

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 21, 2019
Time of Incident:	7:04 PM
Location of Incident:	3845 N. Ashland Avenue
Date of COPA Notification:	February 22, 2019
Time of COPA Notification:	10:47 am

At approximately 7:04 pm on Feb. 21, 2019 at 3845 N. Ashland Avenue, the Complainant [REDACTED] while driving for Uber, was stopped by the Accused Officers. The Complainant, who is African-American, alleges that he stopped to pick up his Uber passengers at or near the intersection of Irving Park Road and Ashland Avenue, and that shortly after he pulled away, The Accused Officers followed him for a short distance and then activated their emergency lights and pulled him over, detaining him briefly before letting him go without issuing citations. Complainant believes the stop was racially motivated.

II. INVOLVED PARTIES

Involved Officer #1:	Janet Carrizalez #3530, Emp# [REDACTED], Date of Appointment: 11/16/17, Unit of Assignment: 19 th District, DOB [REDACTED]81 F/WWH
Involved Officer #2:	Mario Rosas #7957, Emp# [REDACTED], Date of Appointment: 07/17/17, Unit of Assignment: 19 th District, DOB [REDACTED]/92 M/WWH
Involved Individual #1:	[REDACTED] DOB [REDACTED]86 M/B

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Mario Rosas	<ol style="list-style-type: none"> 1. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused pulled the Complainant over for a traffic offense after racially profiling the Complainant 2. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused failed to prepare an Investigative Stop Report (ISR) or a Driver’s Information Card documenting the traffic stop 	<p>Unfounded</p> <p>Not Sustained</p>
Officer Janet Carrizalez	<ol style="list-style-type: none"> 1. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused pulled the Complainant over for a traffic offense after racially profiling the Complainant 2. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused failed to prepare an Investigative Stop Report (ISR) or a Driver’s Information Card documenting the traffic stop 	<p>Unfounded</p> <p>Not Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

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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 8—Disrespect to or maltreatment of any person, while on or off duty
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General Orders

1. G02-04 Prohibition Regarding Racial Profiling and Other Bias Based Policing

Special Orders

1. S04-13-09: Investigatory Stop System
 2. S04-14-09: Illinois Traffic and Pedestrian Stop Statistical Study
-

Federal Laws

1. Fourth Amendment, United States Constitution
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State Laws

1. 625 ILCS 5/11-212 Traffic and Pedestrian Stop Statistical Study
-

Municipal Laws

1. MCC 9-40-130 Obstruction of traffic

V. INVESTIGATION

a. Interviews

Statement of [REDACTED]

The Complainant, [REDACTED] was interviewed by COPA on Feb. 22, 2019. The Complainant stated he was working as an Uber driver the evening of February 21, 2019 at approximately 7:00 pm and driving westbound on Irving Park Road when he stopped in front of Lakeview High School to pick up a mother and daughter. The pair got into his vehicle and he began to maneuver his car to get in the left turning lane to turn onto Ashland Avenue when he noticed a squad car coming towards his vehicle. Complainant stopped, so as to yield the right of way to the officers, but the squad car did not advance. The Complainant resumed his maneuver across two lanes of traffic to get into the left turning lane. He then turned left, when the light changed, heading southbound on Ashland. The squad car was directly behind him and followed him for about a block before activating its blue lights to pull the Complainant over.

The officers waited two or three minutes before they approached his car, which seemed longer than usual to him in his experience having been pulled over by the police in the past. Complainant stated they he was told he was being stopped for impeding traffic, and that he was asked to roll down not only the two front seat windows, but also the rear passenger window where his passengers were sitting. Complainant states that the Accused officer directed some of the discussion about the stop to his passengers as opposed to himself, allegedly telling the passenger that “this won’t take long.”² The Accused officers returned to his car, returned his driver’s license,

¹ Att.#6

² Att.#6 at 11:03:35 mark

and told him to “have a nice day.”³ No citations were issued, and the stop lasted five to ten minutes according to the Complainant.

The Complainant believed the stop was based on racial profiling because he suspected the Accused officers only became interested in him when they saw he was a black man. He stated, “I felt I was racially profiled because he-they had no interest in me until I pulled at angle and they were able to see inside the car. They saw I was black when I was pulling into the lane.”⁴ He was not issued an ISR receipt or a driver’s information card. The Complainant posits that the Accused needed an excuse to stop his car to make sure the passengers were safe and that was the real reason for the stop.

Statement of Officer Mario Rosas⁵

Officer Mario Rosas gave his statement to COPA on Oct. 24, 2019. Officer Rosas describes conducting a traffic stop, with his partner, Officer Carrizalez, of the Complainant on the evening of Feb. 21, 2019. Officer Rosas and his partner were in uniform driving a marked unit traveling westbound on Irving Park Road approaching the intersection of Irving Park and Ashland Avenue. Officer Rosas describes seeing [REDACTED] car briefly obstruct traffic when [REDACTED] stopped to pick up a rider while he was performing as an Uber driver. Officer Rosas was the driving officer and made the decision to stop [REDACTED] southbound on Ashland Avenue where it was less congested. Officer Rosas approached [REDACTED] car and informed him the reason for the stop and asked for [REDACTED] driver’s license. Officer Rosas and his partner returned to their Department vehicle where they ran [REDACTED] information. Officer Rosas was the more senior officer and decided to let [REDACTED] go with a warning. In keeping Department policy, Officer Carrizalez began preparing a driver information card to document the stop. Officer Rosas said, “In regard to this, my partner was writing a TSS card.”⁶ “I did not write it because I was driving.”⁷

COPA asked Officer Rosas what happened to the card after Officer Carrizalez completed it. Officer Rosas stated “once we complete our shift, we go to check-out, we turn our activity into the third watch bin and we do not know where it goes after that.”⁸ When asked if there is any card or receipt or other type of documentation given to the subject of the stop, Officer Rosas indicated that there was not. COPA asked how Officer Carrizalez was able to complete the card after [REDACTED] was allowed to depart the scene, and Officer Rosas stated that “we ran his driver’s license on our PDT, and his information came up valid.”⁹

³ Att.#6 at 11:06:04 mark

⁴ Att.#6 at 11:06:15 mark

⁵ Att.#5

⁶ Att.#5 at 14:46 mark

⁷ Att.#5 at 14:56 mark

⁸ Att.#5 at 15:07 mark

⁹ Att.#5 at 17:37 mark

Statement of Officer Janet Carrizalez¹⁰

Officer Janet Carrizalez gave her statement to COPA on Oct. 24, 2019. In it, Officer Carrizalez stated that she was on-duty, working third watch in uniform in a marked Department SUV. Officer Carrizalez was partnered with Officer Rosas with whom she had never partnered before. Officer Rosas was the more senior of the two officers, and the two of them were engaged in routine patrol. Officer Carrizalez recalled observing a car stopping in front of them on Irving Park Road to pick up some persons in the vicinity of a CTA bus stop. Officer Rosas followed the vehicle as it made a left turn onto Ashland Avenue headed southbound. Shortly after turning onto Ashland, the officers pulled the Complainant [REDACTED] car over.

Officer Carrizalez describes the rationale behind stopping [REDACTED] as being the obstruction of traffic creating a potential safety hazard, and [REDACTED] car's proximity to a CTA Bus stop. Officer Carrizalez recalled exiting her Department vehicle with Officer Rosas approaching [REDACTED] car on the driver's side while she approached on the passenger side. She described asking [REDACTED] to lower the window so she could hear the discussion between [REDACTED] and her partner. She described [REDACTED] as being nervous but not threatening and could only recall the passengers with her recollection refreshed by the BWC footage. After retrieving [REDACTED] driver's license, the officers returned to their vehicle to verify his information.

Officer Carrizalez and Officer Rosas decided to let [REDACTED] go with a warning due to the fact he had no issues with his license or insurance, and he was working. When COPA asked how the officers documented this traffic stop, Officer Carrizalez stated "We ran his name; we also went through OEMC. We let our dispatcher know that we were on a traffic stop, and that we had a TSSS card done after."¹¹ Officer Carrizalez stated that she prepared the card after the stop as seen in her BWC footage.

b. Digital Evidence**In Car Camera Footage from Beat #1912¹²**

In Car Camera (ICC) footage taken from the Accused's Beat 1912. The footage initially shows a blue sedan directly in front of the Accused members' vehicle obscuring a white sedan—the Complainant's vehicle—before the white sedan signals left and travels across two lanes of traffic to the far-left protected turning lane. There are visible "No Parking/Tow Zone" and "No Parking/Bus stop" signs in the frame and a CTA bus stand is visible near where the Complainant's car is positioned in the footage. The Accused Officers immediately follow the Complainant's vehicle as it makes a left turn onto Ashland Avenue going North. They activate their emergency lights, to which the Complainant's car is seen slowing and pulling to the right.

¹⁰ Att.#12

¹¹ Att.#10 at 13:04 mark

¹² Att.#5

The Accused officers exit their vehicle and approach the Complainant's car. Officer Rosas tells the Complainant the reason he was pulled over was because "when you stopped to pick up your customers, there were cars right behind you; you caused traffic."¹³ Officer Rosas takes the Complainant's license back to their squad car and runs the plate. He returns to the Complainant's vehicle and lets him go with a verbal warning. The entire encounter takes just over four minutes.

BWC Footage from Accused Officer Rosas¹⁴

The BWC footage shows substantially the same footage as the ICC video, except that it doesn't begin until after both cars have stopped. The Accused members' dialogue in the video footage does not reveal any disparate information.

BWC Footage from Involved Officer Carrizalez¹⁵

The BWC footage captured Officer Carrizalez's camera mirrors the Officer Rosas' BWC footage in both content and duration in capturing the interaction between the Complainant and Carrizalez. At the 7:06:57 mark, Officer Carrizalez can be seen holding a card which resembles the Department's driver information card.

c. Physical Evidence

N/A

d. Documentary Evidence

N/A

OEMC Event Queries¹⁶

OEMC Event Query #1905213592 memorializes the events of the traffic stop but under an incorrect address. The Event query shows the traffic stop as taking place at the intersection of Byron Street and Western Avenue, when in fact the stop occurs at the intersection of Byron Street and Ashland Avenue. The driver's license, plate number, and vehicle make/model all correspond to the Complainant's information.

GPS Evidence¹⁷

¹³ Att.#5 at the 3:03 mark

¹⁴ Att.#3

¹⁵ Att.#4

¹⁶ Att.#1

¹⁷ Att.#16

GPS Records show the Accused's assigned vehicle stopped in the vicinity 3845 N. Ashland Avenue consistent with the time of the stop reflected on the OEMC Event Query and BWC video footage.

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

The core of the Complainant's allegation is that the Accused engaged in racial profiling when they stopped his vehicle. He believes that the reason he was stopped was a fabricated pretext to stop and needlessly detain an African American/black man operating as an Uber driver. The Complainant maintains that it was only when his vehicle was at an angle to get in the far left turning lane, when the Accused Officers could see he was a black male, that the Accused Officers decided to initiate a traffic stop for a non-existent offense. The Complainant suggests the only other possible reason for this stop was that his Uber passengers looked young for their respective ages and that the Accused may have thought that the Complainant was breaking Uber's rules

regarding minor customers. Under this scenario, the Accused officers came up with the “obstructing traffic” offense, the existence of which the Complainant is unfamiliar with. Thus, in examining the Complainant’s allegations, COPA investigated whether the offense of obstructing traffic is a valid offense and if the Complainant committed the infraction, whether evidence exists that the Accused engaged in racial profiling against the Complainant, and lastly whether the Accused were required to document the traffic stop with an ISR or driver’s information card per Department policy.

Allegation #1: Racial Profiling

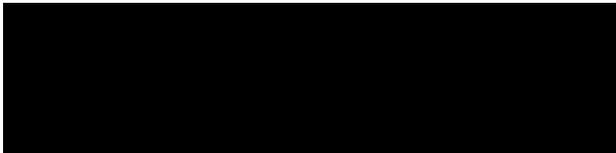
The Complainant’s timetable of events substantially mirrors the beginning of the available dashcam. COPA is able to conclude that at least one vehicle’s path was obstructed by the Complainant’s vehicle. The ICC clearly shows the Complainant’s vehicle pull from a stop in a no parking zone, a bus stop, which had caused traffic to back up, as he was blocking the lane. The video corroborates that officers are referring to the instance where the Complainant picks up the passengers from in front of the high school near the intersection of Irving Park Road and Ashland Avenue. The Complainant confirms that he picked up his Uber fare from Lakeview High School which is situated at the corner of Irving Park Road and Ashland. Therefore, the Accused Officers were justified in stopping the Complainant.

There is no evidence that the Accused Officer’s engaged in racial profiling when they curbed Complainant’s vehicle. None of the video evidence show any actions, or records any statements, by the Accused Officers, that would substantiate Complainant’s assertions that this stop was racially motivated. Additionally, video evidence corroborates the Accused Officer’s legitimate basis for curbing Complainant’s vehicle, in that it clearly shows Complainant blocking traffic after picking up his Uber riders. The ICC footage also shows that the Complainant was briefly stopped in a “No Parking/Bus Stop” zone when the dashcam video begins and that there was sufficient probable cause to pull the Complainant over for a traffic stop given the two possible traffic infractions he had committed.

Additionally, the Complainant does not relate, in his interview, that the Accused Officers made any racially disparaging comments during their interaction with him. Therefore, COPA finds no evidence to substantiate the Complainant’s allegation of racial profiling being employed against him and accordingly finds this allegation **Unfounded**.

<p>Officer Janet Carrizalez</p>	<ol style="list-style-type: none"> 1. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused pulled the Complainant over for a traffic offense after racially profiling the Complainant 2. That, on or about February 21, 2019, at approximately 7:04 pm, at or near 3845 N. Ashland Ave., the Accused failed to prepare an Investigative Stop Report or a Driver's Information Card documenting the traffic stop 	<p>Unfounded</p> <p>Not Sustained</p>
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Approved:



7-31-2020

 Angela Hearts-Glass
 Deputy Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	Michael Fleury
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass