



Log # 2023-1497

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 6, 2023, the Civilian Office of Police Accountability (COPA) received a telephonic complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on April 6, 2023, at approximately 11:42 am, at or near 6605 W. Montrose Ave, Officers Gregory Sobieraj, Jennifer Accardo and Matthew Scott, improperly detained him and searched his vehicle.² Upon review of the evidence, COPA served additional allegations that Officers Sobieraj and Accardo failed to issue an Investigatory Stop Receipt and failed to timely activate their Body Worn Camera (BWC). Officer Sobieraj was also served an allegation for making an inaccurate statement in an Investigatory Stop Report (ISR) by failing to document the search of ██████████ vehicle. Officer Scott was served with an allegation of prematurely deactivating his BWC. Following its investigation, COPA reached sustained findings related to the search, BWC violation, and inaccurate report.

II. SUMMARY OF EVIDENCE³

On April 6, 2023, at approximately 11:42 am, at or near 6605 W. Montrose Ave, Officers Sobieraj and Accardo spotted a vehicle with a non-working taillight driving into a parking lot of a warehouse. Officers followed ██████████ vehicle into the parking lot. ██████████ parked, exited his vehicle, walked towards the building. Officer Sobieraj while still inside his CPD vehicle and without any emergency equipment activated, informed ██████████ of the non-working taillight. ██████████ did not respond, and Officer Sobieraj requested ██████████ driver's license. ██████████ did not comply and walked away into the warehouse.⁴ Officer Sobieraj walked over to ██████████ vehicle, checked the exterior and discovered it was unoccupied, running, and locked. Officer Sobieraj ultimately reached into the driver side window and unlocked the vehicle. As the driver's side door opened, Officer Sobieraj searched in the driver side door panel and observed a pill bottle. Officer Sobieraj also searched the immediate areas of the driver's seat to include the center console and under the seat and turned off the ignition.⁵ ██████████ exited the business, reapproached, and

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, event queries, civilian interview, officer interviews, Investigatory Stop Report and body worn camera footage.

⁴ Att.5 at 2:00 to 2:25

⁵ Att. 5 at 2:36 to 4:06

attempted to understand why his vehicle was being searched, since he had not been stopped by the officers. Officer Sobieraj explained to ██████ that he was advising him of the non-working taillight, furthermore ██████ left his vehicle running, hence why Officer Sobieraj opened ██████ vehicle to turn it off.⁶ Back up officers arrived on scene, and Officer Sobieraj told Officer Scott “It’s that car Matt” pointing at ██████ vehicle.⁷ Officer Scott proceeded to conduct a thorough search of ██████ vehicle.⁸ Upon ██████ asking, Sergeant Amber Toledo, why the officer was searching his vehicle, she ordered Officer Scott to end the search.⁹ ██████ then provided his information to officers and was free to go.¹⁰

III. ALLEGATIONS

Officer Gregory Sobieraj:

1. Searching ██████ vehicle without justification.
 - Sustained in violation of rule 2, 3 and 6
2. Detaining ██████ without justification.
 - Unfounded
3. Failing to issue an Investigatory Stop Receipt to ██████
 - Sustained, in violation of rule 2, 3 and 6
4. Failing to timely activate your Body Worn Camera.
 - Sustained in violation of rules 2, 3 and 6
5. Making a false statement, or inaccurate statement in an Investigatory Stop Report by failing to document the search of ██████ vehicle.
 - Sustained in violation of Rule 10

Officer Jennifer Accardo:

1. Detaining ██████ without justification.
 - Unfounded
2. Failing to issue an Investigative Stop Receipt to ██████
 - Sustained in violation of rule 2, 3 and 6
3. Failing to timely activate your Body Worn Camera.
 - Sustained in violation of rule 2, 3 and 6

Officer Matthew Scott:

1. Searching ██████ vehicle without justification
 - Sustained in violation of rule 2, 3, and 6
2. Prematurely deactivating your Body Worn Camera

⁶ Att. 5 at 6:56 to 8:08

⁷ Officer Sobieraj did not instruct or otherwise direct or request Officer Scott to search the vehicle. Att. 5 at 7:06 to 7:14; Att. 12 at 2:15 to 2:23

⁸ Att. 12 at 2:18 to 5:08

⁹ Att. 12 at 4:49 to 4:56; After the search was terminated by Officer Scott, Officer Scott walked away from the vehicle, ██████ and officers and deactivated his BWC while the interaction was still occurring.

¹⁰ ██████ contacted Sgt. Toledo voluntarily and was never asked to approach anyone, furthermore ██████ never provided driver’s license or other similar identification.

- Sustained in violation of rule 2, 3 and 6

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

While COPA does not question the information learned during statements, it does have concerns related to Officer Sobieraj's statement. Specifically, COPA's concerns are rooted in Officer Sobieraj's initial insistence that he did not search the vehicle; but after being shown and walked-through the footage agreed that the totality of his actions constituted a search. These concerns are not related to a belief that Officer Sobieraj was intentionally or otherwise attempting to mislead any reviewer of his ISR, rather, the concerns are related to whether Officer Sobieraj was equipped with the necessary knowledge to independently and properly identify when a search of a vehicle takes place. Further, additional statements provided to COPA were consistent with the evidence COPA collected. Therefore, COPA did not find any basis to question the credibility of any of the parties.

V. ANALYSIS¹¹

a. Detention

COPA finds Allegation #1 against Officer Accardo and Allegation #2 against Officer Sobieraj, that they improperly detained ██████████ is **unfounded**. CPD members are permitted to detain a person when there is reasonable articulable suspicion that a person is about to commit, is committing, or has committed a criminal offense. This detention is an Investigatory Stop. Reasonable articulable suspicion is defined as "an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion."¹² However, if the person a member is seeking to detain does not comply with orders relating to the detention and/or otherwise fails to submit to the member's authority by fleeing or walking away, a detention has not occurred.

Here, ██████████ never complied with any member's orders that he is being detained, to include requests for driver's license and to return to the vehicle. Additionally, even after ██████████ exited the warehouse to inquire why his vehicle was being searched this did not rise to the level of detention, because ██████████ approached the officers yet still never heeded their orders for a driver's license. Further, the officers never attempt to physically gain compliance from ██████████. Since ██████████ never submitted to the officers' show of authority while walking away from the officers,

¹¹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹² Att. 21- Special Order S04-13-09: Investigatory Stop System (effective 10 July 2017 to present)

entering a business, and electing on his own to reengage the officers to include Sgt. Toledo, there was no detention. Thus, this allegation must be **unfounded**.

b. Search of the Vehicle

COPA finds Allegation # 1 against Officer Sobieraj and Allegation #1 against Officer Scott, that they improperly searched [REDACTED] vehicle, are **sustained**. CPD members are permitted to search a vehicle when: (1) there is probable cause to believe evidence of a crime in present;¹³ (2) there is reasonable suspicion the vehicle contains a weapon and/or that the occupants are armed and dangerous;¹⁴ (3) an arrest is made, provided there is reasonable suspicion that the vehicle contains evidence of the crime for which the arrest is made;¹⁵ (4) a vehicle is being impounded by the CPD;¹⁶ or (5) consent is obtained. Additionally, Illinois specifically excludes unoccupied running vehicles equipped with a remote starter system from being considered an unattended vehicle.

Here, [REDACTED] was not arrested, his vehicle was not subject to being impounded, nor did he consent to a search of his vehicle. Therefore, the search of his vehicle must be based on reasonable suspicion that the vehicle contains a weapon or probable cause that the vehicle contains evidence of a crime. Initially, Officer Sobieraj asserted he did not search the vehicle. However, after being shown his BWC and asked clarifying questions, Officer Sobieraj admitted he searched the vehicle. Yet, even after admitting to searching the vehicle, Officer Sobieraj attempted to explain his search as proper because vehicle was that the vehicle was left running unattended and after opening the door he observed, in plain view, a pill bottle. While this seems like a reasonable explanation, Illinois law specifically exempts unoccupied running vehicles equipped with a remote starter system from being considered unattended vehicles; and Officer Sobieraj provided no information that caused him to believe that [REDACTED] vehicle was not covered by the exemption. Further, it was not until Officer Sobieraj had reached into the vehicle to unlock the door, and opened the door that he observed the pill bottle.¹⁷ Additionally, since [REDACTED] legally parked and exited his vehicle prior to the officers taking any action to inform a reasonable person they were being stopped, the vehicle cannot be considered abandoned property. Finally, Officer Sobieraj did not provide or in any other way identify information, beyond observing the pill bottle after the search began, that established probable cause that the vehicle contained evidence of a crime nor to establish reasonable suspicion that the vehicle contained a weapon. Further, since [REDACTED] legally parked and exited his vehicle prior to the officers taking any action to inform a reasonable person they were being stopped, the vehicle cannot be considered abandoned property. Thus, Officer Sobieraj's search violated CPD policy and Rules 2, 3, and 6.

¹³ *Maryland v. Dyson*, 527 U.S. 465 (1999).

¹⁴ *Michigan v. Long*, 463 U.S. 1032 (1983).

¹⁵ *Arizona v. Grant*, 556 U.S. 332 (2009).

¹⁶ *South Dakota v. Oppeman*, 428 U.S. 364 (1976).

¹⁷ This is not considered plain view, as Plainview requires the law enforcement officer to lawfully be in the place where the items is viewed. Since Officer Sobieraj did not observe the pill bottle until *after* he opened the vehicle and commenced the improper search, plain view cannot justify the search at its inception.

Additionally, while Officer Sobieraj did identify [REDACTED] vehicle to Officer Scott when he arrived, Officer Scott was not instructed to search the vehicle and was not provided a justification for any search. Thus, Officer Scott needed to establish his reason for searching for the vehicle. As discussed above, the facts of the incident limit Officer Scott's justification for the search to probable cause the vehicle contained evidence of a crime or reasonable suspicion that the vehicle contained a weapon. Officer Scott, he explained he searched any area accessible to the driver because he believed [REDACTED] had abandoned his vehicle while it was running and abruptly went into a building.¹⁸ In Officer Scott's experience when people sense police are in their presence, they want to distance themselves as quickly as possible, usually because something could be in the vehicle. Officer Scott mentioned he was not aware that a search had already been conducted and was searching the vehicle based on the information provided by Officers Sobieraj and Accardo when they initially were to try to speak with [REDACTED].¹⁹ COPA attributes, at least a portion of Officer Scott's improper search, to a breakdown of communication between Officers Scott, Sobieraj, and Accardo on scene. Thus, Officer Scott's search of the vehicle violated CPD policy and Rules 2, 3, and 6.

c. False Statement

COPA finds Allegation #5 against Officer Sobieraj, that he completed an inaccurate report, is **sustained** as violation of Rule 10.²⁰ Members are required to complete an Investigatory Stop Report (ISR) that "document[s] the facts and circumstances of" the detention, "the facts establishing" the basis of a search.²¹

Here, as discussed above, a search of [REDACTED] vehicle occurred. Additionally, while the ISR completed by Officer Sobieraj has the search of effects box checked, the narrative explicitly states Officer "Sobieraj entered the vehicle to turn off the ignition" but does not in any other way indicate that a search of the vehicle occurred.²² During his statement, Officer Sobieraj explained that he selected the search of effects box based on Officer Scott's search. Further, as discussed above, Officer Sobieraj initially asserted he did not search the vehicle but ultimately agreed his actions were a search and should have been detailed in the ISR. Therefore, COPA finds that Officer Sobieraj's inaccurate reporting was not intended to mislead or deceive but rather more likely than not rooted a lack of understating what constitutes a vehicle search. Therefore, Officer Sobieraj's inaccurate report violated CPD policy and Rules 2, 3, 6, and 10.

d. ISR Receipt

¹⁸ Att. 24- Pg. 11, Ins. 16 to Pg. 14, Ins. 5

¹⁹ Att. 24- Pg. 23, Ins. 9 to Pg. 26, Ins. 1

²⁰ To sustain a violation of Rule 14 for a lack of truthfulness, COPA must establish that the information provided was knowingly false, material to the investigation, and in fact false. Those elements are not met in this instance; thus, a violation of Rule 14 could not occur.

²¹ Att. 21, S04-13-09 III(D)(1)(a-c), Investigatory Stop Systems (effective July 10, 2017 to present).

²² Att. 3- Investigatory Stop Report of [REDACTED]

COPA finds Allegation #2 against Officer Accardo and Allegation #3 against Officer Sobieraj, that they failed to issue an Investigatory Stop Receipt, are **sustained**. CPD members “are required to provide” an Investigatory Stop Receipt to any individual subjected to a “[p]rotective [p]at [d]own or any other search” during an Investigatory Stop.²³

Here, as discussed above, ██████████ vehicle was searched at a time and place where ██████████ was known to be the person most recently in control of the vehicle and present to receive an Investigatory Stop Receipt; however, none was issued. Officer Sobieraj acknowledged that ██████████ should have been provided with an Investigatory Stop Receipt but was not. Officer Accardo explained that she was not aware an Investigatory Stop Receipt was not provided to ██████████. Thus, the failure of both officers to provide ██████████ with the required Investigatory Stop Receipt violated CPD policy and Rules 2, 3, 5, and 6.

e. **BWC**

COPA finds that Allegation #2 against Officer Scott, Allegation #3 against Officer Accardo, and Allegation #4 against Officer Sobieraj, that they improperly operated their BWC, are **sustained**. CPD Members are required to activate BWC “at the beginning of” or “as soon as practical” for “all law-enforcement-related activities.”²⁴ Additionally, CPD members will not deactivate their BWC until “law-enforcement-related activity”²⁵ has concluded; or when requested by a victim of or witness to a crime or a member of the community wishing to report a crime; or interacting with a confidential informant.²⁶ When a CPD member deactivates a BWC while still engaged in law-enforcement-related activity they “will verbally justify [the deactivation] on the BWC [recording.]”²⁷

Here, the evidence shows that both Officers Sobieraj and Accardo were actively engaged in law enforcement activity, specifically a traffic stop, but failed to activate their BWC prior to commencing the stop.²⁸ Additionally, the evidence shows that Officer Scott de-activated his BWC while the law-enforcement-related activity was still ongoing and prior to any other

²³ Att. 21, S04-13-09 VIII (A)(3).

²⁴ “Law-enforcement-related activities include but are not limited to:” “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” Att. 23, S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).

²⁵ “Law-enforcement-related activity” concludes when “the member has cleared the assignment; the member leaves the scene of the incident;” an arrested subject is “is secured in the processing room and the member is only conducting administrative functions...” or “custody has been transferred to another CPD member ...”; or deactivation is instructed to by the “highest-ranking on-scene Bureau of Patrol supervisor...” Att. 23, S03-14 III(B)(10).

²⁶ Att. 23, S03-14 III(B)(1)(a-d).

²⁷ Att. 23, S03-14 III(B)(4).

²⁸ Att. 5 at 1:29 to 2:00; Att. 6 at 1:37 to 2:00

justification to de-activate occurred. Officer Scott explained his deactivation because he believed that since he was complete with his parts of the investigation, he could deactivate the BWC. The late activations of Officers Sobieraj and Accardo's BWCs, and the early de-activation of Officer Scott's BWC violated CPD policy and Rules 2, 3, 5, 6, and 10.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Gregory Sobieraj

i. Complimentary and Disciplinary History²⁹

Officer Sobieraj has received 220 various awards, including one Superintendent's Award for Valor; one Police Officer of the Month Award; and two Unit Meritorious Performance Awards. Additionally, in May of 2024, Officer Sobieraj received a reprimand for failing to submit a report in March of 2024.

ii. Recommended Discipline

Here, COPA has found that Officer Sobieraj improperly searched a vehicle while failing to accurately document the facts of the search an ISR, failing to issue an Investigatory Stop Receipt, and failing to timely activate his BWC. It is for these reasons, combined with his history, that COPA recommends Officer Sobieraj receive a 5 day Suspension and retraining on vehicle searches.

b. Officer Matthew Scott

i. Complimentary and Disciplinary History³⁰

Officer Scott has received 370 various awards, including one Superintendent's Award for Valor; one Life Saving Award; one Police Officer of the Month Award; and one Special Commendation. Additionally, Officer Scott has received no discipline in the last five years.

ii. Recommended Discipline

Here, COPA has found that Officer Scott improperly searched a vehicle while failing to properly operate his BWC. Additionally, as discussed above, COPA believes a breakdown in communication between Officers Scott, Sobieraj and Accardo contributed to Officer Scotts improper search. It is for these reasons, combined with his history, that COPA recommends Officer Scott receive a Violation Noted.

²⁹ Att. 34.

³⁰ Att. 33.

c. Officer Jennifer Accardo

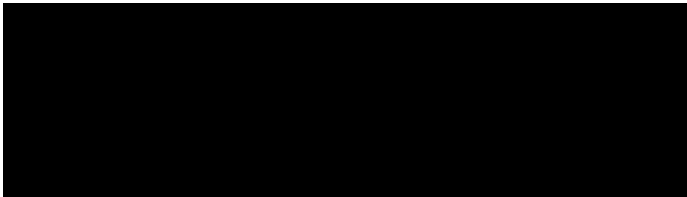
i. Complimentary and Disciplinary History³¹

Officer Accardo has received 43 various awards, including one Superintendent's Award for Tactical Excellence; one Life Saving Award; and one Problem Solving Award. Additionally, on March 29, 2024, Officer Accardo received a reprimand for a court appearance violation that occurred in February 2024; and on May 9, 2024, she received a one-day suspension for a court appearance violation that occurred in March 2024.

ii. Recommended Discipline

Here, COPA has found that Officer Accardo failed to issue an Investigatory Stop Receipt, while failing to properly operate his BWC. It is for these reasons, combined with her history, that COPA recommends Officer Accardo receive a Violation Noted.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

7-30-2024

Date

³¹ Att. 32.

Appendix A

Case Details

Date/Time/Location of Incident:	April 6, 2023/ 11:42 am/ 6605 W. Montrose Ave, Chicago, IL, 60634
Date/Time of COPA Notification:	April 6, 2023/ 4:33 pm
Involved Member #1:	Gregory Sobieraj, Star #16479, Employee ID # [REDACTED] Date of Appointment June 21, 1999, Unit of Assignment 16, Male, White
Involved Member #2:	Jennifer Accardo, Star #9248, Employee ID # [REDACTED] Date of Appointment November 29, 2004, Unit of Assignment 16, Female, White
Involved Member #3:	Matthew Scott, Star #5180, Employee ID # [REDACTED] Date of Appointment December 18, 2002, Unit of Assignment 16, Male, White
Involved Individual #1:	[REDACTED] Male, Black or African American

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.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- Special Order S04-13-09: Investigatory Stop System (effective 10 July 2017 to present).³²
- Special Order S03-14: Body Worn Cameras (effective 30 April 2018 to 29 December 2023).³³

³² Att. 21.

³³ Att. 23.

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.³⁴ 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.”³⁵

³⁴ 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 found to be more probably true than not).

³⁵ *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