

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 29, 2018
Time of Incident:	1:13 a.m.
Location of Incident:	124 W. 75 th Street, Chicago, IL 60620
Date of COPA Notification:	April 2, 2018
Time of COPA Notification:	4:56 p.m.

Officers Kristopher Schultz and Stanislaw Smalec observed ██████████ pull away from a parked position without using a turn signal on March 29, 2018, at approximately 1:30 a.m., near 124 W. 75th Street, in Chicago, Illinois. Officer Schultz and Officer Smalec curbed ██████████'s vehicle, and issued him traffic citations. When Officer Schultz returned to ██████████'s vehicle to hand him the citations, ██████████ had two cell phones in his hand. Officer Schultz explained what the tickets were for and the court process, and held out the tickets to ██████████, but ██████████ did not take them. Officer Schultz released them into the car after holding them out for several seconds, then returned to the police vehicle. ██████████ asked for the officer's identification and Officer Schultz gave him his star number before returning to the vehicle for the final time.

██████████ filed a complaint with COPA, alleging that Officer Schultz was rude and unprofessional when he "threw" the tickets at ██████████, unlawfully detained ██████████, and failed to identify himself when ██████████ requested. COPA's investigation did not reveal misconduct by Officer Schultz.

II. INVOLVED PARTIES

Involved Officer #1:	Kristopher Schultz, Star# 12531, Employee ID# ██████████, Date of Appointment: October 31, 2012, PO, Unit of Assignment: 180, DOB: ██████████, 1985, Male, White Hispanic.
Involved Individual #1:	██████████, DOB: ██████████, 1991, Male, Black.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Kristopher Schultz	<p>It is alleged that on 29 March 2018, at approximately 0113 hours, in the vicinity of 124 W. 75th Street you:</p> <ol style="list-style-type: none"> 1. Were rude and unprofessional to ██████████, in that you threw a citation and other documents into his car window; 2. Conducted an improper traffic stop of ██████████; 3. Failed to properly identify himself when ██████████ requested you do so. 	<p>Unfounded</p> <p>Not Sustained</p> <p>Unfounded</p>

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.
3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
4. Rule 37: Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

Special Orders

1. Special Order: 04-13-09: Investigatory Stop System

V. INVESTIGATION¹

a. Interviews

██████████ (“██████████”) provided a statement to COPA on April 2, 2018.² ██████████ said he was leaving a local nightclub on March 28, 2018, when he noticed a ticket on his front windshield. The ticket was issued for parking in front of a fire hydrant. ██████████ said he noticed an unmarked black Crown Victoria across the street when he entered his vehicle to leave the area. Almost immediately, the unmarked vehicle turned on its sirens and lights. ██████████ pulled over and

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 Att. 4.

an officer (now known to be Officer Schultz) approached the driver's window, while another officer (now known to be Officer Smalec) approached the passenger window. ██████ asked why he was pulled over and was told that he was parked in front of a fire hydrant. ██████ said he told Officer Schultz that he received a ticket for that already. ██████ handed Officer Schultz his license and insurance and the officers returned to their car.

██████ stated that when Officer Schultz returned to the vehicle, he tossed the traffic citations into the vehicle and started to return to the police vehicle. ██████ then asked Officer Schultz for his star number. ██████ said the officer gave the wrong badge number since it did not match what was on the tickets he received on March 28, 2018. ██████ also stated that Officer Schultz returned to ██████'s vehicle immediately with ██████'s insurance cards and dropped them into the vehicle. As Officer Schultz was walking away, ██████ said he asked the officer for his business card, but Officer Schultz responded that he did not have one because he is not a business owner.

██████ stated to COPA that neither officer had their body-worn cameras on, nor did they state whether they were on or not. ██████ did not interact with the Officer Schultz's partner at all during the interaction. ██████'s sister was later ticketed by Officer Schultz that same night, but he could not remember what the ticket was for.

Officer **Kristopher Schultz** provided a statement to COPA on July 10, 2018, during which he stated the following.³ On March 29, 2018, he witnessed ██████ commit a traffic violation when he pulled away from a parallel position without using a turn signal. Officer Schultz turned on his unmarked vehicle's sirens and lights and curbed the vehicle. Officer Schultz requested and received ██████'s license and insurance. Officer Schultz ran a name check on ██████, and when it came back clear, he returned to ██████'s vehicle to hand him the traffic citations.

Officer Schultz related that upon returning to ██████'s vehicle, ██████ had two cell phones and appeared to be recording the interaction. Officer Schultz explained the court process to ██████ while holding out the citations for ██████ to take. Officer Schultz placed the citations through the car window after giving ██████ an opportunity to take the citations.

Officer Schultz stated that he identified himself to ██████ by his star number at ██████'s request. ██████ also requested a business card, but Officer Schultz relayed that he does not carry business cards, nor does the Chicago Police Department issue business cards.

Officer Schultz denied that he threw traffic citations at ██████, conducted an unlawful traffic stop, and failed to identify himself upon ██████'s request.

Officer Stanislaw Smalec provided a statement to COPA on July 10, 2018, during which he stated the following.⁴ On March 29, 2018, he was on patrol with his partner Kristopher Schultz when they witnessed ██████ pull away from a parallel parked position in front of a fire hydrant without using a turn signal. Officer Smalec stated that they curbed the vehicle. While Officer Schultz approach the vehicle on the driver side, Officer Smalec approached from the passenger side. ██████ did not roll down the passenger window. Officer Schultz and Officer Smalec returned to their vehicle after receiving ██████'s license and insurance.

³ Att. 20.

⁴ Att. 21.

Upon returning to the vehicle, Officer Smalec stated that he and Officer Schultz had a discussion about what citations to issue. Officer Smalec wrote two citations: one for driving without insurance, and the other for pulling away from a parked position without signaling. Officer Smalec handed the citations to Officer Schultz to give to [REDACTED]. Both Officer Smalec and Officer Schultz left their vehicle and returned to [REDACTED]'s vehicle to hand [REDACTED] the traffic citations. Again, Officer Schultz approached alongside the driver side, and Officer Smalec approached alongside the passenger side. When they returned to [REDACTED]'s vehicle, [REDACTED] was holding a cell phone in each hand and appeared to be recording the encounter. Officer Schultz held out the traffic citations for approximately 30 second to a minute for [REDACTED] to take, while also explaining the court process. Officer Schultz released the tickets and they slid down the door after [REDACTED] did not take the citations. Officer Smalec [REDACTED] request Officer Schultz for identification as he and Officer Schultz walked away. Officer Schultz provided his star number. [REDACTED] also requested a business card, but neither Officer Schultz nor Officer Smalec have business cards since the Chicago Police Department does not issue them.

b. Digital Evidence

Body Worn Camera (“BWC”) video from Officer Schultz⁵ shows him approach [REDACTED]'s vehicle and ask for [REDACTED]'s license and insurance. The blue emergency lights from the officers' car are visible. [REDACTED] asks why he was being pulled over, and Officer Schultz states that [REDACTED] was parked in a fire lane. [REDACTED] hands Officer Schultz some items, including what appear to be a driver's license and insurance, and Officer Schultz returns to his vehicle for several minutes, and talks with Officer Smalec about traffic citations. One of the items Officer Schultz is holding is titled “Insurance Identification Card” and has an expiration date of February 2, 2018.⁶ Officer Schultz is also heard speaking with an individual who seemed to be on the street during this time.

Officer Schultz returns to [REDACTED]'s vehicle and hands [REDACTED] the traffic citations. [REDACTED] appears to be holding a cell phone in each hand. Officer Schultz holds out the traffic tickets to [REDACTED] while explaining what the tickets are for and the court process. Officer Schultz holds out the tickets for [REDACTED] to take for several seconds, but [REDACTED] does not take the citations. Officer Schultz then releases the tickets into the car and returns toward his vehicle. [REDACTED] is heard asking Officer Schultz for his star number, and Officer Schultz responds “It's on there. 12531.”⁷ Officer Schultz returns to [REDACTED]'s vehicle to return an item, and [REDACTED] asks him for a card. Officer Schultz replied that he does not carry a business car because he is not a business owner. As Officer Schultz returns to the police vehicle, [REDACTED] tells Officer Schultz that the officer is throwing things at him, to which Officer Schultz responds “Have a good night, sir. Well, next time you'll put it in your hand, alright?”⁸ Officer Schultz entered the police vehicle and the BWC ends.

Officer Smalec's **BWC** corresponds to the Accused's when both Officer Smalec and Officer Schultz are in the car.⁹ Officer Smalec's BWC shows him standing at the passenger side of Mr. [REDACTED]'s car door, but nothing distinguishable can be heard or seen.

⁵ Att. 26, file name “Schultz Kristopher_AXON_Body_2_Video_2018-03-29_0129-2.”

⁶ *Id.*, beginning at 1:47.

⁷ *Id.*, at 10:46.

⁸ *Id.*, at 11:00.

⁹ Att. 27.

Mr. █████ submitted an 18 second video to COPA.¹⁰ The video captures the initial contact between Officer Schultz and Mr. █████. The video only shows Mr. █████'s face. In the video, Mr. █████ can be heard asking why he was pulled over. Officer Schultz respond that he was parked in a fire lane. Mr. █████ states that he has already received a ticket from Officer Schultz for that offense, to which Officer Schultz asks Mr. █████ if he's sure Officer Schultz gave him that ticket. Mr. █████ responds in the affirmative.

c. Documentary Evidence

Mr. █████ submitted the three tickets that were given to him on the date and time in question.¹¹ The moving violation tickets / citations are for (1) changing lanes without signaling; and (2) operating an uninsured motor vehicle.¹² The third ticket (a parking ticket) was written by Officer Smalec and issued for parking within 15 feet of a fire hydrant.¹³

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

¹⁰ Atts. 23 and 24.

¹¹ Att. 8 (City of Chicago Violation Notice (commonly referred to as a parking ticket)), and Atts. 9 and 10 (moving violation citations).

¹² Atts. 9 and 10. See also, Att. 27 (Circuit Court of Cook County Traffic Case Inquiry).

¹³ Att. 8.

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 Allegations #1 UNFOUNDED. The BWC shows Officer Schultz interacting with ██████ and captures the entirety of the encounter. Officer Schultz maintains a professional demeanor throughout the encounter by courteously addressing ██████ and taking steps to explain why ██████ had been pulled over (albeit not a citation that was issued during that traffic stop), what the tickets were for, and the subsequent court process. Further, while ██████ characterizes Officer Schultz as “throwing” the tickets, the BWC does not corroborate this characterization. Officer Schultz holds the tickets out for several seconds, more the sufficient time for ██████ to accept the documents. It becomes clear that ██████ will not take the tickets since each of his hands holds a cell phone and makes no attempt to take hold of the tickets being presented to him. Officer Schultz opens his hands and lets the tickets fall into ██████’s vehicle, apparently on his lap. Officer Schultz does this only once it becomes clear that ██████ will not take the tickets on his own. While ██████ can be heard saying Officer Schultz was throwing stuff, when Officer Schultz returns to give ██████ an additional item, there is no evidence to support that claim. While the BWC video does not fully capture that exchange, the shadow of Officer Schultz’s arm as he gives the final item to ██████ does resemble anything close to a throwing motion. BWC demonstrates that Officer Schultz’s actions clearly and convincingly do not rise to the level of “unprofessionalism,” and support a finding of unfounded.

COPA finds Allegation #2, NOT SUSTAINED. ██████ alleges that he was unlawfully pulled over by Officer Schultz and ticketed for not using a turn signal when pulling away from the curb. ██████ had already received a ticket for parking in front of a fire hydrant earlier in the night, however, there is insufficient evidence to prove by a preponderance of the evidence that ██████ did or did not use his turning signal when pulling away from the curb. There is no video evidence that captures ██████’s vehicle pulling away. ██████’s credibility is limited since his statement to COPA was not always corroborated by BWC. Conversely, Officer Schultz credibility was bolstered since his statement being largely corroborated by BWC. Without further evidence, such as video or photographic, that captures the moment ██████’s vehicle, pulled away from the curb however, there is insufficient evidence to prove by a preponderance of the evidence ██████’s allegation, and therefore COPA finds this allegation is not sustained.

COPA finds Allegations #3 UNFOUNDED. Rule 37 in CPD’s Rules and Regulations requires Department members to correctly identify themselves by name, rank and star number upon request. ██████ stated to COPA that Officer Schultz gave the incorrect star number when ██████ requested. COPA rejects the notion that Officer Schultz gave a false star number. ██████ requested Officer Schultz provide his star number. Officer Schultz correctly verbally stated his star number. The star number on the tickets, the number that ██████ appears to believe are false, belong to Officer Smalec, not to Officer Schultz. While Officer Schultz provided his correct star number upon request, he did also state that his star number was also on the citations that he provided to ██████. While the statement was not accurate, the star number provided was clearly stated. COPA is unable to apply any malintent to the additional statement that the star number was also on the tickets and finds this allegation to be unfounded.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer Kristopher Schultz	<p>It is alleged that on 29 March 2018, at approximately 0113 hours, in the vicinity of 124 W. 75th Street you:</p> <ol style="list-style-type: none"> 1. Were rude and unprofessional to [REDACTED], in that he threw a citation and other documents into his car window; 2. Conducted an improper traffic stop of [REDACTED]; 3. Failed to properly identify himself when [REDACTED] requested you do so. 	<p>Unfounded</p> <p>Not Sustained</p> <p>Unfounded</p>

Approved:

[REDACTED]

4-30-2021

 Angela Hearts-Glass
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	Ziyad Almutairi
Supervising Investigator:	Loren Seidner
Deputy Chief Administrator:	Angela Hearts-Glass