

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	April 14, 2020
Time of Incident:	5:15 pm
Location of Incident:	6911 N. Western and [REDACTED]
Date of COPA Notification:	April 15, 2020
Time of COPA Notification:	1:20 pm

[REDACTED] was taking photographs of a building at 6911 N. Western when Audie Manaois, an off-duty detective with the Chicago Police Department, approached and asked him what he was doing. [REDACTED] and Det. Manaois engaged in a conversation where [REDACTED] felt that the conversation was hostile and believed that Det. Manaois racially profiled him. [REDACTED] alleged that Det. Manaois asked him for his identification and reason for taking photos of the building, which [REDACTED] refused to provide. Det. Manaois identified himself as a Chicago Police Officer and displayed his identification, after being asked by [REDACTED] and told [REDACTED] that there have been burglaries in the area. [REDACTED] believed that Det. Manaois did not have the right to stop and question him. COPA determined that [REDACTED] was not stopped and detained by Det. Manaois, but instead they both willingly engaged in a conversation about the neighborhood without profanities, derogatory comments or any behavior that would have been unbecoming or a violation of Department Rules and Regulations.

II. INVOLVED PARTIES

Involved Officer #1:	Audie C. Manaois, Star #20320, Employee ID# [REDACTED], Date of Appointment: March 26, 1990, Detective, Unit of Assignment: 610, DOB: [REDACTED], 1964, Male, Asian-Pacific Islander
Involved Individual #1:	[REDACTED] 1953, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Detective Audie C. Manaois	It is alleged by [REDACTED] that on or about April 14, 2020, at approximately 5:15 pm, at or near 6911 N. Western and at or near [REDACTED] Chicago, IL, Det. Manaois committed	

	<p>misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Racially profiling ██████████ without justification, in violation of Rule 6 2. Stopping and detaining ██████████ without justification, in violation of Rule 6 3. Questioning ██████████ without justification, in violation of Rule 6 and 4. Behaving in an unprofessional and / or unbecoming manner during interaction with ██████████ in violation of Rule 2. 	<p>Not Sustained</p> <p>Unfounded</p> <p>Unfounded</p> <p>Not Sustained</p>
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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 6: Disobedience of an order or directive, whether written or oral.

General Orders

1. G02-01 – Human Rights and Human Resources
2. G02-04 - Prohibition Regarding Racial Profiling and Other Biased Based Policing

Federal Laws

1. Fourth Amendment – U.S. Constitution

V. INVESTIGATION

a. Interviews

In an interview with COPA¹ on April 16, 2020, ██████████ stated the following. On April 14, 2020, at approximately 5:15 pm, he was on Western and Morse walking, when he saw apartments for rent in a new building at 6911 N. Western. ██████████ walked around the building and took photographs of the sign and the building. At approximately ██████████ (across the street), a couple was outside talking and looking at him, and he felt that they were scrutinizing him. ██████████ ignored them, continued taking photos of the building and then crossed over to the

¹ Att. 1.

median on Western Avenue north of Morse. Shortly thereafter, the male approached near him in a black Jeep vehicle, raised his phone and appeared to be taking photos of ██████████. ██████████ asked the male what he was doing in a demanding voice. The male moved his vehicle and parked on the corner of Western and Morse. ██████████ walked over to the car. From a safe distance, ██████████ demanded again from the male what he was doing and who he was. The man demanded ██████████ identification in a hostile tone, which ██████████ declined to provide. ██████████ instead demanded the male's identification, asked him if he was an officer. The male said yes, and simultaneously flashed what appeared to be an identification card. ██████████ was not able to clearly see the identification card, but the male confirmed that he was a police officer.

██████████ stated that a heated dialogue proceeded between them, and he ask the male why he was taking his photo. The male responded that there had been a lot of burglaries in the area, to which ██████████ asked the male what that had to do with him. ██████████ engaged in a heated conversation with the male regarding the fact that he was taking a photograph of a building in a public street and ██████████ demanded to know if he was being stopped because he was black.² The male then told him that his partner was African American, mentioned there had been burglaries in the neighborhood. ██████████ showed the male his extreme disappointment in his comment and told the male that he believed the male was racially profiling him since there were no reasons for the male to stop and question him about what he was doing. ██████████ told the male that there were alternatives to asking him what he was doing instead of racially profiling him or demanding his identification. The male tried to defend and justified himself when accused of racially profiling ██████████. The male took out his cell phone, scrolled through some photos and told ██████████ he was deleting the photos he took. The male then left the scene and as he pulled away in his vehicle, ██████████ took his cell phone out and took photos of the male's vehicle. ██████████ believes that the male's conduct was unbecoming, that he illegally acted in a racial profiling manner, maintain a hostile demeanor and tone of voice without probable cause and finally unprofessional.

In a subsequent meeting with ██████████ at COPA³ on July 15, 2020, he related that during his conversation with the male now identified as Detective Manaois there were no derogatory comments or profanities during their conversation. However, ██████████ felt that he was racially profiled during this interaction. ██████████ believed Det. Manaois had no right to approach or question him as to why he was taking photos of a building. ██████████ took photos of the officer's vehicle and his license plate, and provided them to COPA and the Chicago Police Department.

In his statement to COPA on August 10, 2020, **Detective Audie Manaois**⁴ stated that on April 14, 2020, at approximately 5:15 pm, while off-duty, he was outside his residential building located at ██████████ talking to his wife, ██████████, when they saw ██████████ taking photos of a building across from their residential building and then saw ██████████ taking photos of their building. Det. Manaois left to run errands and entered his vehicle. Det. Manaois approached ██████████ in his vehicle while ██████████ was standing on the median located on Western Avenue and north of Morse, and asked ██████████ he was doing. ██████████ failed to respond and instead asked Det. Manaois to pull over, which he did. Det. Manaois exited his vehicle, asked ██████████ why he was taking photographs of the buildings, which he refused to respond. ██████████

² Att. 1, at 12:02 minutes of ██████████ audio interview.

³ Att. 27

⁴ Att. 23.

asked Det. Manaois who he was, and the detective informed him that he resides at the building he was taking photos of. Det. Manaois further told ██████ that he and his neighbors were concerned about their security, at which time ██████ asked him to pull over. Det. Manaois pulled over at the corner of Western and Morse, exited his vehicle, introduced himself and again asked ██████ the reason for taking the photos. ██████ avoided answering his questions, was evasive and never provided him with a response to his actions. ██████ then asked Det. Manaois if he was a cop, to which he confirmed he was, and believes that he even provided ██████ with his business card. Det. Manaois never learned the reason ██████ took the photos of the buildings since ██████ never answered his questions. Det. Manaois described that he and ██████ engaged in a non-hostile, pleasant conversation about the neighborhood and its diversity. Det. Manaois denied racially profiling ██████ stopping or detaining him without justification. Det. Manaois stated that he did question ██████ of his actions, because he was concern that a stranger was taking photos of the area and his residential building, especially since there had been burglaries, thefts and looting in the area.

Det. Manaois indicated that during their conversation, he and ██████ discussed diversity in the neighborhood, he told ██████ that he had worked with partners of various backgrounds and ethnicities, including African American. Det. Manaois further denied behaving in an unprofessional or unbecoming manner during his interaction with ██████. He described their conversation as pleasant, non-derogatory, or hostile. Det. Manaois could not recall taking any photos or videos of ██████ or deleting or showing ██████ his phone.

b. Digital Evidence

Photographs⁵ taken by ██████ on April 14, 2020, depict the building located at 6911 N. Western with a sign of homes “For Rent,” photos of street signs of Western and Morse Avenues, and the license plate of Detective Manaois’ black Jeep vehicle.

A **Security video**⁶ from ██████ provided by Det. Manaois of his residential building for April 14, 2020, captured Det. Manaois walking to the front of his building to meet with his wife. A few seconds later, a male figure, which Det. Manaois identified as ██████ passed in front of the building, stopped and appears to be taking photographs of the building across the street. The security video provided by Det. Manaois did not captured any activity between Det. Manaois and ██████ or the actions by ██████

Screenshots⁷ provided by Detective Manaois of the security video captured ██████ taking photos of a building across from ██████

c. Documentary Evidence

The **Case and Supplementary Reports**⁸ (JD 209173) documented that ██████ was out walking in his neighborhood when he stopped to take photos of a sign on a new building. While

⁵ Atts. 2, 3.

⁶ Att. 23.

⁷ Att. 24.

⁸ Atts. 4, 12.

taking the photos, a black jeep coming from ██████████ stopped immediately next to him, took a cellular phone out and took a photo of him. ██████████ approached the vehicle, asked the male Asian driver why he was taking a photo of him. The male identified himself as a police officer and replied that he took the photo because there were reports of burglaries in the area. ██████████ who is African American, felt that the male was racially profiling him and that he (██████████) felt he had every right to take a photo on the public way. The male Asian flashed an identification which appeared to have a photo of him, as he apologized to ██████████ and deleted the photos that he had taken. However, ██████████ was not sure if the photos were in fact deleted. The male Asian sped off and ██████████ took a few photos of the vehicle.

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 occurred and violated 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 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. *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

COPA finds Allegation #1 against Detective Manaois is NOT SUSTAINED. There is insufficient evidence, facts or witnesses to prove or refute that Detective Manaois racially profiled ██████████ during this incident. In his interview, Detective Manaois explained that he asked ██████████ why he was taking photos of not only the building across the street from his building, but also his residential building. However, ██████████ never answered or provided an explanation for his actions. ██████████ stated in his interview that he believed that he was racially profile because there was no

other reason for Detective Manaois to stop and question him about his actions. However, ██████ also noted that Detective Manaois told him at the time about burglaries occurring in the area. ██████ never provided any specifics as to why he believed that he was racially profiled other than because he is an African American male. Detective Manaois denied that he racially profiled ██████ because whether it was ██████ or another individual, he still would have asked the person why they were taking photos of the two buildings. Detective Manaois denied using any type of racial comments and ██████ stated that none were used by Detective Manaois. Detective Manaois further related that he and his neighbors are vigilant of their building and community due to burglaries in the area, which prompted the owner of his own building to add a security system to the building and a watch community club. Detective Manaois further concluded that ██████ was evasive and refused to answer or explain why he was taking photos of the buildings which made it suspicious and concerning. ██████ personal feelings of being profiled cannot be discounted. However, there is no evidence (direct or circumstantial) to indicate that this encounter was motivated for race-related reasons. Given all of this, COPA is unable to conclude that Detective Manaois acted in a racially biased manner.

COPA finds Allegations #2 and #3 against Detective Manaois are EXONERATED. The Fourth Amendment of the United States Constitution and Article I, Section 6 of the Illinois Constitution of 1970, guarantee the right of individuals to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Police-citizen encounters are categorized into three tiers: (1) an arrest of a citizen, which must be supported by probable cause; (2) a temporary investigative seizure conducted pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107-14, which must be supported by a reasonable, articulable suspicion of criminal activity; and (3) a consensual encounter, which does not implicate any constitutional interests. *People v. McDonough*, 239 Ill. 2d 260, 268 (2010).

A person is seized when a police officer “by means of physical force or show of authority, terminates or restrains [a person’s] freedom of movement through means intentionally applied.” *Brendlin v. California*, 551 U.S. 249, 254 (2007) (citations, emphasis, and internal quotation marks deleted); See *People v. Almond*, 2015 IL 113817, ¶ 57. A person is not seized unless they yield to an assertion of authority or physical force is used to stop them. *Cal. v. Hodari D.*, 499 U.S. 621 (1991) (holding that a person who flees “upon a show of authority” is not seized).

██████ alleged that Detective Manaois stopped, detained and questioned him without justification. Detective Manaois denied stopping or detaining ██████ who asked him to pull over after Detective Manaois briefly asked ██████ what he was doing. While ██████ did at times use the word “stop” (or a form of it) in describing what he believed Detective Manaois did to him, the actions ██████ articulated were actually that of a consensual encounter, which does not invoke any 4th Amendment protections. The evidence demonstrates that ██████ was not detained or improperly questioned by Detective Manaois, but rather was engaged in a consensual encounter. Detective Manaois admitted that he approached ██████ and asked him why he was taking photos of the buildings, and pulled over upon ██████ request. They spoke about the neighborhood for a few minutes, even though ██████ never provided Detective Manaois with an answer as to why he was taking the photos of the buildings. Detective Manaois never displayed his firearm, did not take a hold of ██████ physically or threaten to do so, did not prevent ██████ from walking away or block his path, or threaten any law enforcement action. Detective Manaois stated that the conversation with ██████ was pleasant, without profanities or derogatory comments and they

parted without hostility After reviewing the statements of both parties and the evidence, COPA finds that Detective Manaois did not stop, detain or question ██████████ and finds that their encounter was consensual. A reasonable person in ██████████ situation would have felt free to leave, and ██████████ gave no indication of feeling otherwise. In fact, ██████████ describes freedom of movement and no compulsion to answer any questions. He did not attempt to stop the encounter or walk away, and instead questioned and approached Detective Manaois. Detective Manaois denied the allegations against him and further confirmed that when he approached and questioned ██████████ regarding the reasons for taking photos of his building and a building in the area, was because of his concern for the safety of the residents of his building since a nurse and other essential workers like himself reside in that building. Detective Manaois concluded that due to the concern of their safety, the owner of the building added a security system to the building.⁹

COPA finds Allegation #4 against Detective Manaois is NOT SUSTAINED. There is insufficient evidence, witnesses or facts to prove or disprove that Detective Manaois behaved in an unprofessional or unbecoming manner during his interaction with ██████████ Detective Manaois denied the allegation, and related that he and ██████████ had a pleasant conversation without hostility. However, ██████████ believes that Detective Manaois had no right to approach or question his actions. Although ██████████ and Detective Manaois engaged in a conversation, ██████████ did not make any attempts to leave, stop the conversation or their encounter. Therefore, due to the lack of evidence and witnesses, COPA finds the allegation is Not Sustained.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Detective Audie C. Manaois	It is alleged by ██████████ that on or about April 14, 2020, at approximately 5:15 pm, at or near 6911 N. Western and at or near ██████████ ██████████ Chicago, IL, Det. Manaois committed misconduct through the following acts or omissions, by:	
	1. Racially profiling ██████████ without justification, in violation of Rule 6	Not Sustained
	2. Stopping and detaining ██████████ without justification, in violation of Rule 6	Unfounded
3. Questioning ██████████ without justification, in violation of Rule 6 and	Unfounded	

⁹ Based on the above analysis, the duty-status of Detective Manaois at the time this incident occurred is of no consequence here. However, the evidence does show that he did not identify himself as an officer at the time he initially engaged with ██████████ It was only after ██████████ asked him if he was an officer did Detective Manaois do so.

4. Behaving in an unprofessional and / or unbecoming manner during interaction with [REDACTED] in violation of Rule 2.	Not Sustained
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Approved:

[REDACTED]

9-29-2020

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	Angela Hearts-Glass
Attorney:	[REDACTED]