

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 10, 2019
Time of Incident:	4:53 pm
Location of Incident:	400 West 71 st Street, Chicago IL
Date of COPA Notification:	July 10, 2019
Time of COPA Notification:	7:35 pm

On July 10, 2019, at approximately 4:53 pm, Beat 734, Officers Jason Davis and Elyse Rodriguez, were on routine patrol in the vicinity of 71st Street and Racine Ave. The officers observed a 2015 Chrysler 300 attempt to overtake on the right at a stoplight and then viewed the vehicle's driver as not wearing a seatbelt. The officers activated their emergency equipment and attempted to curb the vehicle at 7100 S. Peoria while providing the Office of Emergency Management and Communication (OEMC) dispatcher with the Chrysler's license plate number. It initially appeared the Chrysler was going to stop, but it then sped off at a high rate of speed and veered into the wrong lane of traffic to pass other vehicles. The officers followed the Chrysler as the Chrysler continued east on 71st Street, increasing in distance from Beat 734.

The officers decided to turn off their emergency equipment at approximately Lowe Ave. because of how far ahead the Chrysler was, they continued to follow the vehicle at essentially the same rate of speed. The Chrysler continued east on 71st Street. As it drove through the intersection with Stewart Ave., it collided with another vehicle occupied by [REDACTED] and [REDACTED]. [REDACTED] struck a tree on the northwest corner of the intersection, and flipped over onto its roof.

Moments later, the officers pulled up and assisted the occupants of both vehicles. The officers saw [REDACTED] crawling out of the Chrysler through the driver's window. Mr. [REDACTED] was immediately taken into custody. Two of the Chrysler's passengers, [REDACTED] and [REDACTED] were transferred to the University of Chicago Hospital by ambulance. The last passenger, [REDACTED] was found underneath the vehicle and transported to Holy Cross Hospital. Mr. [REDACTED] subsequently succumbed to his injuries. The other vehicle's occupants involved in the collision were both taken to St. Bernard Hospital and treated and released for minor injuries.

II. INVOLVED PARTIES

Involved Officer #1:	DAVIS, Jason, Star #15630, Employee ID # [REDACTED] Date of Appointment: December 12, 2016, Police Officer, Unit 007, DOB: [REDACTED] 1995, Male, Black
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Involved Officer #2:	RODRIGUEZ, Elyse, Star #14262, Employee ID # [REDACTED] Date of Appointment: January 17, 2017, Police Officer Unit 007, DOB: [REDACTED] [REDACTED] 1986, Female, White Hispanic
Involved Individual #1:	[REDACTED] [REDACTED] DOB: [REDACTED] [REDACTED] 1996, Male, Black
Involved Individual #2:	[REDACTED] [REDACTED] DOB: [REDACTED] [REDACTED], 1994, Male, Black
Involved Individual #3:	[REDACTED] [REDACTED] DOB: [REDACTED] [REDACTED] 1996, Male, Black
Involved Individual #4:	[REDACTED] [REDACTED] DOB: [REDACTED] [REDACTED] 1995, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Jason Davis #15630	<p>It is alleged that on July 10, 2019, at approximately 4:53 pm, Officer Davis:</p> <ol style="list-style-type: none"> 1. Initiated a motor vehicle pursuit in violation of General Order G03-03-01. 2. Continued a motor vehicle pursuit in violation of General Order G03-03-01. 3. Failed to immediately notify OEMC of the facts concerning a motor vehicle pursuit in violation of G03-03-01. 4. Violated G03-03-01-IX-B-1 when, after voluntarily terminating the pursuit, failed to notify OEMC of your location and remain at the location until directed by a supervisor. 	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
Officer Elyse Rodriguez #14262	<p>It is alleged that on July 10, 2019, at approximately 4:53 pm, Officer Rodriguez:</p> <ol style="list-style-type: none"> 1. Initiated a motor vehicle pursuit in violation of General Order G03-03-01. 2. Continued a motor vehicle pursuit in violation of General Order G03-03-01. 3. Failed to immediately notify OEMC of the facts concerning a motor vehicle pursuit in violation of G03-03-01. 	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

	4. Violated G03-03-01-IX-B-1 when, after voluntarily terminating the pursuit, failed to notify OEMC of your location and remain at the location until directed by a supervisor.	SUSTAINED
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department's efforts to implement its policy or to accomplish goals.
3. Rule 6: Disobedience of an order or directive, whether written or oral.

General Orders

1. G03-03-01: Emergency Vehicle Operations – Pursuits (Eff. April 9, 2019)

State and Local Laws

1. 625 ILCS 5/11-704. When overtaking on the right is permitted.
2. 625 ILCS 5/11-1002. Pedestrians' right-of-way at crosswalks.
3. Chi. Mun. Code 9-36-020 Overtaking vehicle on the right.
4. Chi. Mun. Code 9-36-060 Overtaking at crosswalks.

V. INVESTIGATION¹

a. Interviews

In a **statement to COPA on October 25, 2019, Officer Jason Davis #15630²** provided his account of the incident. On the date and time of the incident, Officer Davis was on duty, in uniform, and assigned to Beat 734. He was operating a marked Ford Explorer equipped with an

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Atts. 5, 50. On May 4, 2023, COPA notified Officer Davis's and Officer Ridriguez's counsel of its intent to serve additional charges against each officer (Allegations 2-4). On May 9, 2023, the officers acknowledged receipt of the additional allegations through their counsel and indicated their intent to stand by the statements they had previously provided to COPA.

in-car camera and emergency equipment. His assigned partner, Officer Elyse Rodriguez, was the passenger.

Officer Davis stated that he and his partner drove eastbound on 71st Street and pulled into the left turn lane at 71st Street and Racine Avenue. Officer Rodriguez observed a Chrysler commit a traffic violation and relayed to Officer Davis that she saw the vehicle dart out to the right in an attempt to overtake another vehicle. Officer Davis believed this was a hazardous traffic violation because the Chrysler darted out and then jumped back into the lane.³ Officer Davis also observed the driver not wearing a seatbelt as they were passing the Chrysler while approaching Racine Avenue, prior to Officer Rodriguez observing the darting. Officer Davis could not see how many occupants were in the Chrysler, but he believed there were only three.

Officer Davis activated the vehicle's emergency equipment at approximately 71st Street and Morgan Street, and he attempted to curb the Chrysler for a traffic stop. The Chrysler briefly pulled over west of Morgan Street but then took off. The Chrysler slowed down and pulled over again east of Morgan Street, then sped away at a high rate of speed, traveling eastbound on 71st Street. Officer Davis followed the vehicle, and Officer Rodriguez proceeded to run the license plate number. The Chrysler continued traveling eastbound on 71st Street while Officer Davis followed for another block and attempted to curb the vehicle. As the Chrysler took off, Officer Davis notified OEMC dispatch, stating, "I called out that the vehicle was driven off from my traffic stop. I described the vehicle and the direction of flight."⁴

Officer Davis observed the Chrysler go through a stop sign at approximately Peoria Street during the pursuit. The Chrysler then veered into the westbound lane and passed a vehicle before returning to the eastbound lane. When it returned to the eastbound lane, Officer Davis lost sight of it because it ended up in front of another vehicle. The Chrysler was about one and a half blocks ahead of the police vehicle, and Officer Davis decided to terminate the pursuit at approximately Union or Lowe Avenue. Officer Davis deactivated and disengaged his emergency equipment and slowed down. He explained that it was unnecessary to continue, so he terminated the pursuit due to bottlenecking in the area and his assumption that there would be heavy pedestrian traffic further east 71st Street. He also terminated because the Chrysler was weaving and traveling at a high rate of speed.

Officer Davis continued to travel eastbound on 71st Street and entered a viaduct at 71st Street and Wallace Street, losing sight of the Chrysler. When Officer Davis exited the viaduct, he saw smoke in the distance and assumed it was an accident. The officers continued to drive eastbound until they observed the Chrysler flipped on its roof and a male occupant crawling out of the vehicle at 400 West 71st Street. The male occupant was handcuffed and escorted away from the accident, but Officer Davis observed three more occupants in the vehicle. He believed that two were deceased because they were not moving. He believed his partner called for an ambulance. Officer Davis provided aid to the two female victims in the other vehicle involved in the collision,

³ Att. 5, P. 13, Lns. 3-5.

⁴ Att. 5, P. 13, Lns. 20-23

and he called for an additional ambulance. Both female victims were transported to St. Bernard Hospital.

Officer Davis estimated the Chrysler was going between 60-70 mph, and he was going between 45-50 mph.⁵ The weather conditions were clear and sunny. He also explained that civilian vehicles ahead of him pulled over during the pursuit because he had his emergency equipment activated. He described the other vehicles on the road as compliant because they pulled over to the right in response to his emergency equipment. Officer Davis explained that he did not use the word pursuit when he went over the radio but rather stated they were following the Chrysler. Officer Davis stated that a supervisor did not have time to come over the air and give a confirmation or termination order, explaining that they had observed the traffic crash by the time the supervisor did come over the air.

Officer Davis denied the allegation against him. Officer Davis stated that he did not violate General Order G03-03-01.

In a **statement to COPA on October 25, 2019, Officer Elyse Rodriguez #14262⁶** provided a similar account as Officer Davis. Officer Rodriguez stated on the date and time of the incident, Officer Rodriguez was on duty, in uniform, and assigned to Beat 734.

As the officers were waiting to turn left from 71st Street onto Racine, Officer Rodriguez saw the Chrysler behind them by looking through her side-view mirror. It “darted out and then came back around,”⁷ causing the car behind it to stop. Officer Rodriguez believed that the Chrysler would try and go around the other vehicles by passing on the right when the light turned green. After she noticed this, she also noticed that the driver was not wearing a seat belt. She and Officer Davis then pulled behind the Chrysler so they could get the plate,⁸ and she told Officer Davis that they should pull the car over. She believed the reason for stopping the Chrysler was for improperly overtaking on the right, which she considered to be a hazardous traffic violation. She said that the Chrysler got fully around one of the cars in front of them. However, she acknowledged that the Chrysler never actually overtook cars on the right, and it went back into the lane of traffic once the light turned green.

At about Morgan and 71st Street, the officers activated their lights and sirens and attempted to curb the Chrysler. The Chrysler looked like it would stop due to the brake lights being engaged, but instead, it took off. Officer Rodriguez stated that Officer Davis went over the radio to inform dispatch that the Chrysler had fled from the stop and provided the direction of travel. Officer Rodriguez later relayed to dispatch the Chrysler’s information regarding its plate number, make/model, and vehicle's year.

The Chrysler went into the opposite traffic lane, and the officers followed. Officer Rodriguez indicated that she saw the Chrysler go into opposing traffic twice, go through a stop

⁵ The posted speed limit was 30 mph. Att. 39, pg. 100.

⁶ Atts. 6, 51.

⁷ Att. 6, P. 10, Lns. 13-14

⁸ She indicated that she attempted to run the plate prior to attempting to curb the Chrysler.

sign at Peoria, and go through at least two lights throughout the pursuit.⁹ She estimated that she and Officer Davis were going approximately thirty miles per hour when they first pulled out, and she did not know if they accelerated. She estimated the Chrysler was going 65 to 75 miles per hour. She lost sight of the Chrysler while driving eastbound on 71st Street before the viaduct at Lowe. She stated that it was at about Lowe and 71st Street that they terminated the pursuit, deactivating their lights and sirens.

Officer Rodriguez considered the factors of the balancing test, but she did not discuss them with Officer Davis. When they initiated the stop, vehicular traffic was light. She did not recall if there were pedestrians but assumed there were since it was summer. She did recall that there was construction. She believed the road conditions were dry and the weather was clear.

On the other hand, she believed that the speed of the Chrysler, and the fact that it drove into the left lane, were reasons to terminate the pursuit. She conceded that the pursuit was never approved by a supervisor and explained that they never announced that they were in pursuit because it happened so fast. She did hear her sergeant over the radio, but they were calling for an ambulance by that time.

Officer Rodriguez said they started to terminate the pursuit at the viaduct¹⁰ around Lowe. As they approached Parnell, she saw a huge tree fall down ahead of them by the firehouse. She did not see a car hit the tree. She states that because everything happened so fast, she and her partner never discussed terminating the pursuit, but it looked like Officer Davis was slowing down. Instead of stopping, they continued to see what had happened and came across the Chrysler overturned on its roof.

Officer Rodriguez stated once they arrived at the accident scene, they immediately called for an ambulance. Officer Rodriguez observed a male exiting the Chrysler who appeared to be in shock. She and Officer Davis pulled him from the Chrysler and escorted him to the patrol car. The male was concerned about his friends and related that everyone in the Chrysler was drunk, and the male in the backseat had two firearms. The ambulance arrived, and Officer Rodriguez assisted him inside the ambulance.

Officer Elyse Rodriguez #14262¹¹ provided a second statement to COPA on July 22, 2021. In that statement, she stood by the statement she provided to COPA on October 25, 2019.¹² Officer Rodriguez stated that she did watch her body-worn camera and in-car camera video from the COPA website before this interview. Officer Rodriguez's second statement was broadly consistent with the statement given on October 25, 2019, and the following is a summary of material changes or clarifications.

⁹ Att. 6, P. 33, Lns. 8-11

¹⁰ She indicated that she told Officer Davis to slow down when they were at the viaduct. She believed they were slowing down as they went under it but suspected that Officer Davis did not want to stop directly under the viaduct.

¹¹ Atts. 63, 65. COPA conducted the second interview to serve Officer Rodriguez with an allegation and allow her to address it.

¹² Officer Rodriguez objected to the delay in this investigation. incident occurred approximately two years ago. She asserted this delay is prejudicial to her ability to recall the details of this incident so that she may defend herself and provide a straightforward recitation of the facts.

Officer Rodriguez stated that another reason to stop the Chrysler for overtaking on the right was that it was doing so at a crosswalk. She said that it is illegal to pass on the right any time if it is dangerous and even more illegal at a crosswalk. She also clarified that the only two reasons they initially curbed the Chrysler were overtaking on the right and the driver not wearing a seatbelt. She believed overtaking on the right to be a hazardous traffic offense, but failure to wear a seatbelt was not.

Officer Rodriguez also clarified that the Chrysler only attempted to overtake on the right, which she saw in her side-view mirror. However, the Chrysler did not pass any of the vehicles in front of it. She did not recall if there was room to pass on the right but said that most of the time, there were parked cars.¹³ She said it was unsafe for the Chrysler to pass on the right because there could be people passing in the crosswalk.

As the Chrysler drove past them, Officer Rodriguez realized the driver was not wearing a seatbelt and told Officer Davis to pull the Chrysler over. She indicated that Officer Davis activated their emergency equipment after getting the Chrysler's license plate number¹⁴ because she previously had trouble reading it in their mirror. She acknowledged that once she ran the plate, she knew the identity of the owner of the Chrysler. However, she said the incident happened too fast for her to decide if they could apprehend the driver later or order the Chrysler to be impounded.

Officer Rodriguez indicated that she could not recall if she saw opposing traffic when the Chrysler took off. She said that they initiated the pursuit at Carpenter.¹⁵ She believed that the balancing test initially favored the pursuit, but once they reached construction, it no longer did. She indicated that the Chrysler ignored a stop sign at Carpenter. After being shown the In-Car camera footage, she agreed the Chrysler also ran a stop sign at Peoria but added that it was now wanted for fleeing and eluding. When asked if the pursuit was prohibited, she said, "no supervisor was able to go over the air because it was all so fast."¹⁶

Officer Rodriguez believed they terminated the pursuit at approximately Lowe Ave, when Officer Davis shut off the emergency equipment (thus deactivating the audio) and slowed down. She paused the video at 00:35:49 to indicate when they terminated the pursuit. Officer Rodriguez believed they followed the procedure for terminating pursuits and that she notified OEMC of their location at approximately Parnell Ave. However, they did not remain there to wait for a supervisor because they saw the tree fall in the crash up ahead.

Officer Rodriguez denied the allegation alleged against her. Officer Rodriguez stated that she did not violate General Order G03-03-01.

In statements to COPA on November 13, 2019, Officers Cheryl Vargas #12368¹⁷ and Alfredo Ortiz #17347 stated that on July 10, 2019, at approximately 7:35 pm, they were working Beat 733 and were on routine patrol around 71st and Peoria Street. Officer Ortiz was the driver, and Officer Vargas was the passenger in a marked squad car. The officers observed Beat 734 trying to initiate a traffic stop on a gray Chrysler 300 sedan on 71st Street. The officers positioned

¹³ COPA showed her the in-car-camera video, Att. 9, beginning at 33:43. In viewing the video, she pointed out parked cars, at the direction of her attorney, as they were at approximately Loomis Ave.

¹⁴ She paused the video at 00:35:11 to indicate she was able to read the license plate when they were near Morgan St.

¹⁵ Att. 65, P. 25, Ln 8-9

¹⁶ Att. 65, P. 38, ln 11-14.

¹⁷ Atts. 41, 42, 52, 53.

themselves behind Beat 734 to assist if necessary and observed the Chrysler slow down and then increase its speed. Officers Ortiz and Vargas also activated their emergency equipment and followed Beat 734, who were trying to curb the Chrysler. The officers stated they were a few car lengths away from Beat 734, traveling eastbound on 71st Street. The Chrysler's driver was driving recklessly and at high speed, traveling eastbound in the westbound lane.

Moments later, Beat 734 turned off their emergency equipment, slowed down by a viaduct, and traveled eastbound on 71st Street. Officers Ortiz and Vargas also continued traveling eastbound on 71st Street. As the officers approached 71st Street and Stewart Avenue, they observed a tree fall, and the Chrysler flipped upside down on its roof. The officers exited their vehicle, and Officer Ortiz ran to the Chrysler to render aid. At the same time, Officer Vargas remained with the two women who were in the other involved vehicle. Officer Ortiz observed a man who was bleeding exit the Chrysler. The male was placed into custody, and Officer Ortiz requested multiple ambulances.

Officer Ortiz stated that CFD cut open the Chrysler, and he observed two more passengers who appeared to be dazed. Officer Ortiz further related that two firearms were located on the street. Officer Ortiz stated that the Chrysler struck another vehicle that two females occupied. The females appeared to be coherent and able to walk and talk.

Officer Vargas stated that Beat 734 tried to catch up to the Chrysler, but they could not because the Chrysler was going extremely fast. Officer Vargas stated Beat 734 was about two to three cars behind the Chrysler. Upon arrival at the crash site, Officer Vargas stated she helped the two females whose car was hit by the Chrysler. Officer Vargas went over the air and requested an ambulance for them.

The officers related that their vehicle was equipped with an in-car camera, but it was inoperable. The officers related that the inoperable camera had a ticket. Both officers stated they were wearing body-worn cameras, and they were functioning.

b. Digital Evidence

COPA obtained and reviewed **3rd Party video**¹⁸ from Deli King Inc. Restaurant located at 410 West 71st Street. One camera faced west towards Eggleston Avenue, and the second camera faced east towards Stewart Avenue. The videos show the Chrysler coming into the westbound lane to pass a line of cars stopped at the red light, striking a vehicle turning left onto 71st Street off of Stewart and striking a tree.¹⁹ A marked CPD vehicle travels eastbound, approximately eight seconds behind the Chrysler. It also pulls into the westbound lane and approaches the crashed Chrysler. At approximately 6:41 into the video, a second marked vehicle is shown just behind the first, but it slowly approaches the scene.

The video shows a line of approximately seven cars traveling eastbound, slowing down to stop at the red light at Stewart. The Chrysler begins to pass the last of these cars by going into the left lane near the middle of the intersection with Eggleston. No westbound cars were in the vicinity,

¹⁸ Atts. 10, 11.

¹⁹ Att. 10. The video is not time-stamped, but the Chrysler appears approximately 6:24 minutes into the video.

but Ms. [REDACTED] vehicle began turning left onto 71st Street about two seconds before being struck. The roads appear dry, and the weather appears clear.

COPA obtained and reviewed the **BWC video of Officer Jason Davis**²⁰ relative to this incident. The video begins with the officers inside their vehicle pulling up and waiting to turn left at the light at 71st Street and Racine Ave. The vehicle then stays straight on 71st Street. Officer Davis activates his camera, and the audio begins recording as the police vehicle pulls to the side in front of 1003 W. 71st Street in an apparent attempt to curb the Chrysler. Immediately after that, Officer Davis exclaims, “taking off taking off taking off,” and accelerates again.²¹ Officer Davis calls over OEMC that the vehicle is taking off eastbound, and he and Officer Rodriguez both attempt to call in license plate information. They next announce their location as 71st and Parnell.²²

Approximately 45 seconds after Officer Davis first said the Chrysler was taking off, both officers exclaim, “Oh shit,” Officer Rodriguez says to slow down. Officer Davis calls over the radio that the Chrysler just crashed.²³ Seconds later, the officers request an ambulance because the Chrysler struck a tree. Officer Davis exits his vehicle to assist the people in the Chrysler. The Chrysler is observed on its roof, and one man is trying to get out of the drivers’ window. Another man is observed underneath the Chrysler, lying face down. Officer Davis then checks on the occupants in the other vehicle involved in the accident.

At one point Officer Davis explains to Sgt. Warchol that “as soon as we hit the lights they took off,” and that he was “like on Elizabeth²⁴ when they were up here. Cuz we already turned off the lights and were about to let it go, they crashed as soon as we cut off the lights.”²⁵ Approximately 15 minutes after the crash, Officer Davis calls someone on his cell phone then deactivates his camera.²⁶

COPA obtained and reviewed the **BWC video of Officer Elyse Rodriguez**²⁷ relative to this incident. Officer Rodriguez activates her camera at approximately the same time as Officer Davis. Her BWC is substantially the same as Officer Davis’s from the moment she activates until they arrive at the crashed vehicle. Officer Rodriguez handcuffs the man who has climbed out of the vehicle, now known to be [REDACTED] and asks to be taken away from the vehicle. She asked him why they were driving away²⁸, and she provided him medical care in the back of her squad car. After a couple of minutes, she has [REDACTED] sit in a yard so he can lay down. She talks

²⁰ Atts. 7, 8.

²¹ Att. 7, at 2:03.

²² *Id.* at 2:40. At roughly this same time, the BWC shows they are driving under the viaduct between Wallace and Parnell.

²³ *Id.* at 2:46. The video appears to show that the vehicle was passing Normal Ave. at the time the two officers exclaimed, “oh shit.”

²⁴ Elizabeth is a block west of Racine.

²⁵ *Id.* at 10:44. Officer Davis also explains that he did not know who the driver was, because he’d only seen one occupant climb out; and that they initiated the traffic stop at approximately Peoria.

²⁶ *Id.* at 17:49. Approximately a minute earlier, OEMC instructed him to call the Zone for info. Att. 60 at 15:00.

²⁷ Atts. 3, 4.

²⁸ Att. 3, at 3:43. [REDACTED] indicates the others were drunk and that the two in the backseat had guns.

to a supervisor and explains that “we were just watching them, and then they really took off and then hit that tree.”²⁹

COPA reviewed the **In-Car Camera (ICC) Video**³⁰ for Beat 734.³¹ The relevant portion begins with Beat 734 traveling eastbound on 71st Street. As they approach Racine, they begin moving to the left lane and passing a line of five cars stopped at the red light. A Chrysler with tinted rear windows is the fourth car. As Beat 734 passes the Chrysler, it is still in the central traffic lane, behind a white conversion van, and is slowly moving past a car parked on the right shoulder. The lane in front of the parked car is clear, up to a truck that is waiting to turn right onto Racine. The Chrysler makes no moves to pass that are evident on the ICC video.

Beat 734 sits at the red light for about twenty seconds. As the light turns green, the cars resume driving in the same order they pulled up to the light. Beat 734 then leaves the turn lane and follows two cars behind the Chrysler. All cars, including the Chrysler, come to a complete stop at a stop sign at Aberdeen. At this point, Beat 734 passes the stopped fifth car and is now immediately behind the Chrysler. As the Chrysler approaches a light at Morgan Street, which is turning green, Beat 734 gives an audible signal for the Chrysler to pull over, at which point the audio inside Beat 734 is activated for the first time.

The Chrysler initially appears to be pulling over to the right shoulder, just before the intersection, but instead continues driving. Just past the intersection, it again brakes as if stopping but instead takes off at a high rate of speed. It first passes the van on the right before passing the next two cars in the westbound lane of traffic, narrowly missing a vehicle travelling the opposite direction. Beat 734, with its emergency equipment seemingly still activated, travels into the left/westbound lane to pass a car. At this point, the Chrysler and Beat 734 pass through a stop sign at Peoria and accelerate.

The Chrysler begins to put distance between it and Beat 734.³² The Chrysler passes another vehicle before the first viaduct, which pulled over before Beat 734 passes it. Also, just before the viaduct, the audio inside Beat 734 cuts off at approximately Lowe, indicating that the officers have deactivated their emergency equipment.

As Beat 734 emerges on the opposite side of the viaduct, the Chrysler is barely visible in front of it. After about three blocks, the Chrysler moves sharply to its left before a cloud of dust appears. At this point, Beat 734 passes through the intersection with Normal Ave. Beat 734 catches up to the crash scene, drives around the crashed Kia with a smashed front end, and pulls next to the Chrysler, which is flipped on its roof. [REDACTED] begins to climb out the driver’s window, while [REDACTED] is seen crushed under the rear of the Chrysler. The vehicle then remains fixed, and the video captures officers and CFD rendering aid.

²⁹ Att. 3 at 9:16. Officer Rodriguez also explains to the Sergeant why they were pulling over the Chrysler, but her explanation is unintelligible.

³⁰ Atts. 9, 12.

³¹ COPA also requested the In-Car Camera for Beat 733. The vehicle was also equipped with an in-car camera, but it was not functional. A repair ticket for the vehicle’s in-car camera was issued on July 8, 2019.

³² During this period, the Chrysler and Beat 734 went through a green light at Halsted, and no other traffic signals. There were construction markers for approximately two blocks around Emerald Street, but they did not affect the traffic lane.

COPA reviewed video from **CPD Pod 7264, located at 7100 S. Normal Ave.**³³ The camera is located at the intersection of Normal Ave. and 71st Street and initially faces westbound on 71st Street, capturing as far west as the viaduct east of Lowe Ave. The video captures the Chrysler approaching at a high rate of speed.³⁴ No traffic is directly in front of the Chrysler, but a row of cars has just pulled forward from a green light at Normal Ave. Approximately five seconds later, two marked CPD vehicles emerge from under the viaduct, also traveling at a high rate of speed. The first vehicle (believed to be Beat 734) has no lights activated. The second vehicle is immediately behind the first and has its lights activated. Both CPD vehicles appear to be traveling slightly slower than the Chrysler, but neither CPD vehicle appears to slow down after emerging on the east side of the viaduct. The Chrysler and CPD vehicles continue eastbound on 71st Street and out of frame. Approximately 45 seconds later, the POD camera rotates to face eastbound, and it zooms in on a crowd gathering on the north side of 71st Street, just west of Stewart.

The **OEMC event queries**³⁵ and **Zone 6 radio transmissions**³⁶ document the following relevant and material communications:

- At 4:42 pm, Beat 734 female officer called in a traffic stop.
- At 4:43 pm, both officers call in the direction of a fleeing vehicle going eastbound on 71st and Peoria. The license plate number is # [REDACTED]. The location of travel changes to eastbound on 71st and Parnell.
- At 4:45 pm, a sergeant radios, “Why is the car wanted?” Almost simultaneously, Beat 734 requests an ambulance, noting the car was involved in a crash.
- At 4:46 pm, Beat 733 calls for traffic control at 71st and Stewart.

c. Physical Evidence

Traffic Pursuit Report #19-0151 states that on July 10, 2019, at approximately 4:43 pm, Officer Davis initiated a motor vehicle pursuit of a 2015 gray Chrysler 300 sedan (Illinois license plate [REDACTED]). Officer Davis attempted to curb the vehicle for a seatbelt violation and overtaking on the right. The Chrysler briefly pulled to the side of the road twice before driving away from the stop at a high rate of speed. The Chrysler was driving recklessly and briefly traveling eastbound in the westbound lane of traffic. The officers kept a distance of a block to a block and a half in order to accurately provide information for a flash message to the zone and other officers in the immediate area. The officers then observed the Chrysler in a traffic accident at 400 West 71st Street, resulting in multiple injuries and a single fatality. The continuation of pursuit was not authorized due to the duration being too short. The crash occurred after the termination of the pursuit.

The **GPS data**³⁷ for Beat 734 (Vehicle #9321) reveals that at 4:42:45 pm, the officers were traveling eastbound on 71st Street at a speed of 25 mph. The following data point is at 4:43:15, which shows the officers continued to travel eastbound, and the speed increased to 65 mph. At

³³ Att. 66.

³⁴ Att. 66 at 28:16.

³⁵ Att.16.

³⁶ The radio transmissions quoted herein were transcribed by a COPA investigator. They do not include every transmission made within this time frame. For the full content, see Atts. 57-61.

³⁷ Att. 62.

data point 4:43:45, the vehicle's speed was 47 mph. By data point 4:44:16, the speed was 0 mph, indicating that the officers came to a stop at Stewart Avenue, the location of the collision.

The **ET Photographs**³⁸ document the traffic crash scene at 400 W. 71st Street, including the Chrysler and the Mitsubishi's final positions and the damage to each vehicle. The photos show the Mitsubishi in the middle of the intersection on 71st Street, facing west. The Mitsubishi has severe damage to the passenger side of the vehicle. The Chrysler is observed in the mouth of the viaduct on its roof, facing east.

d. Medical Evidence

The **Chicago Fire Department (CFD) Ambulance Report for [REDACTED]** states paramedics from Ambulance 1 arrived at the scene at 4:58 pm. [REDACTED] was found alert and oriented and complaining of left shoulder pain. [REDACTED] was a restrained driver involved in a motor vehicle collision. She was assessed by paramedics and denied loss of consciousness, head, neck, and back pain. [REDACTED] was negative for deformities, contusions, or abrasions. She was transported to St. Bernard Hospital and left in the care of the emergency room staff.

The CFD Ambulance 75 arrived on a two-vehicle accident scene at 4:53 pm. The crew acted as a triage ambulance at an EMS Plan 1 accident scene.

The **CFD Report for [REDACTED] [REDACTED]** states paramedics from Ambulance 1 arrived on the scene at 4:58 pm. [REDACTED] was found alert and oriented, complaining of left leg pain. [REDACTED] was a restrained passenger involved in a motor vehicle collision. [REDACTED] was assessed and denied loss of consciousness. [REDACTED] was negative for deformities, contusions, or abrasions. [REDACTED] denied head, neck, or back pain. She was transported to St. Bernard Hospital and left in the care of the emergency room staff.

The **CFD Report for [REDACTED] [REDACTED]** states paramedics from Ambulance 36 arrived at the scene at 4:57 pm. Upon arrival, [REDACTED] was ambulatory and complaining of leg pain. [REDACTED] was the restrained front seat passenger of a vehicle that was involved in an accident. The vehicle sustained significant damage and rolled over. [REDACTED] stated he walked out of the vehicle on his own. [REDACTED] sustained cuts and abrasions to his right knee, right upper arm, and left elbow. He denied head, neck, or back pain or loss of consciousness. [REDACTED] was transported to the emergency room nurse without incident.

The **CFD Report for [REDACTED] [REDACTED]** states paramedics from Ambulance 69 arrived on the scene at 4:53 pm. 25-year-old [REDACTED] was found lying on the ground, spinal immobilized by an assisting engine. [REDACTED] was an unrestrained passenger in a rollover motor vehicle collision with prolonged extrication and extensive damage. [REDACTED] had a scalp avulsion with bleeding. He experienced a loss of consciousness and ETOH⁴³ on board, and

³⁸ Att. 40

³⁹ Att. 44.

⁴⁰ Att. 44

⁴¹ Att. 44.

⁴² Att. 44.

⁴³ ETOH-Ethanol Alcohol

paramedics rendered advanced life support. [REDACTED] was transported and released to staff at Advocate Christ Medical Center.

The **CFD Report for [REDACTED]** ([REDACTED]⁴⁴ states paramedics from Ambulance 38 arrived on the scene at 4:57 pm. When the crew arrived, [REDACTED] was on a C-collar and backboard placed by the assist company. [REDACTED] was moved into the ambulance, where paramedics started routine trauma care. [REDACTED] had a minor laceration on the forehead and bruising on the chest. He denied having shortness of breath and was unsure of loss of consciousness. He was transported to the University of Chicago Hospital for medical treatment.

The **CFD Report for [REDACTED]** states paramedics from Ambulance 36 arrived at the scene dispatched at 5:01 pm and arrived on the scene at 5:01 pm. The crew found a 25-year-old male DOA inside the rear of the car that was flipped over. At initial triage, he was unresponsive with no pulse or respirations. [REDACTED] had an open skull fracture. Triage ambulance 75 contacted the University of Chicago Hospital to document the death, and the crew contacted Holy Cross Hospital to notify them of the transport of [REDACTED] body.

The **Autopsy Report for [REDACTED]** indicates Dr. [REDACTED] of the Cook County Medical Examiner's Office performed the postmortem examination of [REDACTED] on July 11, 2019. The report identifies lacerations on the head's left side, lacerations on the forehead, lower left arm, upper left arm, and a cut on the front of the head and right shoulder. There was a large open wound on the back of the head. [REDACTED] had a broken jaw, a broken left femur, and a broken right humerus. Dr. [REDACTED] further related multiple skull fractures, underlying bleeding to the brain, and bleeding over the left rib cage. Dr. [REDACTED] stated the cause of death was multiple injuries due to a motor vehicle crash, and the manner of death was a motor vehicle accident.

d. Documentary Evidence

COPA made several **attempts to contact**⁴⁷ witnesses [REDACTED] [REDACTED] [REDACTED] [REDACTED] aka [REDACTED] [REDACTED] and [REDACTED] [REDACTED] both by phone and in person. COPA received no responses to this outreach.

An **Original Case Incident Report**⁴⁸ provides initial information from Beat 733, Officer Vargas. He states that witness [REDACTED] said she was sitting in her vehicle facing southbound on Stewart Avenue. A Chrysler traveling eastbound on 71st Street disregarded a red light and struck another vehicle that was making a left turn onto 71st Street. The Chrysler hit a curb and a tree and proceeded to roll onto its roof.

Additionally, witness [REDACTED] related that she was traveling northbound on Stewart Avenue. As she made a left turn onto West 71st Street, her vehicle was struck on the right side by a Chrysler that was traveling eastbound on 71st Street at a high rate of speed. [REDACTED] further stated that the Chrysler flipped and hit a tree and rolled over onto its roof. She then observed

⁴⁴ Att. 44 [REDACTED] gave an alias of [REDACTED] when asked by CPD and CFD.

⁴⁵ Att. 44

⁴⁶ Att. 32.

⁴⁷ Att. 45.

⁴⁸ Att. 15

one of the occupants get out of the vehicle, laughing. [REDACTED] and her passenger, [REDACTED] were treated and released by St. Bernard Hospital personnel.

The Major Accidents Unit was notified, and Beat 5790, 5792, 5793, and 5798 arrived on the scene to investigate the fatal crash. Evidence Technicians recovered two weapons from the scene. Medical Examiner Santoro was also present and provided ME case number 2019-03187. The remainder of the report provides information consistent with other reports and statements in this case.

The **Arrest Report for [REDACTED]** reflects he was an occupant of a vehicle that fled recklessly from Beat 734, resulting in a traffic crash where [REDACTED] was killed. A fingerprint check revealed that [REDACTED] real name is [REDACTED] and he had two outstanding warrants. [REDACTED] was not charged in relation to this incident but was held under warrants.

The **Arrest Report for [REDACTED]** indicates that he was an occupant of the Chrysler, who fled recklessly, leading to the death of [REDACTED] was not charged with this incident but was held on an unspecified outstanding warrant.

The **Arrest Report for [REDACTED]** reflects that he was charged with reckless homicide with a motor vehicle. [REDACTED] was an occupant of a vehicle that fled recklessly from Beat 734, resulting in a traffic crash where [REDACTED] was killed while fleeing from the police. [REDACTED] was released without charges pending further investigation.

COPA obtained and reviewed all MAUI's case supplementary reports dated August 19, 2019,⁵² and a supplemental report dated October 22, 2019.⁵³ The reports conclude the accident occurred when the Chrysler, which was traveling eastbound on 71st Street at a high rate of speed, disregarded a red light. The Chrysler collided with a Mitsubishi traveling northbound on Stewart Avenue and making a left turn onto 71st Street. The Chrysler hit a curb and a tree and proceeded to roll onto its roof. At the time of the collision, the weather was clear/primarily cloudy with winds in the southwest direction, the temperature was 95 degrees Fahrenheit, and the roads were dry.

The reports also summarize the MAUI's interviews with Officers Davis, Rodriguez, Vargas, and Ortiz, who related essentially the same account of the incident they provided to COPA.⁵⁴ Additionally, MAUI interviewed [REDACTED] aka [REDACTED] and [REDACTED]. Two semi-automatic handguns were recovered from the street during the investigation, one to the east of the Chrysler and the other to the north of the Chrysler. Both firearms were removed and secured from the street because a large crowd gathered around the accident, and the weapons were placed in a police vehicle for safety reasons. Three live cartridges and an ammunition magazine were also

⁴⁹ Att. 19.

⁵⁰ Att. 34.

⁵¹ Att. 20.

⁵² Att. 39.

⁵³ Att. 49.

⁵⁴ Att. 5, 6, 41, 42,

recovered from the street scattered near the Chrysler. [REDACTED] was identified as the owner of the Chrysler.

The two passengers in the Mitsubishi, [REDACTED] and [REDACTED] essentially stated the same account of the incident. Both women related that they drove northbound on Stewart Avenue and made a left turn onto West 71st Street, at which point their vehicle was struck on the right side by a Chrysler traveling eastbound on 71st Street at a high rate of speed. The Chrysler flipped, hit a tree, and rolled over onto its roof. [REDACTED] and [REDACTED] were both treated and released by St. Bernard Hospital personnel.

[REDACTED] stated that she was parked southbound at 7050 S. Stewart Avenue when she observed a Mitsubishi Mirage sedan making a left turn from Stewart Avenue onto 71st Street. [REDACTED] stated she observed a gray Chrysler 300 sedan disobey a red light as it traveled eastbound on 71st Street. The Chrysler tried to swerve and avoid the Mitsubishi Mirage sedan but was unsuccessful. The Chrysler hit the Mitsubishi, struck a tree, and overturned. [REDACTED] stated that the police arrived within seconds. [REDACTED] did not remember hearing any sirens or seeing lights on the police vehicles. [REDACTED] went to the Mitsubishi to assist the two female occupants, and she observed the police place a male wearing a white t-shirt into custody.

[REDACTED] aka [REDACTED] related that his friend [REDACTED] the owner of the Chrysler, was driving the vehicle. [REDACTED] sat in the front passenger seat while the others sat in the back. [REDACTED] related that [REDACTED] kept driving when the police tried to pull them over. [REDACTED] had a firearm, but he also had a FOID card,⁵⁵ although he did not have a concealed carry license. [REDACTED] related that [REDACTED] consumed Remy Martin Cognac before operating the Chrysler. After the collision, [REDACTED] crawled out of the window on the passenger side and was placed into custody by the police.

[REDACTED] related he was celebrating his birthday, and he was seated in the rear of the gray Chrysler 300 sedan behind the front passenger. [REDACTED] related that [REDACTED] was seated in the rear seat behind the driver, and [REDACTED] aka [REDACTED] was seated in the front passenger seat. His cousin, [REDACTED] was the driver and owner of the Chrysler.

[REDACTED] was intoxicated during this incident and did not remember how they got to 71st Street. [REDACTED] remembered traveling eastbound from the barbershop on 82nd Street and Kedzie Avenue. He observed a marked police vehicle behind them and told [REDACTED] to stop. [REDACTED] said that the police tried to stop the Chrysler 300 sedan between Ashland Avenue and Stewart Avenue. [REDACTED] did not know why the police tried to initiate a traffic stop. [REDACTED] related that [REDACTED] stated, "hell naw, don't stop. I have a gun on me."⁵⁶ [REDACTED] in an aggressive tone, told [REDACTED] to keep driving. [REDACTED] also asked [REDACTED] to pull over so he could get out and flee when conditions became favorable. [REDACTED] related that he believed they would have pulled over if [REDACTED] was not in the vehicle. [REDACTED] recalled that he felt the impact on the left side of the vehicle then blacked out.

⁵⁵ Firearm Owners Identification card.

⁵⁶ Att. 39. Page 10. Second paragraph.

██████████ viewed a picture of ██████████ aka ██████████ and identified him as the person seated in front of him in the front passenger's seat. ██████████ related that ██████████ knew ██████████ and ██████████ was a friend of ██████████ stated that ██████████ had a FOID card but did not have a concealed carry license, although he keeps a firearm in his truck. ██████████ refused to answer any questions from MAUI investigators.

The detective file contains the Crash Data Retrieval data from the Chrysler.⁵⁷ The data indicates that the driver and front passenger safety belts were not buckled at the time of impact.⁵⁸ The report also included speed data for the five seconds preceding the crash. At 2.4 seconds before impact, the Chrysler hit 88 miles per hour, at which point the driver let off the accelerator pedal, which had been at 100% for the prior 2.5 seconds.⁵⁹

The **Major Incident Notification Report**⁶⁰ and **COPA's Preliminary Report**⁶¹ restate essentially the same information as the Introduction of this report, with fewer details.

The **Cook County Criminal Court Docket**⁶² reflects that ██████████ was charged by indictment on August 25, 2020, under case 20CR0778401 with multiple felonies related to this incident including Aggravated DUI causing death, reckless homicide with a motor vehicle, and aggravated fleeing. As of the date of this report, the case is still pending.

VI. LEGAL STANDARD

a. Standard of Review.

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.⁶³ If the evidence gathered in an investigation

⁵⁷ Att. 39, pp. 140 to 183.

⁵⁸ *Id.* p. 146

⁵⁹ *Id.* p 155.

⁶⁰ Att. 39.

⁶¹ Att. 17

⁶² Att. 67

⁶³ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill.2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

establishes that it is more likely that the misconduct occurred, 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.”⁶⁴

b. Pursuits

Department policy provides that members will be cognizant of the fact that **motor vehicle pursuits are a serious matter with a potential for death and/or injury to the involved members, persons in the vehicle being pursued, and other persons in the area.** Members will also remain aware that they will not be able to apprehend every motorist they have probable cause to arrest. **All members involved in or supervising a motor vehicle pursuit must be prepared to justify their actions.**⁶⁵

The initiation and continuation of each motor vehicle pursuit must conform to the Balancing Test, which states, “The necessity to immediately apprehend the fleeing suspect outweighs the level of inherent danger created by a motor vehicle pursuit.”⁶⁶ When applying this balancing test, members will:

1. Make a determination whether the speeds involved and maneuvering practices permit the officer to complete control of their vehicle and do not create unwarranted danger; the volume of pedestrian and vehicular traffic reasonably permits initiating and continuing the pursuit; and the weather and road conditions.
2. Consider not initiating or terminating a whenever the suspect’s identity has been clearly established to the point that later apprehension can be accomplished without jeopardizing the life or safety of another individual; and
3. Consider terminating a pursuit whenever a vehicle crashes.

However, officers are prohibited from engaging in a motor vehicle pursuit whenever the most serious offense for which the vehicle is wanted is a non-hazardous traffic offense.⁶⁷ They are also prohibited from continuing a motor vehicle pursuit if the most serious offense for which the pursued vehicle is wanted is a theft (including possession of a stolen motor vehicle) **or** a hazardous traffic violation (other than driving under the influence)⁶⁸ **and** after the initial observed violation, the pursued vehicle disregards the traffic signals or signs when entering an intersection.⁶⁹

⁶⁴ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

⁶⁵ G03-03-01 IV (bold in original).

⁶⁶ G03-03-01 II.A.

⁶⁷ A non-hazardous traffic offense is a violation as defined in the Illinois Vehicle Code or the Municipal Code of Chicago involving equipment, licensing, or regulatory violations. G03-03-01, p. 10.

⁶⁸ A hazardous traffic violation is any violation defined in the Illinois Vehicle Code or the Municipal Code of Chicago involving the improper maneuvering or control of the vehicle that may create a hazard and does not meet the criteria for a nonhazardous moving violation. G03-03-01, p. 10.

⁶⁹ G03-03-01 III.

VII. LEGAL ANALYSIS

a. Officer Davis and Officer Rodriguez violated CPD policy in initiating and continuing the motor vehicle pursuit.

i. The pursuit was prohibited.

Officer Rodriguez said the two reasons they pulled the Chrysler over were (1) it was overtaking on the right as it approached the intersection of 71st Street and Racine; and (2) the driver was not wearing a seatbelt. Officer Davis agreed these were the only two violations and conceded that he did not see them but went off Officer Rodriguez's observations.

Officer Rodriguez conceded that a seatbelt violation is a nonhazardous offense. COPA agrees with her assessment, since it is an equipment violation not involving the maneuvering or control of the vehicle.

COPA finds that overtaking on the right would meet the definition of a hazardous offense, as it relates to maneuvering the vehicle. However, the preponderance of the evidence establishes that the Chrysler did not overtake on the right, and even if it had, it was not illegal in that instance. Officer Rodriguez said she only saw the Chrysler move out to the right as if it was *intending* to pass the white van in front of it, but it then moved back into the main lane of traffic. She opined that the driver did so because he saw the police, but his purpose is not relevant. He never overtook any vehicles on the right, so he did not commit a violation of improperly overtaking on the right.

Moreover, even if he had overtaken on the right, it would not be illegal. Illinois Vehicle Code and Chicago Municipal Code both allow overtaking on the right, so long as there is unobstructed pavement of sufficient width for two vehicles and as long as conditions permit such movement safely.⁷⁰ Here, there was enough room for two vehicles, as evidenced by the pickup truck that was waiting to turn right, alongside the first vehicle in the main lane of traffic. Officer Rodriguez denied even noticing this truck, which indicates she was not aware of the road conditions, and her belief that the Chrysler was improperly overtaking is not supported by the evidence.

Therefore, a preponderance of the evidence shows that the only plausible offense to be seatbelt violation, which is a nonhazardous traffic offense, and COPA finds the officers were prohibited from initiating a pursuit for such an offense under Department policy.

Even if the violation of overtaking on the right occurred and could be considered a hazardous traffic violation, the officers were prohibited from continuing the motor vehicle pursuit where, after the initial observed violation, the pursued vehicle disregarded the traffic signal when

⁷⁰ Chicago Mun. Code 9-36-020, 625 ILCS 5/11-704. Officer Rodriguez suggested in her second interview that the Chrysler could not overtake on the right because there was a crosswalk. Chicago Municipal Code 9-36-060 prohibits overtaking vehicles at a crosswalk, but only if the vehicle being overtaken is stopped to allow pedestrians to cross. In this case, however, the in-car camera video shows there were no pedestrians present, nor did Officer Rodriguez claim there were any in the area.

entering an intersection controlled by traffic signals.⁷¹ COPA therefore finds by a preponderance of the evidence, that the initiation and continuation of the pursuit were prohibited by CPD policy.

ii. The pursuit did not comply with the balancing test.

Even if the pursuit were not prohibited by policy, its initiation and continuation would still not comply with the balancing test. On the one side, the necessity to apprehend the Chrysler was minimal. The suspected offense was not serious, and even if the driver had committed overtaking on the right, it would only be two minor traffic offenses. Additionally, the officers knew the license plate number as they attempted to pull the Chrysler over. Thus, they could have apprehended the driver later and/or requested the impoundment of the Chrysler.⁷²

On the other side of the balance, the conditions posed too great a danger to initiate a pursuit. As seen on the In-Car Camera video, there were multiple cars in front of the Chrysler in the eastbound lane that it had to swerve around. In so doing, the fleeing Chrysler almost hit a vehicle travelling westbound. Officer Rodriguez denied seeing this vehicle, which underscores her lack of awareness to the dangers of the pursuit. Moreover, this pursuit underscores the inherent danger of all pursuits. Even though the pursuit lasted a short period of time, and the officers were outpaced by the Chrysler almost immediately, the mere fact that the officers initiated the pursuit caused the Chrysler to flee in a reckless manner. Additionally, while the officers may have considered their actions to be a self-termination of the pursuit, it is objectively unreasonable to believe a fleeing driver to have processed this information in a timely manner. This crash occurred at substantially the same time as Officer Davis deactivated his vehicle's emergency equipment.⁷³

For these reasons, COPA finds that the preponderance of the evidence shows that the initiation and continuation of the pursuit were not objectively reasonable under the balancing test.

iii. The officers were unjustified in initiating and continuing the pursuit.

The pursuit policy emphasizes that all officers involved in a pursuit must be prepared to justify their actions. In this case, the actions of both officers were unjustified.

Officer Davis, as the driver, was of course integral in initiating the pursuit. He made his own independent decision to initiate the pursuit after the Chrysler pulled away from the traffic stop. The audio from the officers' BWC is clear that Officer Rodriguez did not instruct Officer Davis to initiate the pursuit, she merely yelled that the Chrysler was taking off, and Officer Davis decided to initiate the pursuit. He personally called in information to OEMC as well as actively

⁷¹ G03-03-01(III)(C)(2).

⁷² See *Chicago Mun. Code* 9-92-035, Authority to impound a fleeing vehicle; S07-03-05 VI (discussing the authority and procedure to order the impoundment of a vehicle which flees from police).

⁷³ Moreover, COPA finds that the officers greatly overstated how early they terminated the pursuit. Neither the in-car camera nor the two officers' body worn cameras give any indication that the police vehicle was slowing down until well after it had cleared the viaduct. Additionally, the POD and surveillance cameras on the east side of the viaduct show that the police vehicle was keeping pace with the Chrysler before the crash, and it was not until *after* the officers saw the crash that they slowed down. Their BWCs capture them exclaiming "oh shit" at the crash, before they discuss slowing down. Thus, there was a period of a few blocks where the officers continued at the same speed as the pursuit but without having the protection of lights and sirens activated, which may have given sufficient warning so that the vehicle turning onto 71st Street would be aware of their presence.

told Officer Rodriguez to get the Chrysler's information off the PDT. He was the officer who activated the lights and sirens.

At the time, Officer Davis was aware, or should have been aware, of the other vehicles on the road, including the westbound vehicle that the Chrysler nearly struck. He also should have been aware that the driver's only offense was a minor traffic violation. While Officer Rodriguez told Officer Davis the Chrysler overtook on the right, Officer Davis should have realized that it had not actually overtaken any vehicles. Officer Davis drove alongside the line of cars when he pulled into the left turn lane, and he should have noticed that the Chrysler was still in the same position after the light turned green, and it appeared to be attempting to merge back into traffic.

Officer Rodriguez also played an integral part in the pursuit's initiation. She observed the alleged traffic violations. She called their beat information into OEMC and later provided details related to the Chrysler as well as the officers' location. Additionally, Officer Rodriguez did not instruct Officer Davis to stop until after the Chrysler had crashed; the officers yelled "oh shit" when the crash occurred before Officer Rodriguez ever told Officer Davis to slow down. For the foregoing reasons, COPA finds by a preponderance of the evidence that the initiation and continuation of the pursuit was prohibited by Department policy. Moreover, both officers' actions as part of the pursuit were unjustified. Therefore, **Allegations #1 and #2 against Officer Davis and Allegations #1 and #2 against Officer Rodriguez are Sustained** as a violation of Rules 2, 3, and 6.

b. Officer Rodriguez and Officer Davis failed to immediately notify OEMC of the facts concerning the motor vehicle pursuit.

COPA finds by a preponderance of the evidence that Officer Rodriguez and Officer Davis failed to immediately notify OEMC of the facts concerning the motor vehicle pursuit.⁷⁴ Per CPD policy, the officers were required to notify OEMC immediately that a pursuit was in progress, and provide information regarding the specific reason for the pursuit, location, speed and direction of travel, description of the vehicle, number of occupants, and any other relevant information.⁷⁵ Here, the evidence shows that neither officer notified OEMC of the reason for the pursuit, the speed of travel, description of the vehicle, the number of occupants, or any other relevant information. **Allegation #3 is Sustained.**

c. After voluntarily terminating the motor vehicle pursuit, Officer Rodriguez and Officer Davis failed to notify OEMC of their location and failed to remain at the location until directed by a supervisor.

Finally, COPA finds by a preponderance of the evidence that after arguably terminating the pursuit, neither officer notified OEMC of their location and failed to remain at that location until directed by a supervisor in violation of G03-03-01(IX)(B). The officers stated that they terminated the pursuit at approximately S. Union Avenue (700 W. 71st St) or S. Lowe Avenue (600 W. 71st St). Nevertheless, the officers continued to 400 W. 71st St. **Allegation #4 as to each officer is therefore Sustained.**

⁷⁴ G03-03-01(VI)(A)(1)

⁷⁵ G03-03-01(VI)(A)(1)

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATION⁷⁶**a. Officer Jason Davis #15630****i. Complimentary and Disciplinary History**

Officer Davis has forty-five Honorable Mentions, one 2019 Crime Reduction Award, one Attendance Recognition award, two Department Commendation Award, one Special Commendation, two Traffic Stop of The Month Award, and one Unit Meritorious Performance Award. Officer Davis has no sustained disciplinary history per the Bureau of Internal Affairs.

ii. Recommended Penalty, by Allegation

As the driver of the police vehicle, Officer Davis bears the responsibility for initiating and continuing a vehicle pursuit. His actions also violated G03-03-01. Officer Davis's poor judgment played a significant part in the chain of events. As the driver, he should have asked more detailed questions of his partner who observed the alleged traffic violations. For this reason, COPA recommends a penalty of 180 days up to and including separation.

b. Officer Elyse Rodriguez # 14262**i. Complimentary and Disciplinary History**

Officer Elyse Rodriguez has thirty-four Honorable Mentions, one 2019 Crime Reduction Award, one Department Commendation, three Emblem of Recognition-Physical Fitness, and one Superintendents Award of Valor. Officer Rodriguez has no sustained disciplinary history per the Bureau of Internal Affairs.

ii. Recommended Penalty, by Allegation

As the passenger of the police vehicle, Officer Rodriguez bears some of the responsibility for initiating and continuing a vehicle pursuit. Her actions violated G03-03-01. Officer Rodriguez observed the alleged traffic violations and set the chain of events in motion. Officer Rodriguez did not instruct Officer Davis to stop until after the Chrysler had crashed. For that reason, COPA recommends a penalty of 180 days up to and including separation.

⁷⁶ Complimentary and Disciplinary History received and updated on March 23, 2022

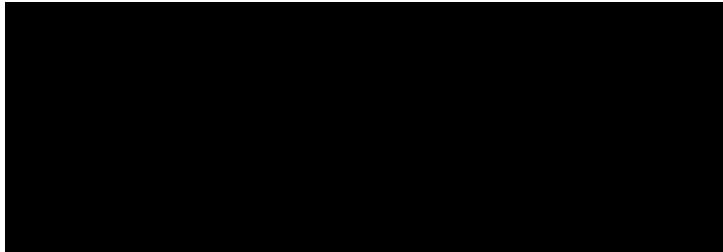
Approved:



10/20/2023

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date



10/20/2023

Andrea Kersten
Chief Administrator

Date