

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 14, 2020
Time of Incident:	5:10 a.m.
Location of Incident:	Northbound I-94 Expressway (Cermak Road Exit)
Date of COPA Notification:	January 23, 2020
Time of COPA Notification:	11:38 a.m.

On January 14, 2020, at approximately 5:10 a.m., on the Northbound I-94 Expressway, near the Cermak Road exit, in Chicago, Illinois, [REDACTED] Complainant, was pulled over by Officer Erik V. Martinez, Star #17750, for speeding. At the time, Officer Martinez was assigned to the Traffic Section Unit 145, and assigned to patrol the Chicago Skyway. [REDACTED] was issued two traffic citations, one for speeding and one related to window tinting. In his statement to COPA, [REDACTED] had claimed that the police officer, later identified as Officer Martinez, had been pursuing him and tailgating him, from 67th Street to the Cermak Road exit on Northbound I-94, where he was finally stopped. [REDACTED] claimed that he was illegally pursued and illegally detained, and that he was not speeding.

II. INVOLVED PARTIES

Involved Officer #1:	Erik V. Martinez, Star #17750, Employee ID# [REDACTED], Date of Appointment: March 5, 2013, Rank: Police Officer, Unit of Assignment: 145 (Traffic Section), DOB: [REDACTED], 1980, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1993, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Erik V. Martinez	1. It is alleged by [REDACTED] that on or about January 14, 2020, at approximately 5:10 a.m., at or near the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois, Officer Erik V. Martinez, Star# 17750, committed misconduct by detaining [REDACTED] without justification.	Not Sustained

	<p>2. It is alleged by [REDACTED] that on or about January 14, 2020, at approximately 5:10 a.m., at or near the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois, Officer Erik V. Martinez, Star #17750, committed misconduct by continuing in a traffic pursuit, without justification.</p>	<p>Exonerated</p>
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance.
2. Rule 2: Any action which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

General Orders

1. General Order G03-03-01 (Emergency Vehicle Operations – Pursuits)¹

Federal Laws

1. 4th Amendment to the United States Constitution

State Laws

1. Constitution of the State of Illinois, Article I, Section 6

¹ See Section V, Subsection A: The decision to initiate a pursuit rests with the individual officer when encountering a motor-vehicle operator who refuses to voluntarily stop after having been lawfully directed or signaled to do so.

V. INVESTIGATION²

a. Interviews

In his interview with COPA on January 23, 2020,³ ██████████ **Complainant**, stated that on January 14, 2020, at approximately 5:08 a.m., he was travelling northbound on the I-94 Expressway and heading into downtown Chicago. He had entered the expressway at 83rd Street and was travelling with the flow of traffic. As he passed the Marquette Avenue exit (i.e. 67th Street), he observed a vehicle in his rearview mirror, but he could not identify it right away. He was travelling in the second lane from the right shoulder of the highway. The car he had observed then began to tailgate him. He thought the vehicle was a private security vehicle or an Illinois State Police vehicle. He didn't think it was a CPD vehicle. ██████████ was travelling in the express lanes at that time. He decreased his speed to 55 mph. He was approaching 47th Street, and the vehicle was still following him. ██████████ claimed that he wasn't doing anything wrong at the time. He then moved over to the right shoulder lane and decreased his speed again. He then realized that it was a CPD vehicle that was following him. The police vehicle moved on, not making any indication that he was going to pull him over. ██████████ then proceeded on his way. ██████████ then merged into traffic and the police vehicle moved behind him, and turned his lights on. At that point, both vehicles were in the express lanes. ██████████ then proceeded to pull over at the Cermak Road / Lake Shore Drive exit.

The police vehicle then pulled over and the officer approached him and repeatedly said, "If you want my attention, you got it."⁴ He described the officer as a white male, 5'7", 185, having black hair, and being approximately 25-30 years old. He had a CPD insignia on his uniform. The officer then asked for ██████████ driver's license and insurance. ██████████ complied. The officer then used a device to measure the tint in ██████████ vehicle's windows. The officer then went to his vehicle, and came back a few minutes later and attempted to hand ██████████ the citations. ██████████ asked him why he was pulled over and what authority the officer had. The officer pointed to his badge. ██████████ requested that a supervisor come to the scene, and the officer refused to contact a supervisor, and told ██████████ he would have to go to 1716 North State Street to see a supervisor. ██████████ then told the officer he was not accepting the tickets. The officer then threw the tickets onto ██████████ dashboard, along with ██████████ driver's license and insurance card. The officer walked away. ██████████ exited his vehicle and asked the officer for his name and badge number. The officer did not answer him and then pulled away. ██████████ took a video of the police vehicle with his cell phone.⁵ He believed the police vehicle's number was 5781.⁶ ██████████ also stated that he had a conceal-carry license, but did not provide that information to the officer because the officer did not ask for it.

██████████ then went to the police station at 1716 North State Street and filed a complaint. He received legible copies of the tickets he had been issued, because the ones he had received from

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachment #5

⁴ Attachment #5 at 13:36:37

⁵ See Attachments #2, #3, #4, #19 and #20

⁶ See Attachment #13, CPD A&A Sheet, where Officer Martinez was assigned to vehicle number 8751.

the officer he could not read. One of the tickets was for speeding, travelling 84 mph, which he stated was false. He admitted having tinted windows on his vehicle, but he contested the second ticket relating to tinted windows. He was unable to speak with a supervisor at that time, as a supervisor was not available.

In his interview with COPA on March 3, 2020,⁷ **Officer Erik V. Martinez, Star #17750**, stated that he is presently assigned to the Traffic Unit 145, and has been assigned to that unit for approximately three years. Officer Martinez was shown the CPD A&A Sheet for January 14, 2020, Watch 1, Unit 145,⁸ and identified his name thereon, and stated that he was on duty that day. His assignment was patrolling the Chicago Skyway from 67th Street to the Indiana state line. He was assigned to vehicle number 8751.

On the day of the incident, January 14, 2020, he was driving back to the station near the 67th Street exit on Northbound I-94 when he observed a vehicle speeding in the right-hand express lane of Northbound I-94. He then went to “check-off” and began following the vehicle. Officer Martinez was in the local lane. He did not have speed radar equipment, so he began “pacing” the vehicle, which was travelling well over the speed limit. He did not activate his lights, explaining that “pacing” a vehicle with the lights off does not constitute a pursuit. Once the lanes merged, he maneuvered behind the vehicle. The vehicle he was behind then slowed down, and appeared to be waiting for a safe area to pull over. This occurred between 67th Street and Cermak Road, at approximately 55th Street. Officer Martinez was going to let the vehicle go, but the vehicle did not pull over, and then “gunned it”, and took off. Officer Martinez pulled his vehicle behind the other vehicle and activated his lights. The vehicle did not pull over immediately, but finally pulled over at the location where the tickets were issued, near the Cermak Road exit on Northbound I-94.

Officer Martinez defined a pursuit as a situation where he activates his lights and siren, the motorist refuses to stop, and continues to accelerate, trying to flee a traffic stop. In this situation, the vehicle was not trying to flee a traffic stop, but was trying, instead, to slow down. He stated that when he was “pacing” the vehicle, which means he was travelling at the same speed of the vehicle, which he estimated was travelling at about 90 mph. He eventually wrote [REDACTED] a ticket for speeding.⁹ The speeding ticket was for 84 mph. Once stopped, he asked [REDACTED] for his driver’s license and insurance card, and [REDACTED] complied, but was belligerent throughout the encounter. [REDACTED] had stated that since Officer Martinez was not the State Police, he wasn’t authorized to stop him. Officer Martinez identified himself as CPD officer, and told him that he had the right to stop him. Also, Officer Martinez had used a window tint meter on [REDACTED] vehicle and to determine if there was a violation. After he had written the two tickets, one for speeding and one for tinted windows, he attempted to hand the tickets to [REDACTED] however, refused to take them, so he put the tickets on the dashboard of [REDACTED] vehicle, as [REDACTED] continued to be belligerent. He denied throwing the tickets onto the dashboard. [REDACTED] then asked to see a supervisor. Officer Martinez told him that he could go to 1718 South State Street to meet with a supervisor. He provided his star number to [REDACTED] He then walked away.

Officer Martinez identified his vehicle as number 8751. He stated that [REDACTED] had used his cell phone to record part of the interaction. He denied tailgating [REDACTED] vehicle. He also

⁷ Attachment #21

⁸ Attachment #13

⁹ Attachment #6

stated that his vehicle was not equipped with radar, and that is why he had been “pacing” [REDACTED] vehicle.

b. Digital Evidence

Video Recorded Interview of [REDACTED] at COPA on January 23, 2020¹⁰

Audio Recorded Interview of **Officer Erik V. Martinez, Star #17750**, at COPA on March 3, 2020¹¹

Cell Phone Video Footage of a Blue-and-White Police Vehicle pulling away into traffic, provided to COPA by [REDACTED] on January 23, 2020¹²

Cell Phone Video Footage of a Blue-and White CPD Unit, No. 8751, provided to COPA by [REDACTED] on January 23, 2020¹³

Digital Photograph of a Blue-and-White CPD Unit, no markings visible, provided to COPA by [REDACTED] on January 23, 2020¹⁴

c. Documentary Evidence

Traffic Citations, TU-202-048 for speeding, and TU-202-049 for a window tinting violation, issued to [REDACTED] on January 14, 2020, by Officer Erik V. Martinez, Star #17750¹⁵

Sworn Affidavit of [REDACTED] at COPA on January 23, 2020¹⁶

OEMC¹⁷ Event Query (Event No. 2001402201) for January 14, 2020 at 05:11:30, for a traffic stop at the 31st Street exit ramp at Lake Shore Drive, called in by Officer Erik V. Martinez, Star #17750¹⁸

CPD A&A Sheet for Unit 145, January 14, 2020, Watch 1¹⁹

¹⁰ Attachment #5

¹¹ Attachment #21

¹² Attachment #2

¹³ Attachment #3: Also see Attachment #13, the CPD A&A Sheet for January 14, 2020, Unit 145, Watch 1, which reflects that Car No. 8751 was assigned to Officer Erik V. Martinez.

¹⁴ Attachment #19: In his interview at COPA on January 23, 2020, [REDACTED] stated that he had taken this photograph from his cellular phone after he had been issued the traffic tickets in this investigation. The identification markings on the vehicle are not visible in the photograph.

¹⁵ Attachment #6

¹⁶ Attachment #10

¹⁷ OEMC is an acronym for the City of Chicago Office of Emergency Management and Communication.

¹⁸ Attachment #12: Officer Martinez is assigned PC No. PCOAL69, which is reflected on the Event Query.

¹⁹ Officer Erik V. Martinez, Star #17750, is listed as on duty and assigned to the Chicago Skyway.

PCAD Data Report relating to the traffic stop of [REDACTED] on January 14, 2020, by Officer Erik V. Martinez, Star #17750²⁰

VI. ANALYSIS

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.

Investigation in this matter has determined that on January 14, 2020, at approximately 5:10 a.m., [REDACTED] had been stopped for a speeding violation near the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois, by Officer Erik V. Martinez, Star #17750. [REDACTED] was subsequently issued two citations by Officer Martinez, one for speeding, and one for a window tinting violation. [REDACTED] however, claimed that he was not speeding, and that Officer Martinez had been illegally pursuing him from the 67th Street exit on Northbound I-94, and had subsequently illegally detained him.

With respect to the illegal detention allegation, **Allegation #1**, for [REDACTED] to prevail there must be a preponderance of the evidence (i.e. more likely than not) that [REDACTED] was not speeding, hence his detention would be unjustified. [REDACTED] was travelling alone in his vehicle during the incident, and can furnish no eye-witness testimony to corroborate his account of the incident. The

²⁰ Attachment #14: Officer Martinez is assigned PC No. PCOAL69, which is reflected on the PCAD Data Report.

incident was not captured on Body Worn Camera (BWC), as Unit 145 does not utilize BWC. It simply amounts to [REDACTED] version of the event versus the officer’s version. As such, this does not satisfy the requirement of preponderance of the evidence. Further, an officer may initiate a brief investigative traffic stop when he has “a particularized and objective basis” to suspect legal wrongdoing. See *United States v. Cortez*, 449 U.S. 411, 417. Also, a police officer may stop a vehicle if he has a reasonable suspicion that the vehicle has committed a traffic violation. See *People v. Timmsen*, 2016 IL 118181, ¶9, 50 N.E.3d 1092. According to Officer Martinez, he paced [REDACTED] vehicle in order to gauge its speed, and determined that [REDACTED] was travelling at approximately 84 mph. This clearly constitutes a speeding violation, and provided Officer Martinez with a “a particularized and objective basis” to effectuate a traffic stop, and this is exactly what Officer Martinez did.

As such, because a preponderance of the evidence has not been satisfied, **Allegation #1**, with respect to **Officer Erik V. Martinez, Star #17750**, should be deemed **NOT SUSTAINED**.

With respect to the illegal pursuit allegation, **Allegation #2**, [REDACTED] is confused as to what constitutes a traffic pursuit. [REDACTED] claimed that he was being tailgated by Officer Martinez from the 67th Street exit on Northbound I-94 until the time of the traffic stop. Officer Martinez, in his interview with COPA, explained that he was “pacing” [REDACTED] vehicle, in order to determine how fast [REDACTED] was travelling. He was not pursuing [REDACTED] because a pursuit involves activating his lights and siren after a motorist refuses to stop. [REDACTED] did not refuse to stop, and ultimately pulled over at a safe location. Further, [REDACTED] had slowed down at some point, but at no time had he pulled his vehicle over to the side of the highway until he was ultimately stopped. Per CPD General Order G03-03-01, Emergency Vehicle Operations – Pursuits, the decision to initiate a pursuit rests with the individual officer when encountering a motor-vehicle operator who refuses to voluntarily stop after having been lawfully directed or signaled to do so. [REDACTED] was not directed to stop by Officer Martinez until he was ultimately pulled over at the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois. When Officer Martinez had paced [REDACTED] vehicle from 67th Street to the point where [REDACTED] ultimately was pulled over, this was not a pursuit, as defined by General Order G03-03-01. As such, since there is clear and convincing evidence that Officer Martinez had not initiated a pursuit in this matter, illegal or otherwise, **Officer Erik V. Martinez, Star #17750**, should be **EXONERATED**, with respect to **Allegation #2**.

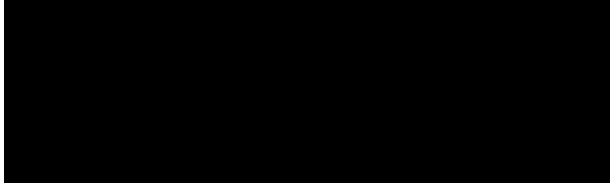
VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Erik V. Martinez	1. It is alleged by [REDACTED] that on or about January 14, 2020, at approximately 5:10 a.m., at or near the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois, Police Officer Erik V.	Not Sustained

	<p>Martinez, Star# 17750, committed misconduct by detaining [REDACTED] without justification.</p> <p>2. It is alleged by [REDACTED] that on or about January 14, 2020, at approximately 5:10 a.m., at or near the Northbound I-94 Expressway, Cermak Road / Lakeshore Drive Eastbound Exit, Chicago, Illinois, Police Officer Erik V. Martinez, Star #17750, committed misconduct by continuing in a traffic pursuit, without justification.</p>	<p>Exonerated</p>
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Approved:



Angela Hearts-Glass
Deputy Chief Investigator

10-20-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	████████████████████
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Angela Hearts-Glass