

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 19, 2019
Time of Incident:	11:04 am
Location of Incident:	421 N. Homan Ave.
Date of COPA Notification:	February 19, 2019
Time of COPA Notification:	2:02 pm

On February 19, 2019, Officers [REDACTED] and [REDACTED] performed a traffic stop on [REDACTED] for a broken/inoperable tail light. According to [REDACTED] his tail light was working and during the stop the officers used vulgar language and called him a racial slur. Both officers denied [REDACTED] assertions.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED], Employee # [REDACTED], DOA: [REDACTED] 2013, Officer, [REDACTED] DOB: [REDACTED] 1988, Male, White
Involved Officer #2:	[REDACTED] Star # [REDACTED], Employee # [REDACTED], DOA: [REDACTED] 2007, Officer, [REDACTED], DOB: [REDACTED], 1977, Male, White
Involved Individual #1:	[REDACTED] 1988, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	1. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification.	Exonerated
Officer [REDACTED] [REDACTED]	1. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification.	Exonerated

2. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, "suck my dick."	Not Sustained
3. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, "kiss my ass."	Not Sustained
4. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, the word "nigger."	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

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1. Rule 9- Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
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Federal Laws

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1. The Fourth Amendment
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State Laws

-
1. 625 ILCS 5/12-201(b)
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V. INVESTIGATION^{1,2}

a. Interviews

The complainant, ██████████ was interviewed by COPA on February 19, 2019. According to ██████████ the incident occurred on February 19, 2019. ██████████ was driving when two uniformed officers pulled him over and asked for his license and insurance. One of the officers told ██████████ that his tail lights were out on the vehicle. According to ██████████ the officers threatened to take his vehicle. ██████████ also stated that the one of officers came back to his vehicle and told him to “suck my dick” and “kiss my ass nigger”. ██████████ flagged down a sergeant and told the sergeant what the officers had to said to him. The sergeant told him to go to the station and make a report. ██████████ also called his grandfather and he told him to call OPS. ██████████ stated that the stop lasted for approximately 15 to 30 minutes. ██████████ was not issued any tickets and the officers just drove off. ██████████ went to the police station on Harrison and Kedzie and explained what happened to him. The officer at the desk gave ██████████ three phone numbers to call, one of those numbers was COPA.³

Officer ██████████ was interviewed by COPA on August 8, 2019. According to Officer ██████████ on the date of the incident, he and his partner pulled over ██████████ for a brake light or tail light being out. Officer ██████████ described ██████████ as being frustrated and angry because he was being pulled over. Officer ██████████ approached ██████████ driver’s side door and asked for his license and insurance. Officer ██████████ went back to his vehicle to run ██████████ names. When Officer ██████████ went back to his vehicle, his partner, Officer ██████████ approached ██████████ driver’s door because he was not cooperating. Officer ██████████ told ██████████ to get back inside his vehicle. Eventually ██████████ complied and got back into his vehicle. Officer ██████████ approached ██████████ vehicle again and returned his ID and let him go. Officer ██████████ and his partner did a TSS⁴ card for the stop. Officer ██████████ denied hearing his partner tell ██████████ to “suck my dick”, “kiss my ass”, and “nigger”. Officer ██████████ could not remember exactly how long the stop took, but he estimated that it could not have been more than a minute to a minute and a half.⁵

Officer ██████████ was interviewed by COPA on August 8, 2019. On the date of the incident, Officer ██████████ was in uniform and working with Officer ██████████ Officer ██████████ did not recall the traffic stop he performed on ██████████ According to Officer ██████████ he performs at least ten to fifteen traffic stops a day. Even though Officer ██████████ did not recall the traffic stop of ██████████ he denied telling ██████████ to “suck my dick”, “kiss my ass” or calling him a “nigger”. Officer ██████████ stated that he would not say something like that to anybody.⁶

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 Unit ██████████ officers are not assigned body-worn cameras, so there is no body-worn footage of the incident.

³ Atts. 13 & 16.

⁴ TSS stands for Traffic Stop Summary.

⁵ Atts. 18 & 24.

⁶ Atts. 19 & 25.

b. Documentary Evidence

According to the traffic stop summary report created by Officer [REDACTED] the traffic stop of [REDACTED] occurred on February 19, 2019 at 11:04 am and was over by 11:06 am. The vehicle was stopped for a violation of 9-76-210A, broken/inoperable lamp.⁷

VI. LEGAL STANDARD

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 the conduct reviewed complied with Department policy. *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). 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. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

VII. ANALYSIS

Officer [REDACTED]

1. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification.

COPA finds this allegation **Exonerated**. Traffic stops are seizures under the Fourth Amendment, and thus subject to the Fourth Amendment reasonableness requirement. *Whren v.*

⁷ Att. 27.

United States, 517 U.S. 806, 809-10 (1996). Traffic stops are analyzed under *Terry* because “the ‘usual traffic stop’ is more analogous to a so-called *Terry* stop than to a formal arrest.” *People v. Cosby*, 231 Ill. 2d 262, 274 (2008) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984)) (internal citation omitted). The *Terry* test is: “(1) whether the officer’s action was justified at its inception, and (2) whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” *People v. Bunch*, 207 Ill. 2d 7, 14 (2003) (citing *Terry v. Ohio*, 392 U.S. 1, 19-20 (1968)). A lawful traffic stop requires “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law,” including traffic law. *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

On the date of the incident, Officer [REDACTED] and his partner Officer [REDACTED] pulled [REDACTED] over for a tail light being out. Under the Illinois Vehicle Code⁸, every vehicle being operated on a roadway must have at least two operable tail lights. COPA finds that the officers were justified in stopping [REDACTED] for the tail light being out and the stop was reasonable because it only lasted a matter of minutes. Officer [REDACTED] ran [REDACTED] license and then let him go. As such, COPA finds this allegation **Exonerated**.

Officer [REDACTED]

1. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification.

COPA finds this allegation **Exonerated**. Traffic stops are seizures under the Fourth Amendment, and thus subject to the Fourth Amendment reasonableness requirement. *Whren v. United States*, 517 U.S. 806, 809-10 (1996). Traffic stops are analyzed under *Terry* because “the ‘usual traffic stop’ is more analogous to a so-called *Terry* stop than to a formal arrest.” *People v. Cosby*, 231 Ill. 2d 262, 274 (2008) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984)) (internal citation omitted). The *Terry* test is: “(1) whether the officer’s action was justified at its inception, and (2) whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” *People v. Bunch*, 207 Ill. 2d 7, 14 (2003) (citing *Terry v. Ohio*, 392 U.S. 1, 19-20 (1968)). A lawful traffic stop requires “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law,” including traffic law. *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

On the date of the incident, Officer [REDACTED] and his partner Officer [REDACTED] pulled [REDACTED] over for a tail light being out. Under the Illinois Vehicle Code⁹, every vehicle being operated on a roadway must have at least two operable tail lights. COPA finds that the officers were justified in stopping [REDACTED] for the tail light being out and the stop was reasonable because it only lasted a matter of minutes. Officer [REDACTED] ran [REDACTED] license and then let him go. As such, COPA finds this allegation **Exonerated**.

⁸ 625 ILCS 5/12-201.

⁹ 625 ILCS 5/12-201.

2. It is alleged by ██████ that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, “suck my dick.”

COPA finds this allegation **Not Sustained**. Rule 9 prohibits officers from engaging in any unjustified verbal or physical altercation with any person, while on or off duty. ██████ stated that Officer ██████ told him “suck my dick,” however Officer ██████ denied ██████ assertion. Officer ██████ also denied hearing his partner state words of that effect. There are no independent witnesses or video¹⁰ to collaborate ██████ assertion or Officer ██████ denial, as such COPA finds this allegation **Not Sustained**.

3. It is alleged by ██████ that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, “kiss my ass.”

COPA finds this allegation **Not Sustained**. Rule 9 prohibits officers from engaging in any unjustified verbal or physical altercation with any person, while on or off duty. ██████ stated that Officer ██████ told him “kiss my ass,” however Officer ██████ denied ██████ assertion. Officer ██████ also denied hearing his partner state words of that effect. There are no independent witnesses or video to collaborate ██████ assertion or Officer ██████ denial, as such COPA finds this allegation **Not Sustained**.

4. It is alleged by ██████ that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, the word “nigger.”

COPA finds this allegation **Not Sustained**. Rule 9 prohibits officers from engaging in any unjustified verbal or physical altercation with any person, while on or off duty. ██████ stated that Officer ██████ called him a “nigger,” however Officer ██████ denied ██████ assertion. Officer ██████ also denied hearing his partner state words of that effect. There are no independent witnesses or video to collaborate ██████ assertion or Officer ██████ denial, as such COPA finds this allegation **Not Sustained**.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer ██████ ██████	1. It is alleged by ██████ that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification.	Exonerated

¹⁰ A request was made to CPD’s body-worn camera (BWC) section and no BWC or in car camera (ICC) was found. Att. 17.

<p>Officer [REDACTED] [REDACTED]</p>	<p>1. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stopped him without justification. 2. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, "suck my dick." 3. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, words of the effect of, "kiss my ass." 4. It is alleged by [REDACTED] that on or about February 19, 2019 at approximately 11:04 am, at or around 421 N. Homan Street, Chicago, Illinois, you stated to him, the word "nigger."</p>	<p>Exonerated Not Sustained Not Sustained Not Sustained</p>
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Approved:

[REDACTED]

2-26-2020

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	n/a
Deputy Chief Administrator:	Angela Hearts-Glass