



Log # 2024-0008586

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On November 27, 2024, the Civilian Office of Police Accountability (COPA) received an Initiation Report from the Chicago Police Department (CPD),² alleging misconduct by members of CPD. ██████ submitted a complaint at the 18th District police station, alleging that on November 26, 2024, Officers Ernesto Amparan, Patrick Kirwan, Carlos Mota, Nicu Tohatan, and Joseph Vecchio removed ██████ from his parked vehicle and immediately handcuffed him upon exiting the vehicle, without justification. ██████ further related that officers searched his vehicle without his consent and coerced him into making an apology to the officers in order to avoid arrest.³

Following its investigation, COPA sustained the allegation that Officers Amparan, Kirwan, Mota, Tohatan, and Vecchio detained ██████ without justification. COPA sustained the allegation that Officers Tohatan and Vecchio handcuffed ██████ without justification. COPA sustained the allegation that Officers Amparan, Tohatan, and Vecchio searched ██████ without justification, and that Officer Vecchio searched the vehicle ██████ was in without justification. COPA sustained the allegation that Officer Vecchio abused his law enforcement authority by coercing ██████ to apologize in order to avoid arrest. COPA determined that there was insufficient evidence to ascertain if officers made sufficient effort to provide ██████ with an investigatory stop receipt, and therefore that allegation against the officers was not sustained.

II. SUMMARY OF EVIDENCE⁴

At around 7:00 pm on Tuesday, November 26, 2025, ██████ was in his girlfriend's vehicle, parked in the vicinity of 1450 N Sedgewick Street, and attempting to start the vehicle. ██████ was wearing a black balaclava ("shiesty")⁵ and a puffy coat. Officer Vecchio was driving a CPD vehicle with Officer Tohatan as his passenger. Officer Vecchio made a U-turn with the

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 Att. 17.

³ 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. ██████ also alleged racial profiling and that officers "slammed his head onto the hood of his car." COPA did not bring these allegations due to insufficient evidence that they occurred.

⁴ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including Body Worn Camera (BWC) footage, officer interviews, non-CPD member interview(s), and other CPD reports.

⁵ Referenced by ██████ throughout the BWC; a colloquial term for a full-face mask, also called a balaclava or ski-mask, popularized by Memphis rapper Pooh Shiesty.

vehicle's emergency lights activated.⁶ Officer Vecchio then made a U-turn when he and Officer Tohatan observed █████ sitting in his girlfriend's car. The officers initiated an investigatory stop of █████ based on the vehicle's expired registration.⁷

Officers Tohatan and Vecchio approached █████ who was parked with the car running. The officers instructed █████ to roll down the window of his vehicle, while informing him that his vehicle registration had expired. █████ responded that he wasn't driving the vehicle and therefore believed he was not obligated to interact with the officers. Officers Tohatan and Vecchio instructed █████ to provide his driver's license and insurance and informed him that he was required to do so.⁸ Officer Vecchio told █████ to exit the vehicle, which he did.⁹ Officer Tohatan quickly asked for his license and insurance again and, without giving █████ time to respond, immediately placed █████ in handcuffs and said he was under arrest.¹⁰ While handcuffing █████ Officers Tohatan and Vecchio pushed █████ onto the hood of a car. Once in handcuffs, █████ objected that the handcuffs were too tight and causing him discomfort. Officer Vecchio began searching the vehicle █████ had been inside of.¹¹ As █████ complained of discomfort, Officer Vecchio paused his search of the vehicle and asked █████ "Why are you acting like this? Are you out of your mind?" While speaking to █████ Officer Vecchio grabbed the outside of █████ front pockets.¹² Officer Tohatan then loosened the handcuffs.¹³

Officers Amparan, Kirwan, and Mota arrived on the scene. They were unaware of the circumstances surrounding █████ detention, but saw the traffic stop occurring and stopped to assist. Officer Amparan secured █████ by holding onto █████ arm while he was handcuffed.¹⁴ Officer Amparan also conducted a pat down search of █████¹⁵ Speaking in a frustrated tone towards █████ Officer Tohatan stated, "That's what happens when you resist, you understand? You don't stiffen up your body and your hands."¹⁶ Officer Vecchio added, "Now look what happened; you wanted to be a tough guy, now who's the tough guy? Not you."¹⁷

Officer Tohatan conducted another pat down search of █████ and retrieved █████ driver's license from his wallet, while Officer Vecchio returned to searching the vehicle, including the trunk.¹⁸ Officer Vecchio asked █████ "I just don't understand why it had to be like that, man. Do you think you're way tougher than us or something?"¹⁹ Nothing was recovered from the officers' searches of █████ and the vehicle.

⁶ Att. 1 at 0:05.

⁷ Att. 1 at 1:14. They used their vehicle's computer terminal to confirm the registration was expired.

⁸ Att. 1 at 1:49.

⁹ Att. 1 at 2:19.

¹⁰ Att. 1 at 2:50. Att. 47 at pg. 5, lns. 2 to 3.

¹¹ Att. 1 at 3:40.

¹² Att. 2 at 4:19.

¹³ Att. 1 at 4:15.

¹⁴ Att. 1 at 4:28.

¹⁵ Att. 4 at 3:17.

¹⁶ Att. 1 at 4:30.

¹⁷ Att. 1 at 4:37.

¹⁸ Att. 1 at 4:42.

¹⁹ Att. 2 at 6:45.

Officer Tohatan asked the other officers if they had a “cage” to transport ██████²⁰ Officer Tohatan returned to his police vehicle to check ██████ name in the Portable Data Terminal (PDT) system. Although ██████ did not have any outstanding alerts on the PDT system, Officer Tohatan expressed to Officer Vecchio his view that ██████ should be arrested for refusing to provide his driver’s license.²¹ Officers Tohatan and Vecchio discussed whether ██████ should be arrested. Officer Tohatan further asked the other officers if they had a ticket book, which they did not.²²

Officer Vecchio then asked ██████ “Most importantly, are you sorry for your behavior today? Because I need to decide if I’m going to take you to jail or not.” Confused at first, ██████ complied with Officer Vecchio’s request that ██████ apologize, stating that he was sorry for his behavior. Officer Vecchio then returned to the police vehicle to discuss with Officer Tohatan, relating that ██████ apologized and maybe they should “give him a break.”²³ Officer Vecchio returned to ██████ and continued to speak with him, stating that he usually would have arrested someone in a similar situation, but because ██████ apologized, Officer Vecchio would let ██████ go. ██████ said that he believed the officers stopped him because he was wearing a “shiesty,” but Officer Vecchio denied this.²⁴

The officers then released ██████ from the handcuffs and he was free to leave. While walking away and returning to the police vehicle, Officer Tohatan asked, “Receipt?”²⁵ ██████ did not audibly acknowledge the question as Officer Tohatan walked away. It is unclear if ██████ heard or understood the question.²⁶

III. ALLEGATIONS:

Officer Joseph Vecchio:

1. Detaining and/ or assisting in the detention of ██████ without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
2. Handcuffing ██████ without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
3. Searching ██████ without justification.
 - **Sustained, Violation of Rules 2, 3, 6.**
4. Searching ██████ vehicle, without justification.
 - **Sustained, Violation of Rules 2, 3, 6.**

²⁰ A term used by CPD when describing a vehicle that has the capacity to securely transport arrestees.

²¹ Att. 1 at 6:40.

²² Att. 1 at 7:50.

²³ Att. 2 at 7:40.

²⁴ Att. 2 at 7:15 to 10:00.

²⁵ Presumably a reference to an investigatory stop receipt.

²⁶ Att. 1 at 9:55.

5. Abusing his law enforcement authority by asking [REDACTED] to apologize in exchange for avoiding arrest.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
6. Failing to provide an Investigatory Stop Receipt to [REDACTED]
 - **Not sustained.**

Officer Nicu Tohatan:

1. Detaining and/ or assisting in the detention of [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
2. Handcuffing [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
3. Searching [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6.**
4. Failing to provide an Investigatory Stop Receipt to [REDACTED]
 - **Not sustained.**

Officer Patrick Kirwan:

1. Detaining and/ or assisting in the detention of [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
2. Failing to provide an Investigatory Stop Receipt to [REDACTED]
 - **Not sustained.**

Officer Carlos Mota:

1. Detaining and/ or assisting in the detention of [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
2. Failing to provide an Investigatory Stop Receipt to [REDACTED]
 - **Not sustained.**

Officer Ernesto Amparan:

1. Detaining and/ or assisting in the detention of [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6, 8.**
2. Searching [REDACTED] without justification.
 - **Sustained, Violation of Rules 2, 3, 6.**

3. Failing to provide an Investigatory Stop Receipt to [REDACTED]
 - **Not sustained.**

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: the individual's truthfulness and 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 later accurately recall the event from memory.

[REDACTED] provided a statement to COPA, as did Officers Amparan, Kirwan, Mota, Tohatan, and Vecchio. The statements were all generally consistent with the BWC footage. This investigation did not reveal any evidence that caused COPA to question the honesty of any of the individuals who provided statements. The officers generally denied having any strong independent recollection of the events, but indicated that their memory was somewhat refreshed after watching their own body worn camera (BWC) footage in the course of providing statements to COPA.

V. ANALYSIS²⁷

A. Detention

A police officer may temporarily detain an individual for an investigatory stop when the officer has an 'articulable suspicion' that the person has committed or is about to commit a crime."²⁸ Here, the fact that [REDACTED] was committing a violation (expired vehicle registration) was not contested.²⁹ Officer Vecchio indicated that the investigatory stop was initiated solely based on that infraction.³⁰ The officers in the second car had no information regarding why the stop was initiated by Officers Vecchio and Tohatan.³¹

COPA concedes that the officers had discretion regarding whether or not to arrest [REDACTED] in regard to the expired license plates. That said, in the absence of any arrest, the officers were only entitled to detain [REDACTED] for a reasonable time. "A traffic stop is reasonable only for the amount of time it takes to complete the seizure's mission, to address the traffic violation that warranted the stop and attend to related safety concerns."³² "[O]rdinary inquiries incident to [the] stop" are lawful, falling under the rubric of 'related safety concerns.'"³³ Such inquiries include performing outstanding warrant and criminal history checks, as well as examining driver's licenses, vehicle

²⁷ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁸ *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (internal citations omitted).

²⁹ Att. 53, pg. 10, lns. 5 to 7 ("Q. Why -- why he was stopped aside from the registration? A. No. Just the registration.").

³⁰ Att. 53, pg. 10, lns. 5 to 7.

³¹ Att. 45, pg. 8, lns. 2 to 24. Att. 44, pg. 12, lns. 2 to 9. Att. 46, pg. 17, lns. 4 to 11.

³² *U.S. v. Yancey*, 928 F.3d 627, (7th Cir. 2019).

³³ *Rodriguez v. United States*, 575 U.S. 348, 355 (2015).

registrations, and proof of insurance.³⁴ Inquiries unrelated to the stop's mission are lawful only if they "do not measurably extend the duration of the stop."³⁵

In so far as the duration of the stop exceeded the time necessary to confirm the offense upon which the stop was predicated (which the officers did on their PDT terminal before they even got out of their police vehicle), and exceeded the time necessary to obtain and run [REDACTED] personal information to, for example, ensure his driver's license was valid, [REDACTED] detention was unjustified, and therefore misconduct. In the circumstances here, COPA concludes that [REDACTED] detention was unreasonably extended by the length of the search of his girlfriend's vehicle and by the discussion regarding his "apologies," examined below. COPA considers the fact that [REDACTED] was detained in handcuffs, outside on a cold evening³⁶ relevant to determining the overall reasonableness of the length of his detention by the officers. [REDACTED] extended detention by the accused officers was without justification and, therefore, this allegation is sustained against all the accused officers as a violation of Rules 2, 3, 6, and 8.

B. Handcuffing

Without some articulable facts to make the use of handcuffs reasonable in the circumstances, handcuffs should generally not be employed during an investigatory stop.³⁷ Handcuffs are improperly applied during the investigatory stop merely as a prophylactic measure.³⁸ "[H]andcuffing is proper during an investigatory stop only when it is a necessary restraint to effectuate the stop and foster the safety of the officers."³⁹

When officers take measures such as handcuffing a suspect, "they must be reasonable in light of the circumstances that prompted the stop, or that developed during its course."⁴⁰ To handcuff a person, officers must have a *sufficiently reasonable* concern for officer safety.⁴¹ Whether an officer's handcuffing was reasonable depends on the totality of the circumstances.⁴²

³⁴ *Rodriguez v. United States*, 575 U.S. 348, 354 (2015); *See also People v. Cummings*, 2016 IL 115769, ¶ 14 (2016).

³⁵ *Rodriguez v. United States*, 575 U.S. 348, 355 (2015); *Caballes*, 543 U.S. at 410 (holding that it was lawful for an officer to walk a narcotics-detection dog around a vehicle while another officer issued a speeding ticket because it did not prolong the stop).

³⁶ Att. 62.

³⁷ Handcuffing is the type of action that may convert an investigatory stop into an arrest because it heightens the degree of intrusion and is not generally part of a stop. *People v. Wells*, 403 Ill.App.3d 849, 857 (1st Dist. 2010); *People v. Delaware*, 314 Ill.App.3d 363, 370, 731 N.E.2d 904, 911 (2000); *People v. Tortorici*, 205 Ill.App.3d 625, 628 (3rd Dist. 1990).

³⁸ "The use of handcuffs substantially heightens the intrusiveness of a temporary detention and 'is not part of a typical Terry stop'. The Seventh Circuit has called 'troubling' the prospect of police officers handcuffing persons whom they have no probable cause to arrest. Nevertheless, there are situations in which concerns for the safety of the police officer or the public justify handcuffing the detainee for the brief duration of an investigatory stop...However, 'when arrest-like measures (such as handcuffing) are employed, they must be 'reasonable in light of the circumstances that prompted the stop or that developed during its course.'" *People v. Arnold* 394 Ill. App. 3d 63 (Ill. App. Ct. 2009) (citations omitted).

³⁹ *See People v. Johnson*, 408 Ill. App. 3d 107, 113 (2010), for additional case law.

⁴⁰ *People v. Daniel*, 2013 IL App (1st) 111876, ¶ 40, 987 N.E.2d 470 (internal quotations omitted).

⁴¹ *People v. Wells*, 403 Ill. App. 3d. 849, 857 (1st Dist. 2010) (citing *People v. Arnold*, 394 Ill. App. 3d 63, 71 (2nd Dist. 2009)); *see also People v. Colyar*, 2013 IL 111835, ¶ 46 (citing *e.g., United States v. Glenna*, 878 F.2d 967, 972 (7th Cir. 1989)).

⁴² *People v. Colyar*, 2013 IL 111835, ¶ 32.

Officers must have reasonable articulable suspicion to believe that their safety is in danger to handcuff persons.⁴³ Courts weigh factors such as the ratio of officers to persons during the incident, the confirmed or suspected presence of weapons, criminal activity in the neighborhood, and whether officers have reasonable articulable suspicion relating to a violent crime.⁴⁴

Officer Tohatan told COPA he handcuffed [REDACTED] on the basis that [REDACTED] was under arrest for not producing a driver's license and proof of insurance upon request.⁴⁵ Officer Tohatan further stated that [REDACTED] abruptly exited the vehicle without instructions to do so,⁴⁶ although this is contradicted by the BWC evidence and Officer Vecchio's own statement establishing that Officer Vecchio asked [REDACTED] to exit the vehicle.⁴⁷ Officer Vecchio stated that he supported Officer Tohatan in handcuffing [REDACTED] and said there might have been a safety concern for doing so.⁴⁸

Although [REDACTED] initially hesitated in complying with Officer Tohatan's request to roll down his window and to produce his identification, [REDACTED] did not demonstrate dangerous behavior. [REDACTED] exited the vehicle promptly when Officer Vecchio instructed him to do so.⁴⁹ The officers immediately handcuffed him. The description in the Investigatory Stop Report of [REDACTED] being aggressive and not compliant throughout the incident is not corroborated by the BWC footage.⁵⁰ Accordingly, COPA concludes that the officers' decision to place [REDACTED] in handcuffs was not reasonable in the circumstances and this allegation is sustained against Officers Vecchio and Tohatan as a violation of Rules 2, 3, 6, and 8.

C. Search of [REDACTED]

CPD policy defines a "Protective Pat Down" as "a limited search during an Investigatory Stop in which the 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."⁵¹ To conduct a pat down, "a sworn member must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a

⁴³ *People v. Colyar*, 2013 IL 111835, ¶ 45 ("when an officer has reasonable suspicion during an investigatory stop that the individual may be armed and dangerous, the officer is permitted to take necessary measures to determine whether the person is armed and to neutralize any threat of physical harm,") (citing *Terry v. Ohio*, 392, U.S. 1, 24 (1968)).

⁴⁴ Compare *People v. Delaware*, 314 App. 3d 363, 371 (1st Dist. 2000) (handcuffing was unreasonable when three officers had no reasonable basis to continue to detain one defendant after hearing gunshots and observing him flee officers into an apartment, but observing no additional facts arising to reasonable suspicion or probable cause); with *People v. Richardson*, 2017 IL App (1st) 130203-B, ¶ 29 (handcuffing was reasonable at dusk when officers had reasonable suspicion that one of the subjects they stopped was armed, and the subjects outnumbered the officers).

⁴⁵ Att. 54, pg. 16, lns. 13 to 20.

⁴⁶ Att. 54, pg. 8, lns. 16 to 24.

⁴⁷ Att. 53, pg. 26, lns. 1 to 24.

⁴⁸ Att. 53, pg. 27, lns. 5 to 12.

⁴⁹ In the event that Officer Tohatan did not hear Officer Vecchio issue that instruction to [REDACTED] that failure of the officers to coordinate their actions does not somehow make the use of handcuffs reasonable in these circumstances.

⁵⁰ Att. 18.

⁵¹ S04-13-09(II)(B), Investigatory Stop System (effective July 10, 2017, to present).

danger of attack to the sworn member or others in the area.”⁵² In other words, “the fact that an officer has reason to stop a citizen does not necessarily justify the further intrusion of a search for weapons; the officer may conduct a pat-down search only if he has reason to believe that he is dealing with an armed and dangerous individual.”⁵³ An officer’s subjective belief is not determinative, but is probative in determining the validity of the frisk.⁵⁴ The Supreme Court of Illinois has explained that “the sole justification for the search allowed by the *Terry* exception is the protection of the police officer and others in the vicinity, not to gather evidence.”⁵⁵

The ISR states that a pat-down was conducted after observing an L-shaped bulge in [REDACTED] coat pocket, which was not supported by other evidence, including the officers’ interviews with COPA. Officer Tohatan stated that he searched [REDACTED] to retrieve his wallet.⁵⁶ Officer Amparan stated that, when he took temporary control of [REDACTED] he was under the impression that [REDACTED] was already searched by Officer Tohatan, but that officers are required to conduct their own search to make sure nothing was overlooked by other officers.⁵⁷

COPA concludes that the officers did not have a reasonable basis to believe that [REDACTED] was armed and dangerous, and therefore searching [REDACTED] was unjustified, and misconduct. This allegation is sustained against Officers Vecchio, Tohatan, and Amparan as a violation of Rules 2, 3, and 6.

D. Search of [REDACTED] vehicle

Officer Vecchio stated that his justification for searching [REDACTED] was due to [REDACTED] having been arrested. Officer Vecchio related that once Officer Tohatan decided [REDACTED] was arrested, a custodial search of his vehicle and person were justified.⁵⁸ Police may do a post-impoundment search even if there is no probable cause for the vehicle itself so long as the police follow a routine practice of securing and inventorying the automobiles’ contents. Inventories pursuant to such standard police procedures are reasonable.⁵⁹ Officers may open containers and search through the trunk as long as this is part of standard procedure.⁶⁰ The inventory search cannot be a pretext concealing an

⁵² S04-13-09(II)(C)(2); pursuant to 725 ILCS 5/108-1.01, officers are permitted to conduct a limited search of a person for weapons if the officer has lawfully stopped the person for temporary questioning and reasonably suspects that the officer is in danger of attack.

⁵³ *People v. Watson*, 145 Ill. App. 3d 492, 497 (1st Dist. 1986).

⁵⁴ *People v. Flowers*, 179 Ill. 2d 257, 264 (1997) (“Although the standard is an objective one, the officer’s subjective belief regarding the safety of the situation is one of the factors that may be considered in determining whether a weapons frisk was valid under *Terry*.”); *People v. Sorenson*, 196 Ill. 2d 425, (2001); *People v. Walker*, 2013 IL App (4th) 120118, ¶ 46.

⁵⁵ *People v. Flowers*, 179 Ill. 2d 257, 263 (1997) (citing *Minnesota v. Dickerson*, 508 U.S. 366, 373 (1993)).

⁵⁶ Att. 54, Ins. 2 to 8.

⁵⁷ Att. 45, Ins. 12 to 24.

⁵⁸ Att. 53, pg. 14, Ins. 12 to 24, pg. 15, Ins. 1 to 22.

⁵⁹ *South Dakota v. Opperman*, 428 U.S. 364, 372 (1976); *Florida v. Wells*, 110 S. Ct. 1632 (1990).

⁶⁰ *South Dakota v. Opperman*, 428 U.S. 364, 376 (1976).

investigatory police motive.⁶¹ Here, however, there was no arrest and the vehicle was not impounded, so an inventory search was not permissible.

Police may perform a warrantless vehicle search incident to a recent occupant's arrest under two sets of circumstances: (1) "when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search," or (2) when it is "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle."⁶²

In *New York v. Belton*, the U.S. Supreme Court held that officers may search incident to arrest objects and containers within an "arrestee's immediate control."⁶³ The *Belton* court explicitly included the passenger compartment of a vehicle but specifically excluded the trunk area of a vehicle in its holding.⁶⁴ While there is little relevant case law regarding whether officers may search a vehicle's trunk incident to arrest, existing case law interpreting *Belton* suggests the answer is no.⁶⁵

In the circumstances, there was no permissible reason to search the vehicle to extent that Officer Vecchio did, which included the trunk. [REDACTED] was secured in handcuffs and there was no reason to search for evidence of the crime the officers intended to charge him with (namely, failing to provide his driver's license). COPA concludes that in the totality of the circumstances the search was unreasonable, and thereby misconduct. COPA sustains this allegation against Officer Vecchio as a violation of Rules 2, 3, and 6.

E. Apology

Department members will "act with a high degree of ethics, professionalism, and respect for the public and in a manner that promotes trust between the Department and the communities that it serves."⁶⁶ "[R]etaliation is defined as *any conduct*, action, or inaction of a damaging, intimidating, or threatening nature, or any interference, intimidation, *coercion*, or other adverse

⁶¹ *South Dakota v. Opperman*, 428 U.S. 364, 376 (1976) (holding a police department's standard procedures of conducting warrantless, routine inventory searches did not violate the Fourth Amendment when (1) the "procedure was not a pretext concealing and investigatory police motive", and (2) the inventory search "was not unreasonable in scope.").

⁶² *People v. Bridgewater*, 235 Ill. 2d 85, 94 (2009) (quoting *Arizona v. Gant*, 556 U.S. 332, 343 (2009)) (internal quotation marks omitted). If neither set of circumstances pertains, "a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies." *Arizona v. Gant*, 556 U.S. 332, 332 (2009).

⁶³ *See New York v. Belton*, 453 U.S. 454, 454 (1981) (quoting *Chimel v. California*, 395 U.S. 752, 763 (1969)).

⁶⁴ *See New York v. Belton*, 453 U.S. 454, 472 (1981) (Footnote 4: "Our holding encompasses only the interior of the passenger compartment of an automobile and does not encompass the trunk.").

⁶⁵ *See People v. Trejo*, 311 Ill. App. 3d 816, 817 (2nd Dist. 2000) ("*Belton* drew a clear distinction between the passenger compartment and the trunk. To hold that an officer may sometimes open the trunk [during a search incident to arrest] would create precisely the sort of uncertainty *Belton* sought to avoid."); *United States v. Olguin-Rivera*, 168 F.3d 1203, 1205 (10th Cir. 1999) ("the Court [in *Belton*] expressly noted the passenger compartment did not encompass the trunk of the automobile, leaving it beyond the scope of a permissible search incident to arrest." (finding the "hatchback or cargo areas in vehicles without a 'trunk' are part of the passenger compartment of a vehicle" and subject to a search incident to arrest)).

⁶⁶ GO8-05 III. A. 1.

action taken against any individual designed to serve as retribution *that is intended to punish, cause harm or emotional stress, or improperly influence the individual's actions.*"⁶⁷

According to Officer Vecchio, asking [REDACTED] to apologize was a way to de-escalate the situation; Officer Vecchio described this talk with [REDACTED] as a "man to man" conversation.⁶⁸ When [REDACTED] asked what he might apologize for, Officer Vecchio related that [REDACTED] should apologize for his behavior and for resisting.⁶⁹ In his statement to COPA, Officer Vecchio claimed that [REDACTED] release was not predicated on [REDACTED] apology, and that Officers Tohatan and Vecchio made the decision to un-arrest [REDACTED] independent of his apology.⁷⁰

COPA concludes that [REDACTED] release from custody was, indeed, in exchange for [REDACTED] coerced apology. Officer Vecchio quite literally stated, "Most importantly, are you sorry for your behavior today? Because I need to decide if I'm going to take you to jail or not."⁷¹ Officer Vecchio's behavior was not de-escalating in nature, but rather, a display of power and control over [REDACTED] who was handcuffed behind his back at the time and surrounded by five police officers. [REDACTED] was very aware of Officer Vecchio's tactic and went along with it to avoid arrest.⁷² Officer Vecchio's action was coercive, retributive, brought discredit upon the Department, and damaged trust between the public and Department, and was therefore misconduct. COPA sustains this allegation against Officer Vecchio.

As always, COPA is guided by CPD's own policy imperatives in arriving at this conclusion. "The Department prohibits and does not tolerate any abuse of law enforcement authority by its members"⁷³ and is committed to ensuring that the actions of CPD members serve a proper law enforcement purpose.⁷⁴ The Department recognizes that the actions of a single CPD member may impair public trust in the police or cast suspicion or disrespect upon the entire Department.⁷⁵ The Department considers retaliation and acts contributing to retaliation serious misconduct.⁷⁶ Therefore, Officer Vecchio violated Rules 2, 3, 6, and 8, as well as General Order 08-05, when he abused his law enforcement authority by asking [REDACTED] to apologize in exchange for avoiding arrest and this allegation is Sustained.

F. Investigatory Stop Receipt

The relevant CPD standing orders states: "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. The Investigatory Stop Receipt will

⁶⁷ GO8-05 III. F.(emphasis added).

⁶⁸ Att. 53, pg. 17, lns. 17 to 24, pg. 18, lns. 1 to 10.

⁶⁹ Att. 53, pg. 18, lns. 11 to 15.

⁷⁰ Att. 53, pg. 30, lns. 6 to 24.

⁷¹ Att. 2 at 7:40.

⁷² Att. 29, pg. 16, lns. 4 to 24.

⁷³ GO8-05 III (B).

⁷⁴ GO8-05 III (C).

⁷⁵ GO8-05 III (C).

⁷⁶ GO8-05 III (I).

include the event number, the reason for the stop, and the sworn member's name and star number.”⁷⁷

Officer Tohatan stated that, after removing the handcuffs from ██████ he asked ██████ if he wanted a receipt, to which ██████ shook his head but otherwise did not respond.⁷⁸ Officer Vecchio stated that a receipt was offered by another officer but ██████ refused.⁷⁹ Officers Amparan, Kirwan, and Mota stated that they did not provide an Investigatory Stop Receipt because it was not their stop, and they did not perceive it to be their responsibility, as they were not aware of the details surrounding the stop.⁸⁰

COPA determined that there was insufficient evidence to conclude that the failure to provide ██████ with an investigatory stop receipt constituted misconduct. Officer Tohatan asked ██████ “Receipt?” but it was unclear if ██████ heard Officer Tohatan or understood what he was asking. ██████ own testimony was that, after he was released by the officers, he wanted to get away from them as quickly as he could. Therefore, the allegation is Not Sustained for all officers.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Joseph Vecchio

i. Complimentary and Disciplinary History⁸¹

Officer Vecchio was appointed to CPD on October 16, 2019. He has received 143 awards, including ten Department Commendation Awards, one Honorable Mention Ribbon Award, one Top Gun Arrest Award, one Recognition/Outside Governmental Agency Award, one Superintendent’s Honorable Mention Certificate, and 126 Honorable Mention Certificates. According to the reports reviewed by COPA when considering disciplinary recommendations, he has three instances of sustained discipline:

- A fifteen-day suspension regarding a domestic violence incident where he threw eggs at a vehicle, threw and/or kicked a cellphone, stepped on a vacuum cleaner, and made multiple threatening statements (2020-0001524);
- A Reprimand for failing to submit a Traffic Stop Statistical Study (TSSS) and for issuing a ticket without giving the motorist a copy after giving the motorist a verbal warning (2023-0000861); and

⁷⁷ S04-13-09 VIII.A.3.

⁷⁸ Att. 54, pg. 9, lns. 21 to 24, pg. 10, lns. 1 to 2.

⁷⁹ Att. 53, pg. 16, lns. 13 to 23.

⁸⁰ Att. 45, pg. 11, lns. 16 to 24, Att. 44, pg. 14, lns. 12 to 20, Att. 46, pg. 18, lns. 1 to 15.

⁸¹ Att. 55 pages 1 to 4, and Att. 56.

- A two-day suspension for failing to immediately notify OEMC when he was involved in a traffic crash involving a CPD vehicle, and for failing to complete the appropriate paperwork related to the accident (2024-0002494).⁸²

ii. Recommended Discipline

COPA found that Officer Vecchio violated Rules 2, 3, 6, and 8 when he detained and handcuffed [REDACTED] without justification, searched [REDACTED] and the vehicle he was driving without justification, and abused his law enforcement authority by asking [REDACTED] to apologize for avoiding arrest.

In aggravation, COPA notes that Officer Vecchio violated [REDACTED] constitutional right against unlawful search and seizure, treated [REDACTED] in a disrespectful manner, caused [REDACTED] physical pain, and exposed CPD to civil liability. Officer Vecchio also disregarded CPD policies, engaged in retributive or retaliatory conduct, and failed to take responsibility for any instances of misconduct in this case. COPA has also considered Officer Vecchio's disciplinary history as a significant aggravating factor. Officer Vecchio has prior sustained findings related to misconduct during traffic stops, which is similar to this case.

In mitigation, COPA notes Officer Vecchio's complimentary history.

For these reasons, and based on the principles of progressive discipline, COPA recommends Officer Vecchio **be suspended for a period of 30 to 89 days** and retraining on CPD's policies regarding the Fourth Amendment (detentions, handcuffing, pat downs, and vehicle searches), and professionalism. In addition to the recommended penalty range, COPA recommends CPD to consider the presence of the aggravating and mitigating factors to determine how discipline should be applied consistently and fairly across all involved members.

b. Officer Nicu Tohatan

i. Complimentary and Disciplinary History⁸³

Officer Tohatan was appointed to CPD on October 26, 2015. He has received 238 awards, including three Traffic Stop of the Month Awards, one Top Gun Arrest Award, one Superintendent's Honorable Mention Certificate, two Special Commendation Awards, one Police Officer of the Month Award, one Life Saving Award, three Honorable Mention Ribbon Awards, one Recognition/Outside Governmental Agency Award, two Special Commendation Awards, 214 Honorable Mention Certificates, and five Department Commendation Awards. According to the

⁸² COPA or BIA also previously investigated Officer Vecchio under Logs 2023-0004908, 2023-0005027, 2023-0005907, 2023-0006064, 2024-0002875, 2024-0003378, 2024-0007034, 2024-0007408, 2024-0008006, and 2024-0008374. Each of these cases involved at least one sustained allegation of misconduct related to a failure to follow CPD policy during a traffic stop and/or search. CPD agreed with these findings and imposed penalties ranging from a Reprimand up to a 20-day suspension. However, all of these cases are subject to the grievance process and have not yet been finalized.

⁸³ Att. 55 pages 5 to 8, and Att. 58.

reports reviewed by COPA when considering disciplinary recommendations, the officer has seven instances of sustained discipline as well as three summary “SPAR” infractions:

- A five-day suspension for tearing up a motorist’s insurance card during a traffic stop (2017-1087745);
- A ten-day suspension for directing verbal abuse/profanity at a civilian and failing to accurately complete a Tactical Response Report (2018-1089287);
- A Violation Noted for engaging in an unjustified verbal altercation with a civilian, searching a vehicle without justification, and improperly issuing a traffic citation (2018-1089576);
- A Violation Noted for coercing a civilian into turning in a weapon under the threat of police action during a traffic stop (2018-1090818);
- A Reprimand for failing to complete an ISR (2018-1091036);
- Two Reprimands for failing to properly inventory an arrestee’s property (2021-0000026, 2021-0004446);
- A Reprimand for a 2024 failure to submit a required report (SPAR 577699);
- No discipline for a 2024 failure to timely activate his BWC (SPAR 578992); and
- A two-day suspension for a 2025 failure to timely activate his BWC (SPAR 581234).⁸⁴

ii. Recommended Discipline

COPA found that Officer Tohatan violated Rules 2, 3, 6, and 8 when he detained, handcuffed, and searched [REDACTED] without justification.

In aggravation, Officer Tohatan escalated the interaction with [REDACTED] due to [REDACTED] delay in exiting his vehicle and [REDACTED] reluctance to facilitate being handcuffed. He also treated [REDACTED] as if he was armed and dangerous because [REDACTED] *might* have been armed and dangerous. Officer Tohatan failed to take responsibility for his misconduct in this case, violated [REDACTED] constitutional right against unlawful search and seizure, caused [REDACTED] physical pain, and exposed CPD to civil liability. COPA has also considered Officer Tohatan’s disciplinary history as a significant aggravating factor, especially given he has prior sustained findings related to misconduct during traffic stops, which is similar to this case.

In mitigation, COPA notes Officer Tohatan’s complimentary history.

For these reasons, and based on the principles of progressive discipline, COPA recommends the officer **be suspended for a period of 11 to 29 days** and retraining on CPD’s policies regarding the Fourth Amendment (detentions, handcuffing, and pat downs), and professionalism. In addition to the recommended penalty range, COPA recommends CPD to

⁸⁴ COPA or BIA also previously investigated Officer Tohatan under Logs 2021-0004525, 2022-0000056, and 2024-0008374. Each of these cases involved at least one sustained allegation of misconduct related to a failure to follow CPD policy during a traffic stop, which is also at issue here. CPD agreed with these findings and imposed penalties ranging from a Reprimand up to a three-day suspension. However, all of these cases are subject to the grievance process and have not yet been finalized.

consider the presence of the aggravating and mitigating factors to determine how discipline should be applied consistently and fairly across all involved members.

c. Officer Patrick Kirwan

i. Complimentary and Disciplinary History⁸⁵

Officer Kirwan was appointed to CPD on October 16, 2017. He has received 101 awards, including one Honorable Mention Ribbon Award, two Life Saving Awards, one Recognition/Outside Governmental Agency Award, one Special Commendation Award, 83 Honorable Mentions Certificates, five Department Commendation Awards, and one Complimentary Letter. According to the reports reviewed by COPA when considering disciplinary recommendations, the officer has one instance of sustained discipline:

- A Reprimand for neglect of duty for failing to request a Supervisor when asked (2022-0001669).

ii. Recommended Discipline

COPA found that Officer Kirwan violated Rules 2, 3, 6, and 8 when he participated in the detention of [REDACTED] without justification. Officer Kirwan was a support officer who arrived on the scene after [REDACTED] was in handcuffs. That said, Officer Kirwan decided to back up his fellow officers without making any independent inquiry of the underlying facts. As a result, he participated in the continued, unjustified detention of [REDACTED] in violation of [REDACTED] rights, constituting misconduct on his part. In further aggravation, the officer did not take responsibility for this misconduct. In mitigation, COPA notes his relatively minor disciplinary history and voluminous complimentary history. For these reasons, COPA recommends the officer receive a **Reprimand** and retraining on CPD's policies regarding the Fourth Amendment (detentions), and professionalism. In addition to the recommended penalty range, COPA recommends CPD to consider the presence of the aggravating and mitigating factors to determine how discipline should be applied consistently and fairly across all involved members.

d. Officer Carlos Mota

i. Complimentary and Disciplinary History⁸⁶

Officer Mota was appointed to CPD on June 25, 2018. He has received 93 awards, including one Honorable Mention Ribbon Award, one Life Saving Award, one Recognition/Outside Governmental Agency Award, one Special Commendation award, three Department Commendations, and 82 Honorable Mention Certificates. According to the reports reviewed by COPA when considering disciplinary recommendations, the officer has no instances of sustained discipline.

⁸⁵ Att. 55 pages 9 to 11, and Att. 59.

⁸⁶ Atts 55 pages 12 to 14, and Att. 60.

ii. Recommended Discipline

COPA found that Officer Mota violated Rules 2, 3, 6, and 8 when he participated in the detention of [REDACTED] without justification. Officer Mota was a support officer who arrived on scene after [REDACTED] was in handcuffs. That said, Officer Mota decided to back up his fellow officers without making any independent inquiry of the underlying facts. As a result, he participated in the continued, unjustified detention of [REDACTED] in violation of [REDACTED] rights, constituting misconduct on his part. In further aggravation, Officer Mota did not take responsibility for this misconduct. In mitigation, COPA notes his complimentary history and lack of recent disciplinary history. For these reasons, COPA recommends the officer receive a **Reprimand** and retraining on CPD's policies regarding the Fourth Amendment (detentions), and professionalism. In addition to the recommended penalty range, COPA recommends CPD to consider the presence of the aggravating and mitigating factors to determine how discipline should be applied consistently and fairly across all involved members.

e. Officer Ernesto Amparan

i. Complimentary and Disciplinary History⁸⁷

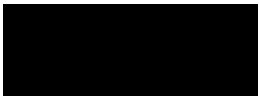
Officer Amparan was originally appointed to CPD on April 1, 2013, and then re-appointed on July 16, 2024, after a break in service. He has received 164 awards, including one Honorable Mention Ribbon Award, one Life Saving Award, one Police Blue Star Award, one Police Officer of the Month Award, one Recognition/Outside Governmental Agency Award, one Superintendent's Award of Valor, one Traffic Stop of the Month Award, 134 Honorable Mention Certificates, two Complimentary Letters, and seven Department Commendation Awards. According to the reports reviewed by COPA when considering disciplinary recommendations, the officer has no instances of sustained discipline.

ii. Recommended Discipline

COPA found that Officer Amparan violated Rules 2, 3, 6, and 8 when he participated in the detention and search of [REDACTED] without justification. Officer Amparan was a support officer who arrived on the scene after [REDACTED] was in handcuffs. That said, Officer Amparan decided to back up his fellow officers without making any independent inquiry of the underlying facts. Officer Amparan had [REDACTED] in his personal custody for a short period of time and conducted an additional pat-down search of [REDACTED] person. As a result, he directly participated in the continued, unjustified detention of [REDACTED] in violation of [REDACTED] rights, constituting misconduct on his part. In further aggravation, he did not take responsibility for this misconduct. In mitigation, COPA notes his complimentary history and lack of recent disciplinary history. For these reasons, COPA recommends Officer Amparan receive a **Reprimand** and retraining on CPD's policies regarding the Fourth Amendment (detentions and pat downs), and professionalism. In addition to the recommended penalty range, COPA recommends CPD to consider the presence of the aggravating and mitigating factors to determine how discipline should be applied consistently and fairly across all involved members.

⁸⁷ Att. 55 pages 15 to 17, and Att. 61.

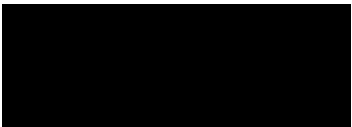
Approved:



May 21, 2026

Shannon Hayes
Deputy Chief Administrator—Chief Investigator

Date



May 21, 2026

LaKenya White
Chief Administrator

Date

Appendix A**Case Details**

Date/Time/Location of Incident:	November 26, 2024 / 7:10 p.m. / 1450 N Sedgwick St., Chicago, IL, 60610
Date/Time of COPA Notification:	November 27, 2025 / 11:00 am
Involved Officer #1:	Officer Ernesto Amparan, Star # 4614, Employee ID # [REDACTED] Date of Appointment: 16-Jul-2024, Male, White
Involved Officer #2:	Officer Patrick Kirwan, Star # 6488, Employee ID # [REDACTED] Date of Appointment: 16-Oct-2017, Male, White
Involved Officer #3:	Officer Carlos Mota, Star # 3548, Employee ID # [REDACTED] Date of Appointment: 25-Jun-2018, Male, White
Involved Officer #4:	Officer Nicu Tohatan, Star # 18703, Employee ID # [REDACTED] Date of Appointment: 26-Oct-2015, Male, White
Involved Officer #5:	Officer Joseph Vecchio, Star # 14469, Employee ID # [REDACTED] Date of Appointment: 16-Oct-2019, Male, White
Involved Individual:	[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 11:** Incompetency or inefficiency in the performance of duty.

Applicable Policies and Laws

- U.S. Const. amend. IV.
- Protection of Human Rights, G02-01, (effective June 30, 2022).

- Prohibition of Retaliation, G08-05, (effective August 22, 2023).
- Investigatory Stop System, S04-13-09, (effective July 10, 2017-December 28, 2025).

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.⁸⁸ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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.”⁸⁹

⁸⁸ 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).

⁸⁹ *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