

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	November 20, 2019
Time of Incident:	8:55 AM
Location of Incident:	8515 S. Aberdeen Street
Date of COPA Notification:	November 20, 2019
Time of COPA Notification:	9:55 AM

On November 20, 2019, at approximately 8:55 AM, Officer Mohammad, working a one-man car in the 6<sup>th</sup> district as Beat 613, stopped complainant [REDACTED] for a traffic violation in the vicinity of 8500 S. Racine Ave. Mr. [REDACTED] alleged that he may was stopped without justification. [REDACTED] also alleges that his vehicle was searched without his consent.

**II. INVOLVED PARTIES**

Involved Officer #1:	Mohammad, Mohammad, star # 5623, employee ID# [REDACTED], Date of Appointment: April 16, 2018, Police Officer, Unit of Assignment: 006, DOB: [REDACTED] 1996, gender: Male, Race: White
Involved Individual #1:	[REDACTED] 1994, gender: Male, Race: Black

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Mohammad, Mohammad	1. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you stopped the vehicle of [REDACTED] without justification.	Exonerated
	2. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you searched the vehicle of [REDACTED] without justification.	Exonerated

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3. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you searched the vehicle of [REDACTED] and failed to issue an ISR.	Exonerated
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#### IV. APPLICABLE RULES AND LAWS

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##### 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 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
  3. Rule 6: Disobedience of an order or directive, whether written or oral.
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##### General Orders

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1. G01-01 – CPD Vision Mission Statement, and Core Values
  2. G02-01 – Human Rights
  3. G02-04 – Prohibition Regarding Racial Profiling and Other Bias Based Policing
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##### Federal Laws

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1. Fourth Amendment, United States Constitution
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##### State Laws

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1. MCC 9-24-10 (b); Stop Signs
2. 625 ILCS 5/11-502; Transportation or possession of Alcoholic Liquor in a motor vehicle.

#### V. INVESTIGATION

##### a. Interviews

In an interview with COPA<sup>1</sup> on November 21, 2019, [REDACTED] related that on November 20, 2019, at approximately 8:55 AM, he was stopped by a Chicago Police Officer for an alleged traffic violation, in the vicinity of 8500 S. Racine Ave. [REDACTED] alleged that he was stopped without justification. He also alleges that his vehicle was searched, although he told the officer he does not consent to having his vehicle searched.

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<sup>1</sup> Attachment #1, Audio Interview of [REDACTED]

**b. Digital Evidence****The Body Worn Camera (BWC) footage of Accused Officer Mohammad's camera<sup>2</sup>**

The BWC video shows Officer Mohammad as he exits his patrol vehicle, approaches the driver side of the vehicle he stopped, making contact with the driver, now known as [REDACTED] hands his driver license to Officer Mohammad.

Officer Mohammad engage in conversation with [REDACTED] "do you know why I pulled you over? You didn't stop at the stop sign at 86<sup>th</sup> Street." [REDACTED] responds, "rolling stop". Officer Mohammad advises [REDACTED] "it's supposed to be stop and then roll, it wasn't even a roll and stop I was sitting right there."<sup>3</sup>

While [REDACTED] is searching for his insurance information, Officer Mohammad ask, "you smoke sir?"<sup>4</sup> [REDACTED] respond saying yes. Officer Mohammad then says "Is there anything in the car right now?" [REDACTED] response is, "no sir, I'm on my way to work right now. Officer Mohammad asked "do you mind if I check", Mr. [REDACTED] responds say "no sir, I don't consent to my car being searched. Meanwhile Officer Mohammad request a back-up unit via his police radio.

Officer Mohammad ask again, "so there's nothing in the car I should know about?"<sup>5</sup> Before the driver could answer, the passenger interjected and stated "Honestly we smoked last night"<sup>6</sup>. Officer Mohammad advised [REDACTED] "I smell a strong smell of cannabis from this car."<sup>7</sup> [REDACTED] then stated, "I didn't say I don't smoke, I'm on my way to work."<sup>8</sup> The female passenger interjects again saying " we definitely smoke, we got real high last night, we being real with you."<sup>9</sup> Mr. [REDACTED] cuts her off and says "Fuck all that, you aint got to tell him all that."<sup>10</sup>

Officer Mohammad advises Mr. [REDACTED] "Sir, since I smell marijuana, I can search the car, your immediate area so step out for me please."<sup>11</sup> Mr. [REDACTED] exit the vehicle, Officer Mohammad advise him "I'm going to do a quick pat down."<sup>12</sup> Mr. [REDACTED] is visibly annoyed at this point. As he places his hands in front of his body to be handcuffed, although Officer never said her was being handcuffed, Mr. [REDACTED] asks "why am I being detained?"<sup>13</sup> Officer Mohammad states 'Sir, just turn around, you don't have anything on you do you?'<sup>14</sup> As Officer Mohammad is doing a protective pat-down, he feels an object in the pocket of the cargo pants, Mr. [REDACTED]

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<sup>2</sup> Attachment #2

<sup>3</sup> Attachment #2, Id at 8:57:40

<sup>4</sup> Attachment #2, Id at 8:58:18

<sup>5</sup> Attachment #2, Id at 8:58:20

<sup>6</sup> Attachment #2, Id at 9:00:03

<sup>7</sup> Attachment #2, Id at 9:00:07

<sup>8</sup> Attachment #2, Id at 9:00:10

<sup>9</sup> Attachment #2, Id at 9:00:14

<sup>10</sup> Attachment #2, Id at 9:00:17

<sup>11</sup> Attachment #2, Id at 9:01:30

<sup>12</sup> Attachment #2, Id at 9:01:52

<sup>13</sup> Attachment #2, Id at 9:01:54

<sup>14</sup> Attachment #2, Id at 9:01:30

identifies as solution for his contacts. While outside the vehicle, Officer Mohammad again explains to Mr. [REDACTED] "I smell marijuana an illegal substance in the vehicle."<sup>15</sup> Sir, relax if there is nothing, I won't issue any citations, I'll give you a stop receipt and you'll be on your way, is that ok?"<sup>16</sup> At this point, Mr. [REDACTED] then says, "There is an open bottle of whiskey, I'm not drunk, it's from two nights ago."<sup>17</sup>

Officer Mohammad then direct Mr. [REDACTED] and his female passenger to step over in front of his squad car. As Officer Mohammad begin to walk towards the vehicle of Mr. [REDACTED] to begin his search, Mr. [REDACTED] says "You don't have probable cause to search my vehicle because you smell marijuana, I know my laws but you do what you want to do. They changed that law over two years ago."<sup>18</sup>

While Officer Mohammad is performing a search of the car, an unmarked unit arrived, the driver, Officer Opacian, questioned Officer Mohammad on why he was searching a car without assistance. Officer Mohammad requested that Officer Opacian keep an eye on Mr. [REDACTED] and his female passenger.

During the search, Officer Mohammad observes marijuana residue on the driver side floor area.<sup>19</sup> He observes multiple blunt wrappers, scissors, commonly used to cut blunts in half, on the passenger side floor area.<sup>20</sup> He also recovered a half empty bottle of Jack Daniels from the passenger rear seat pocket.<sup>21</sup>

Officer Mohammad completes his search and place the liquor bottle on the truck of Mr. [REDACTED] car. He asks Mr. [REDACTED] if he is aware that he have weed residue all in the side door and on the floor. Officer Mohammad also advises Mr. [REDACTED] that he found open alcohol in the vehicle which he could legally tow the car but he doesn't plan to.<sup>22</sup>

The female passenger, now known as [REDACTED] says "Excuse me, can you tell me what's going on?"<sup>23</sup> Officer Mohammad explains, I pulled him (Mr. [REDACTED] over for running a stop sign, the car smell like weed, I search the car."<sup>24</sup> Mr. [REDACTED] interrupts and ask "what are the next steps?"<sup>25</sup> Officer Mohammad responds "I'm going to write you some tickets, that's what's going to happen."<sup>26</sup>

Officer Mohammad returns to his patrol vehicle to write tickets. He advises Officer Opacian that Mr. [REDACTED] and Ms. [REDACTED] can get back in the vehicle and wait for him to issue citations. Once

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<sup>15</sup> Attachment #2, Id at 9:02:16

<sup>16</sup> Attachment #2, Id at 9:02:23

<sup>17</sup> Attachment #2, Id at 9:02:34

<sup>18</sup> Attachment #2, Id at 9:02:53

<sup>19</sup> Attachment #2, Id at 9:04:35

<sup>20</sup> Attachment #2, Id at 9:04:52

<sup>21</sup> Attachment #2, Id at 9:05:43

<sup>22</sup> Attachment #2, Id at 9:06:41

<sup>23</sup> Attachment #2, Id at 9:11:06

<sup>24</sup> Attachment #2, Id at 9:11:13

<sup>25</sup> Attachment #2, Id at 9:11:24

<sup>26</sup> Attachment #2, Id at 9:11:57

Officer Mohammad completes the citations, he returns to the vehicle of Mr. [REDACTED] hands the citations to Mr. [REDACTED] explaining what they were for and the assigned court date. He then returns to his patrol vehicle, Mr. [REDACTED] pull off, end of stop.

### c. Documentary Evidence

An **Investigatory Stop Report (“ISR”)**# **ISR004231836**<sup>27</sup>, completed by Officer Mohammad, stated that [REDACTED] was pulled over for running a stop sign at approximately 8600 S. Morgan. [REDACTED] was issued a traffic citation for running a stop sign under #TU-047-127.

An **Investigatory Stop Report (“ISR”)**# **ISR004231840**<sup>28</sup>, completed by Officer Mohammad, stated that [REDACTED] was pulled over for running a stop sign at approximately 8600 S. Morgan. Officer Mohammad articulated his probable cause to search the vehicle of [REDACTED]. Thus, [REDACTED] was issued a traffic citation for transporting open alcohol under #TU-047-128.

**Assignment and Attendance Records**<sup>29</sup> showing that beat 0613 and vehicle 9323 was assigned to Officer Mohammad on November 20, 2019.

**Traffic Citation #TU-047-127**<sup>30</sup> issued for failure to stop at stop sign, **Traffic Citation #TU-047-128**<sup>31</sup> issued for illegal transportation of alcohol, both issued to [REDACTED] on November 20, 2019 by Officer Mohammad.

## 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*

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<sup>27</sup> Attachment #11

<sup>28</sup> Attachment #10

<sup>29</sup> Attachment # 7

<sup>30</sup> Attachment #12

<sup>31</sup> Attachment #12

*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

COPA makes a finding of **EXONERATED** for Allegation 1 made against Officer Mohammad that the he stopped the vehicle of [REDACTED] without justification.

Municipal Code of Chicago 9-24-10 (b)<sup>32</sup> When stop signs are erected as herein provided, every operator of a vehicle shall stop the vehicle at the sign or at a clearly marked stop line before entering the nearest crosswalk, if any, or the intersection, except when directed to proceed by a police officer or traffic control aide. In this case, Officer Mohammad observed Mr. [REDACTED] disobey the erected stop sign within the City of Chicago thus providing him probable cause to initiate a traffic stop and legal justification to issue a traffic citation accordingly.

Mr. [REDACTED] admits he did a "rolling stop"<sup>33</sup>, not a full stop, at the stop sign in question. His admission is captured on Officer Mohammad's BWC. Based on the foregoing, Officer Mohammad was within CPD policy to perform a traffic stop. Therefore, this allegation should be **EXONERATED**.

COPA makes a finding of **EXONERATED** for Allegation 2 made against Officer Mohammad that the he searched the vehicle of [REDACTED] without justification.

While performing a traffic stop, Officer Mohammad reasonably believed marijuana was inside the vehicle based on the fresh smell of cannabis emanating from the vehicle. Officer Mohammad notified the driver several times of his suspicion, including a verbal statement from the driver confirming that marijuana was used in the vehicle recently, and from the passenger who stated that the two of them "got real high last night"<sup>34</sup>. Additionally, Mr. [REDACTED] volunteered that he had an open bottle of whiskey in his car<sup>35</sup>. Thus, acting according to plain smell and the statements of Mr. [REDACTED] and his passenger, Officer Mohammad had probable cause to conduct a search of a subject vehicle.

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<sup>32</sup> Municipal Code of Chicago, Stop Signs

<sup>33</sup> Attachment #2, *Id* at 8:57:40

<sup>34</sup> Attachment #2, *Id* at 9:00:14

<sup>35</sup> Attachment #2, *Id* at 9:02:34

Based on the foregoing, Officer Mohammad was within CPD policy to perform a search of the vehicle. Therefore, this allegation should be **EXONERATED**.

COPA makes a finding of **EXONERATED** for Allegation 3 made against Officer Mohammad that the he failed to issue an Investigatory Stop Receipt to [REDACTED] on November 20, 2019.

Chicago Police Department Special Order S04-13-09, Investigatory Stop System requires officers to issue a stop receipt when no other document captures the reason for the detention. Mr. [REDACTED] received two traffic citations documenting the purpose of his stop, therefore a receipt is not issued. In fact, Officer Mohammad documented the stop and the search on separate ISR numbers. ISR#004231840 and ISR#004231836 clearly articulate the reason for the traffic stop and further identifies the probable cause used to perform a protective pat-down and vehicle search of Mr. [REDACTED]

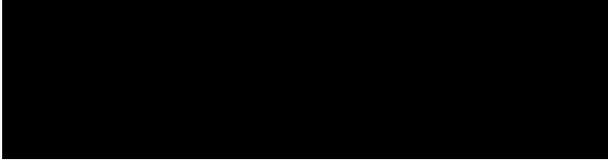
Based on the foregoing, Officer Mohammad was within CPD policy to issue traffic citations and not complete an Investigatory Stop Receipt for Mr. [REDACTED]. Therefore, this allegation should be **EXONERATED**.

**VIII. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Mohammad, Mohammad	1. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you stopped the vehicle of [REDACTED] without justification.	Exonerated
	2. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you searched the vehicle of [REDACTED] without justification.	Exonerated
	3. It is alleged that on November 20, 2019 at approximately 8:55am in the vicinity of 8500 S. Racine Ave. you searched the vehicle of [REDACTED] and failed to issue an ISR.	Exonerated

Approved:



5-7-2020

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Angela Hearts - Glass  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Investigator:</b>	John Robinson
<b>Supervising Investigator:</b>	Andrew Dalkin
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass