



Log # 2023-0005423

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On November 17, 2023, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on November 17, 2023, Officer Gerardo Lopez searched his vehicle without consent.² Upon review of the evidence, COPA served an additional allegation that Officer Lopez conducted a protective pat down of ██████████ without justification. COPA also served allegations that Officer Lopez and his partner, Officer Rozalia Pawlikowski, failed to provide ██████████ with an Investigatory Stop Report (ISR) receipt and included inaccurate statements in the ISR. Following its investigation, COPA reached sustained findings for searching Amerson's vehicle, patting down Amerson, and failing to provide an ISR receipt.

II. SUMMARY OF EVIDENCE³

On November 17, 2023, at approximately 11:19 am, Officers Lopez and Pawlikowski were on routine patrol when they observed a vehicle driving without a front license plate.⁴ The officers further observed the vehicle's front windshield and driver's side window were tinted in violation of Illinois law.⁵ The officers activated their emergency lights to stop the vehicle, after which they observed the driver, ██████████, reaching down towards the right side of the vehicle.⁶ ██████████ slowed down but did not come to a full stop until approximately a block after the officers activated their lights and siren.⁷

Once the vehicle had stopped, Officer Lopez approached the driver's side and asked ██████████ to roll his windows down. Officer Lopez explained that the reason for the stop was for a tinted front window, no front license plate, and a cover on the back license plate.⁸ ██████████ told

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.

⁴ Att. 12, TV 566-574.

⁵ Att. 12, TV 566-575.

⁶ Att. 20, pg. 9, lns. 14 to 16; Att. 22, pg. 8, lns. 8 to 10.

⁷ Att. 20, pgs. 9 and 16; Att. 22, pgs. 8, 11. ██████████ told COPA he initially merged into the right lane and slowed down, believing that the officers would drive past him, but he stopped when the officers pulled directly behind his vehicle. Att. 14, pgs. 9, 17 to 18.

⁸ Att. 6 starting at 11:16:28.

Officer Lopez that if he was going to write him a ticket, he should just write him a ticket instead of asking him questions like he was a child.⁹ After approximately two minutes of discussion, Officer Lopez asked ██████ to step out of the vehicle.¹⁰ ██████ responded by requesting a sergeant respond to the scene before he exited his vehicle.¹¹ Officer Lopez explained to ██████ that he asked him to step out because he needed to test the tints on his vehicle's front window, and he then called for his sergeant to come to the scene.¹² ██████ remained in his vehicle and waited for the sergeant to arrive. He explained to Officer Lopez that, in his experience, exiting the vehicle would lead to a vehicle search, which ██████ asserted was inappropriate for ticketable offenses.¹³ While waiting for the sergeant, another CPD vehicle that was driving by stopped and assisted Officers Pawlikowski and Lopez.¹⁴

Sergeant Kevin Killen arrived, spoke with ██████, and asked him to step out of the vehicle.¹⁵ ██████ complied and exited the vehicle, at which point Officer Lopez patted him down.¹⁶ An assisting officer took hold of ██████ arm to assist Officer Lopez with handcuffing ██████.¹⁷ Officer Lopez then searched ██████ vehicle, while Officer Pawlikowski wrote citations.¹⁸ Officer Lopez tested ██████ vehicle window with a tint meter that recorded an illegal tint. The officers gave ██████ two citations and released him.

During an interview with COPA, ██████ complained that when Officer Lopez handcuffed him, he grabbed and twisted his arm.¹⁹ ██████ told COPA that he went to WellNow Urgent Care for shoulder pain as a result of the handcuffing.²⁰ WellNow, however, had no documentation of such a visit.²¹

III. ALLEGATIONS

Officer Gerardo Lopez:

- Searching ██████ vehicle without justification.
 - o Sustained, Violation of Rules 2, 3, 6
- Patting down ██████ without justification.
 - o Sustained, Violation of Rules 2, 3, 6

⁹ Att. 6 starting at 11:17:00.

¹⁰ Att. 6 at 11:17:56.

¹¹ Att. 6 at 11:17:59

¹² Att. 6 from 11:18:05 to 11:19:15.

¹³ Att. 6 starting at 11:21:55.

¹⁴ Att. 6 at 11:25:36.

¹⁵ Att. 6 starting at 11:30:29.

¹⁶ Att. 6 starting at 11:32:06.

¹⁷ Att. 8 at 11:32:20. ██████ complained that Officer Marco Vasquez twisted his arm, but COPA found no objective verifiable evidence to support this allegation. The BWC footage shows that Officers Lopez and Vasquez handcuffed ██████ in a relatively gentle manner, and ██████ did not resist the handcuffing in any way.

¹⁸ Att. 6 starting at 11:32:44.

¹⁹ Att. 14, pgs. 11 to 12, 21, 24.

²⁰ Att. 14, pgs. 12, 24, 25.

²¹ Att. 27. COPA did not bring an excessive force allegation due to the lack of objective verifiable evidence.

- Failing to provide ██████████ with an Investigatory Stop Report Receipt.
 - o Sustained, Violation of Rules 6 and 10
- Providing an inaccurate statement by writing that ██████████ was breathing heavily, hands shaking, and raised his voice in the Investigatory Stop Reports completed for this incident (ISR025204900).
 - o Not Sustained

Officer Rozalia Pawlikowski

- Failing to provide ██████████ with an Investigatory Stop Report Receipt.
 - o Sustained, Violation of Rules 6 and 10
- Providing an inaccurate statement by writing that ██████████ was breathing heavily, hands shaking, and raised his voice in the Investigatory Stop Reports completed for this incident (ISR025204900).
 - o Not Sustained

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.

Here, the statements that Officers Lopez and Pawlikowski provided to COPA were largely consistent with each other and the BWC footage. However, both statements were inconsistent with the ISR, which was authored by Officer Pawlikowski after conferring with Officer Lopez. To wit: both officers told COPA that they observed ██████████ make movement towards the right side of the vehicle when they activated their emergency lights,²² whereas the ISR stated that the officers observed these movements "upon approach," after the vehicle had stopped.²³ During their statements, both officers acknowledged that the ISR should have been worded more specifically.²⁴

Furthermore, Officer Lopez made statements on BWC (which he later told to Officer Pawlikowski to document in the ISR) that ██████████ was breathing heavily, had shaky hands, and raised his voice. As discussed in more detail below, these statements are not supported by the BWC footage. These discrepancies raise questions about the reliability of both officers' accounts.

With respect to ██████████, his account of the traffic stop and vehicle search was largely consistent with the BWC footage. However, ██████████ complaint of excessive force was not borne out by the video, and COPA could not corroborate Amerson's statement that he received medical treatment following the incident. These factors lessened Amerson's overall credibility.

²² Att. 20, pg. 9, Ins. 14 to 16; Att. 22, pg. 8, Ins. 8 to 10.

²³ Att. 2.

²⁴ Att. 20, pgs. 16 to 17; Att. 22, pgs. 24 to 25.

V. ANALYSIS²⁵

a. 4th Amendment allegations

COPA finds the allegations that Officer Lopez conducted a pat down of ██████ and searched ██████ vehicle without justification, are both **sustained**. A police officer may perform a protective pat down of an individual when, after making a lawful stop, the officer has a reasonable articulable suspicion that he or another is in danger of attack because the individual is armed and dangerous.²⁶ CPD policy defines a protective pat down as a “limited search during an investigatory stop in which a sworn member conducts a pat down of the outer clothing of a person for weapons for the protection of the sworn member or others in the area.”²⁷ To conduct a protective pat down, “a sworn member must possess specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area.”²⁸ Additionally, if an officer has a reasonable suspicion based on specific and articulable facts to believe that a vehicle occupant may be armed and dangerous, the officer may not only conduct a protective search of the person for weapons, but also of the passenger compartment of the vehicle.²⁹

In this case, it is undisputed that Officer Lopez patted down ██████ and searched the driver’s side and back seat of ██████ vehicle. Officer Lopez told COPA that the reason he patted down ██████ and searched his vehicle was because, in his experience, the movements ██████ made prior to the stop and the distance it took Amerson to pull over, led him to believe that ██████ was concealing contraband.³⁰ Officer Lopez defined contraband as narcotics or a weapon.³¹ Officer Lopez also stated that he patted down ██████ for officer safety, again citing the fact that after being signaled to stop, ██████ did not immediately do so, and made movements to his right and downward.³²

COPA does not find this generalized suspicion of the possibility of concealing “contraband,” being weapons *or* narcotics, to meet the standard of particularized reasonable articulable suspicion that ██████ was armed and dangerous. Notably, Officer Lopez did not immediately ask ██████ to step out of the vehicle, stating that he did not want to unnecessarily escalate the situation.³³ This suggests that Officer Lopez did not consider ██████ an imminent danger, even after he observed ██████ movements and his failure to immediately pull over.

²⁵ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

²⁶ *People v. Sorenson*, 196 Ill. 2d 425, 432 (2001).

²⁷ Att. 23, S04-13-09(II)(C) Investigatory Stop System (effective July 10, 2017, to present).

²⁸ Att. 23, S04-13-09(II)(C).

²⁹ *Michigan v. Long*, 463 U.S. 1032, 1048-49 (1983).

³⁰ Att. 22, pgs. 8, 10, 13 to 17.

³¹ Att. 22, pgs. 8, 10, 15. When a COPA investigator asked Officer Lopez if the vehicle search was for weapons, he responded, “Weapons or narcotics or anything that he can easily just throw in the vicinity -- the inside of the vehicle.” Att. 22, pg. 28.

³² Att. 22, pgs. 10, 15.

³³ Att. 22, pg. 13.

Additionally, while ██████ was clearly irritated throughout the stop, he did not exhibit any aggressive or overly hostile behavior. At the time of the pat down, Amerson was both cooperative and compliant, as a sergeant had arrived to monitor the situation.

For these reasons, COPA finds by a preponderance of the evidence that Officer Lopez was not justified in patting down ██████ and searching his vehicle, and these allegations are sustained as violations of Rules 2, 3, and 6.

b. Inattention to duty allegations

i. ISR receipt

COPA finds the allegation that Officers Lopez and Pawlikowski failed to provide ██████ with an ISR receipt, is **sustained**. CPD policy provides that, “Upon the completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.”³⁴ In this case, the BWC footage shows that the officers did not provide Amerson with a receipt, and Officer Pawlikowski acknowledged as much during her COPA statement.³⁵ Therefore, COPA finds this allegation is sustained as a violation of Rules 6 and 10.

ii. Inaccurate statements in the ISR

COPA finds the allegation that Officers Lopez and Pawlikowski provided an inaccurate statement in the ISR by documenting that Amerson was breathing heavily, had shaking hands, and raised his voice, is **not sustained**. Here, it is undisputed that Officer Pawlikowski completed the ISR, but she did so using information she received from Officer Lopez.

The BWC footage shows Officer Lopez gesturing at ██████ left hand and asking Amerson why he was shaking.³⁶ However, the shaking of ██████ left hand is not readily apparent on the BWC. Officer Lopez told COPA that ██████ right hand, which was not visible on the video, was “shaking a lot, too.”³⁷ Officer Lopez also stated that despite ██████ wearing a puffy coat, he could see that ██████ was breathing heavily.³⁸ Officer Lopez also pointed out a moment in the BWC footage where he thought ██████ raised his voice, but this did not sound particularly significant on the recording.³⁹

Regardless, COPA recognizes that the perspective of a BWC does not always match that of the wearer. Consequently, there is insufficient evidence to prove that the statements in the ISR that ██████ raised his voice, had shaking hands, and was breathing heavily were inaccurate.

³⁴ Att. 23, S04-13-09 VIII(A)(3) (effective July 10, 2017, to present).

³⁵ Att. 6 from 11:43:20 to 11:43:55; Att. 20, pgs. 14 to 15. Officer Lopez told COPA that he did not know if a receipt was provided. Att. 22, pg. 24.

³⁶ Att. 6 at 11:17:04.

³⁷ Att. 22, pg. 9.

³⁸ Att. 22, pg. 20.

³⁹ Att. 22, pgs. 20 to 22; *see* Att. 6 from 11:18:06 to 11:18:10.

Accordingly, COPA finds this allegation against Officers Lopez and Pawlikowski is not sustained by a preponderance of the evidence.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Gerardo Lopez

i. Complimentary and Disciplinary History⁴⁰

At the time of the incident, Officer Lopez had been an officer for over five years. He has received a total of 67 awards, including one Department Commendation, one Complimentary Letter, and 62 Honorable Mentions. Officer Lopez has no SPARs or sustained complaint history.

ii. Recommended Discipline

COPA has sustained allegations against Officer Lopez for violating 4th Amendment protections against searching [REDACTED] person and vehicle, and for failing to provide Amerson with an ISR receipt. In mitigation, COPA will consider Officer Lopez's numerous awards. COPA will also consider that Officer Lopez was patient with [REDACTED] throughout the traffic stop, and he exercised numerous de-escalation techniques. In aggravation, COPA will consider that all officers receive 4th Amendment training. Here, it appears that Officer Lopez sincerely, but erroneously, believed that a pat down of Amerson and a search of his vehicle were justified to look for narcotics, not just weapons.

Accordingly, COPA recommends that Officer Lopez receive a **Reprimand** and additional 4th Amendment training.

b. Officer Rozalia Pawlikowski

i. Complimentary and Disciplinary History

At the time of the incident, Officer Pawlikowski had been an officer for over six years. She has a total of 58 awards, including one Department Commendation, two Complimentary Letters, and 52 Honorable Mentions. Officer Pawlikowski has no SPARs or sustained complaint history.

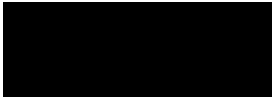
ii. Recommended Discipline

COPA has sustained an allegation against Officer Pawlikowski for failing to provide [REDACTED] with an ISR receipt. In mitigation, COPA will consider Officer Pawlikowski's numerous awards. In aggravation, COPA will consider that all officers receive training regarding CPD's ISR policy, and should have a fundamental understanding of when a receipt is required.

For these reasons, COPA recommends that Officer Pawlikowski receive a **Violation Noted** and additional training regarding Special Order 04-13-09.

⁴⁰ Att. 25.

Approved:



Steffany Hreno
Director of Investigations

10/25/2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	November 17, 2023 / 11:19 am / 8933 S. Halsted St. Chicago, IL 60620
Date/Time of COPA Notification:	November 17, 2023 / 1:50 pm
Involved Member #1:	Gerardo Lopez, Star #5094, Employee ID # [REDACTED], DOA: September 27, 2018, Unit of Assignment: 022, Male, Hispanic
Involved Member #2:	Rozalia Pawlikowski, Star #14722, Employee ID [REDACTED], DOA: September 18, 2017, Unit of Assignment: 022, Female, White
Involved Individual #1:	[REDACTED], Male, Black

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

- Att. 23, S04-13-09: Investigatory Stop System (effective July 10, 2017 to present).
- *People v. Sorenson*, 196 Ill. 2d 425, 432 (2001).
- *Michigan v. Long*, 463 U.S. 1032, 1048-49 (1983).

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.⁴¹ 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.”⁴²

⁴¹ 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).

⁴² *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