptions of these offenders or what they had done to her specifically that would warrant an arrest. Sgt. Cinta confirmed this in her own interview and also recounted that [REDACTED] did not even mention arresting those individuals until after the crowd had already dispersed, at which point would have made her request impossible without any additional details to further their investigation. Further, and as explained by Sgt. Cinta, the priority of the officers on scene was the active shooter call and the safety of the school's students and staff versus the alleged battery that had occurred prior to their arrival.¹³⁰ Thus, Sgt. Cinta's decision not to direct officers under her supervision to make any arrests was justified based on the circumstances.

Similarly, Sgt. Cinta was also justified in her actions regarding the completion of police reports related to this incident. This is due to both the lack of general information from [REDACTED] related to details of the incident as well as her lack of cooperation with the officers when the filing of reports was discussed, even after being advised of the process of filing a police report several time. While [REDACTED] stated that she wanted reports completed regarding the battery and damage sustained to her property, she either gave no further detail or walked away when further questioned by Sgt. Cinta. This was both confirmed by the sergeant in her interview and depicted on her BWC footage, as discussed above. It was further explained by Sgt. Cinta, both to [REDACTED] on scene on the date of the incident and in her interview with COPA, that [REDACTED] or [REDACTED] could file a report at a police station.

Because [REDACTED] did not provide any specific physical descriptions of her alleged attackers, nor did she offer any further details about what occurred during their altercation, it would not have been feasible for Sgt. Cinta to direct officers under her supervision to make any arrests. [REDACTED] was also offered a police report and given an explanation of the process for completing reports multiple times on scene, and she was also informed that she could file a report later at a police station; however, [REDACTED] declined these offers. CPD General Order G01-09 requires police supervisors to effectively supervise, guide, and direct officers under their command, support effective and ethical police practices, and provide leadership and guidance to officers to develop

¹²⁸ Att. 5 at 46:30.

¹²⁹ Att. 5 at 48:50.

¹³⁰ Att. 26 at 12:30.

and enhance their skills, knowledge, and abilities.¹³¹ Supervisors must also be knowledgeable about the law, CPD policies, and unit-level directives, as to be a resource for other CPD members.¹³² Here, Sgt. Cinta demonstrated effective supervision and guidance in her decision-making and proved herself to be well versed in CPD policies and the law, all in line with the relevant General Order. Therefore, Sgt. Cinta did not commit misconduct when no arrests were made related to the individuals that attacked ██████████ or the damage to her property, even after ██████████ related that she wanted arrests made, nor when she did not author and did not direct officers under her supervision to complete any police reports related to this incident. COPA thus finds that **Allegations 1 and 2 against Sgt. Clara Cinta are Exonerated.**

g. Body-Worn Camera Violation

It has lastly been alleged that Officer Thomas McDonnell committed misconduct when he failed to activate his BWC in a timely manner. CPD Special Order S03-14, Body Worn Cameras, requires that officers activate their BWC to event mode at the beginning of an incident and record the entirety of the incident for all law-enforcement related activities.¹³³ If circumstances prevent activation of a BWC at the beginning of an incident, the BWC must be activated as soon as practical. Law-enforcement related activities include, but are not limited to: calls for service, investigatory stops, traffic stops, traffic control, foot and vehicle pursuits, arrests, use of force incidents, seizure of evidence, interrogations, searches, statements made by individuals during the course of an investigation, requests for consent to search, emergency driving situations, emergency vehicle responses, high-risk situations, any encounter with the public that becomes adversarial after the initial contact, arrestee transports, and any other instance when enforcing the law.¹³⁴

In his interview with COPA, Officer McDonnell explained that his late BWC activation was caused by the stressful nature of the active shooter call, as well as the fact that he was driving and was trying to get there as quickly as possible.¹³⁵ Officer McDonnell also explained that when he realized his BWC was not on, he activated it immediately, describing that he was “trying to get mentally prepared to possibly engage a threat, see mass casualties of kids . . . when I realized I didn’t have it on, I turned it on immediately.”¹³⁶ COPA acknowledges the high stress and potentially trauma-inducing situation that Officer McDonnell expected to confront at what he believed could be an active shooter situation at an elementary school, and COPA finds that Officer McDonnell’s failure to timely activate his BWC was likely unintentional or inadvertent. While Officer McDonnell did activate his BWC late, the footage captured by his camera depicts the majority of the incident, including the detainments of ██████████ and ██████████ the show-up, the interactions with bystanders, and ██████████ later arrest. Based on the available evidence and Officer McDonnell’s own statements, COPA finds by a preponderance of evidence that Officer McDonnell failed to timely activate his BWC, and **Allegation 3 against Officer McDonnell is Sustained.**

¹³¹ Att. 20, G01-09(II)(C), Supervisory Responsibilities (effective May 10, 2021, to present).

¹³² Att. 20, G01-09(III)(A)(5).

¹³³ Att. 27, S03-14(III)(A)(2), Body Worn Cameras (effective April 30, 2018, to December 29, 2023).

¹³⁴ Att. 27, S03-14(III)(A)(2)(a-r).

¹³⁵ Att. 22 at 17:38.

¹³⁶ Att. 22 at 18:00.

VI. DISCIPLINARY RECOMMENDATION¹³⁷

a. Police Officer Thomas McDonnell

i. Complimentary and Disciplinary History

Officer McDonnell has received seven Department Commendations, the Police Officer of the Month Award, the Problem Solving Award, two complimentary letters, ninety-eight Honorable Mentions, and seven other awards and commendations. Officer McDonnell has not been disciplined within the past five years.

ii. Recommended Discipline

COPA has found that Officer McDonnell violated Rules 2, 3, 5, 6, and 10 by failing to activate his BWC in a timely manner. BWCs are an important tool used both to prevent misconduct and to exonerate officers where they are wrongfully accused, and to ensure that the true circumstances of incidents involving CPD members are known. Here, COPA has found that Officer McDonnell's failure to timely activate his BWC was likely unintentional or inadvertent. While Officer McDonnell did activate his BWC late, the footage he did capture with his BWC depicts the majority of the incident. Based on these facts, and considering Officer McDonnell's complimentary history and lack of recent disciplinary history, COPA recommends an entry of **"Sustained – Violation Noted, No Disciplinary Action."**

b. Police Officer Martin Kirkel

i. Complimentary and Disciplinary History

Officer Kirkel has received the Superintendent's Award of Valor, three Department Commendations, the Police Officer of the Month Award, the Traffic Stop of the Month Award, one complimentary letter, eighty-four Honorable Mentions, and three other awards and commendations. Officer Kirkel has no sustained complaint registers within the past five years, but he has been disciplined twice through the summary punishment process, receiving a reprimand for a preventable accident that occurred in June 2023 and for a court appearance violation that occurred in October 2023.

ii. Recommended Discipline

COPA has found that Officer Kirkel violated Rules 2, 3, 5, 6, and 10 by failing to document his search of [REDACTED] car in an Investigatory Stop Report. CPD's investigatory stop system helps to ensure that CPD members protect the public, preserve the rights of all members of

¹³⁷ For complimentary and disciplinary histories, *see* Att. 34.

the community, and enforce the law impartially. Here, while Officer Kirkel did complete the required report for the stop of [REDACTED] he failed to include information about the search of [REDACTED] car. COPA has no reason to believe that Officer Kirkel was attempting to hide the fact that a search took place, as he recorded the search with his BWC, but his approach to report preparation does not reflect appropriate attention to detail or the importance of fully documenting police action. Considering these facts and taking into account Officer Kirkel's complimentary and disciplinary history, COPA recommends a **reprimand**.

Approved:



2/13/2024

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	October 6, 2022 / 4:59 pm / ██████████ ██████████, Chicago, IL 60652
Date/Time of COPA Notification:	October 14, 2022 / 12:22 pm
Involved Member #1:	Sgt. Clara Cinta; Star #1077; Employee # ██████████; Date of Appointment: May 27, 2014; Unit of Assignment: 008; White Hispanic; Female
Involved Member #2:	Officer Thomas McDonnell; Star #16859; Employee # ██████████; Date of Appointment: April 28, 2014; Unit of Assignment: 008; White; Male
Involved Member #3	Officer Martin Kirkel; Star #5903; Employee # ██████████; Date of Appointment: February 2, 2015; Unit of Assignment: 008; White; Male
Involved Member #4	Officer Bradley Bullington; Star #8684; Employee # ██████████; Date of Appointment: April 25, 2016; Unit of Assignment: 008; White; Male
Involved Member #5	Officer Adam Stark; Star #18655; Employee # ██████████; Date of Appointment: February 21, 2006; Unit of Assignment: 008; White; Male
Involved Individual #1:	██████████ Black; Male
Involved Individual #2:	██████████ Black; Female
Involved Individual #3	██████████ Black; Male

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- General Order G01-09: Supervisory Responsibilities, effective May 10, 2021, to present.
- Special Order S04-13-09: Investigatory Stop System, effective July 10, 2017, to present.
- Special Order S03-14: Body Worn Cameras, effective April 30, 2018, to December 29, 2023.

Appendix B

Definition of COPA's Findings and Standards of Proof

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 a proposition is proved.¹³⁸ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”¹³⁹

¹³⁸ See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

¹³⁹ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation