

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 24, 2019
Time of Incident:	01:50 a.m.
Location of Incident:	2327 E. 91 <sup>st</sup> Street
Date of COPA Notification:	December 24, 2019
Time of COPA Notification:	03:45 a.m.

On December 24, 2019, at approximately 01:50 a.m., Officers Cosgrove and Lopez, who were assigned to Beat 413R, responded to a domestic call at Citgo Gas Station, located at 9155 S. Stony Island Avenue. The gas station attendant reported that a black male, now known to be [REDACTED] was beating a white female, now known to be [REDACTED]. When the officers arrived at the gas station, they observed a red Dodge Charger<sup>1</sup> with tinted windows exiting the gas station. [REDACTED] made a right turn onto Stony Island Avenue and drove north towards 91<sup>st</sup> Street. The officers, who were driving a marked police SUV, proceeded to follow [REDACTED] vehicle, activated their lights and sirens, and turned on the spotlight towards [REDACTED] vehicle. Officers Cosgrove and Lopez alerted dispatch that [REDACTED] appeared to be calling for help because she had opened and closed the front passenger door a couple of times.

[REDACTED] fled from the officers and made a right turn, heading east on 91<sup>st</sup> Street. [REDACTED] drove at a high rate of speed and disregarded several stop signs and a stop light on 91<sup>st</sup> Street and Jeffery Boulevard. The officers lost sight of [REDACTED] vehicle after he ran the stop light on 91<sup>st</sup> Street and Jeffery Boulevard. Officers Cosgrove and Lopez continued driving eastbound on 91<sup>st</sup> Street. When the officers arrived at the intersection of 91<sup>st</sup> and Oglesby Avenue, they observed a red Dodge Charger<sup>2</sup> with severe front damage. The officers initially believed that the vehicle belonged to [REDACTED] but located [REDACTED] vehicle several feet ahead. [REDACTED] had struck a total of three vehicles<sup>3</sup> parked near the intersection. [REDACTED] was ejected from his vehicle and [REDACTED] was found in the backseat of [REDACTED] vehicle. [REDACTED] and [REDACTED] were both transported to University of Chicago Hospital via ambulance. [REDACTED] was pronounced deceased at the hospital.

<sup>1</sup> This vehicle was registered to [REDACTED] and had license plate # [REDACTED]

<sup>2</sup> This was not [REDACTED] vehicle. This vehicle had license plate # [REDACTED] and was registered to [REDACTED].

<sup>3</sup> [REDACTED] struck the red Dodge Charger registered to [REDACTED] a gray Dodge Charger with license plate # [REDACTED] registered to [REDACTED], and a black Nissan Rogue with license plate # [REDACTED] registered to [REDACTED].

**II. INVOLVED PARTIES**

Involved Officer #1:	COSGROVE, Brittany; #8277; Emp. # [REDACTED] Date of Appointment: July 17, 2017; Police Officer; Unit of Assignment: 004; DOB: [REDACTED] 1993; White/Female; On-Duty.
Involved Officer #2:	LOPEZ, Jesse; #18334; Emp. # [REDACTED] Date of Appointment: February 16, 2017; Police Officer; Unit of Assignment: 004; DOB: [REDACTED], 1988; Hispanic/Male; On-Duty.
Involved Individual #1:	[REDACTED]; DOB: [REDACTED], 1979; Black/Male.
Involved Individual #2:	[REDACTED]; DOB: [REDACTED] 1991; White/Female.

**III. ALLEGATIONS**

Pursuant to section 2-78-120(d) of the Municipal Code of Chicago, the Civilian Office of Police Accountability (“COPA”) has the duty to investigate incidents, including those in which no allegation of misconduct is made, where a person dies as a result of police actions, such as during attempts to apprehend a suspect. COPA is also required to conduct investigations for all “officer-involved” deaths under the Police and Community Relations Improvement Act.<sup>4</sup> “Officer-involved death,” as defined in that statute, “includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.”<sup>5</sup> As a result of its investigation, COPA made the following allegations and findings:

Officer	Allegation	Finding / Recommendation
Officer Brittany Cosgrove	1. Failed to timely activate your body-worn camera in violation of Special Order S03-14 (III)(A).	Sustained/ 3-day suspension
	2. Failed to comply with Department <sup>6</sup> procedures when a pursuit was initiated, in violation of General Order G03-03-01 (V)(C).	Not Sustained
	3. Failed to comply with Department procedures when a pursuit was initiated, in violation of General Order G03-03-01 (VI)(A)(1)(a).	Not Sustained

<sup>4</sup> 50 Illinois Compiled Statutes (“ILCS”) 727.

<sup>5</sup> 50 ILCS 727/1-5.

<sup>6</sup> “Department” means the Chicago Police Department.

<p>Officer Jesse Lopez</p>	<ol style="list-style-type: none"> <li>1. Failed to timely activate your body-worn camera in violation of Special Order S03-14 (III)(A).</li> <li>2. Failed to comply with Department procedures when a pursuit was initiated, in violation of General Order G03-03-01 (VI)(A)(1)(a).</li> </ol>	<p>Sustained/3-day suspension</p> <p>Not Sustained</p>
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**IV. APPLICABLE RULES AND LAWS**

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Chicago Police Department Rules<sup>7</sup>

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1. Rule 6: Disobedience of an order/directive, whether written or oral
  2. Rule 10: Inattention to duty.
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Chicago Police Department General Order(s)<sup>8</sup>

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1. General Order G03-03: Emergency Use of Department Vehicles (*effective* June 1, 2003 to present)
  2. General Order G03-03-01: Emergency Vehicle Operations – Pursuits (*effective* April 9, 2019 to August 15, 2020)
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Chicago Police Department Special Order(s)

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1. Special Order S03-14: Body Worn Cameras (*effective* April 30, 2018 to present)

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<sup>7</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>.

<sup>8</sup> Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/directives/> (last accessed May 18, 2021).

## V. INVESTIGATION

### a. Interviews

COPA made several unsuccessful attempts to interview the witness, [REDACTED]. [REDACTED] did not provide a statement to COPA.

**In a statement to COPA on March 9, 2020, Officer Brittany Cosgrove<sup>9</sup>** stated that on the date of the incident she and Officer Lopez were working Beat 413R. Officer Cosgrove stated she was the driving officer, and they were in a marked vehicle. While on patrol, Officers Cosgrove and Lopez were dispatched to a call of a battery in progress at the Citgo gas station located at 9155 South Stony Island Avenue. The dispatcher reported that a Black male ([REDACTED]) in a red Dodge Charger was beating a White female ([REDACTED]) near pump 3 of the gas station.

When Officer Cosgrove arrived at the Citgo gas station, she observed [REDACTED] Dodge Charger pulling out of the gas station lot. The Dodge Charger turned onto Stony Island Avenue, heading northbound, and Officer Cosgrove activated her lights to stop the vehicle. As [REDACTED] Dodge Charger appeared to slow down, Officer Cosgrove observed [REDACTED] in the front seat of the vehicle waving her hands out the window. [REDACTED] was opening the front passenger door repeatedly while sticking half her body out. Officer Cosgrove believed that [REDACTED] was trying to get out of the car or trying to jump from the car. Officer Cosgrove then activated her sirens<sup>10</sup> as [REDACTED] Dodge Charger turned east onto 91<sup>st</sup> Street. [REDACTED] continued to open the front passenger door as the Dodge Charger fled.<sup>11</sup>

When Officer Cosgrove turned eastbound on 91<sup>st</sup> Street, she observed [REDACTED] car fleeing at a high rate of speed.<sup>12</sup> As Officer Cosgrove pursued the vehicle,<sup>13</sup> Officer Lopez radioed to notify the dispatcher. Officer Cosgrove pursued [REDACTED] because she was concerned for the wellbeing of [REDACTED]. When [REDACTED] car approached the intersection of 91<sup>st</sup> and Jeffery, [REDACTED] drove through the red light. Officer Cosgrove approached the same intersection, stopped her marked vehicle, and cleared the intersection. Officer Cosgrove then lost sight of [REDACTED] Dodge Charger. Officer Cosgrove continued east on 91<sup>st</sup> Street in hopes that she would locate [REDACTED] Dodge Charger.

A short distance later, at approximately 9100 S. Oglesby Avenue, Officer Cosgrove observed a red Dodge Charger<sup>14</sup> on the north side of 91<sup>st</sup> Street. The vehicle appeared to have been parked and possibly hit from the front. Officer Cosgrove started looking in the vehicle because she assumed [REDACTED] and [REDACTED] were somewhere in the vehicle. Officer Cosgrove continued to look in the area and observed additional vehicles had been in a crash. Officer Cosgrove ran over and observed [REDACTED] Dodge Charger and an SUV east of the intersection of 9100 S. Oglesby. Officer

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<sup>9</sup> Attachment 60 is the audio interview and Attachment 62 is the transcript for the audio interview.

<sup>10</sup> The lights on the officers' marked vehicle were still activated.

<sup>11</sup> Officer Cosgrove stated [REDACTED] opened the car door approximately three times.

<sup>12</sup> Officer Cosgrove could not estimate the Dodge Charger's speed.

<sup>13</sup> Officer Cosgrove did not know what speed she was going but stated it was over 40 mph.

<sup>14</sup> This was not [REDACTED] Dodge Charger.

Cosgrove then observed [REDACTED] lying on the ground faceup.<sup>15</sup> Officer Lopez then requested an ambulance to come to the scene.

Officer Cosgrove stated that she proceeded through intersections by making sure to look ahead of where she was going at all times, making sure that she could see around corners beyond the stop signs, and making sure that no one was walking by.<sup>16</sup> It was 2 o'clock in the morning and she knew naturally there was not a lot of traffic in the area at that time. She did not stop at the stop signs because she was attempting to catch up with the Dodge Charger and she did not want [REDACTED] to get hurt. Officer Cosgrove felt she made sure that the intersection and stop signs were safe to proceed through, in order to try to get to [REDACTED].<sup>17</sup> During the pursuit Officer Lopez was communicating with the Office of Emergency Management & Communications (OEMC) and Officer Cosgrove believed that he provided the location and direction of travel to the dispatcher, but she could not recall if Officer Lopez gave the speed. Officer Cosgrove stated that she and Officer Lopez both had their eyes on the road, and she does not believe she even looked at her speed.

Officer Cosgrove activated her body-worn camera when she saw the traffic crash, because she noticed that she did not have it on. Officer Cosgrove stated she did not notice that her body-worn camera was not on and did not think about it due to the high stress situation that was going on. Due to the high speed that she was driving, she wanted to operate her marked vehicle in a safe manner, so she kept both hands on the wheel, which prevented her from activating her body-worn camera.

**In a statement with COPA on March 9, 2020, Accused Officer Jesse Lopez<sup>18</sup>** stated that on the date of the incident he and Officer Cosgrove were travelling eastbound on 95<sup>th</sup> Street when they received a dispatched call of a battery in progress at the Citgo gasoline station at 9155 S. Stony Island Avenue. The gas station attendant reported that [REDACTED] was beating [REDACTED] in a red Dodge Charger at pump number 3. The officers headed in that direction and Officer Cosgrove activated the lights and sirens due to the nature of the call. As the officers approached the Citgo gas station, Officer Cosgrove deactivated the lights of their marked vehicle. Officer Lopez observed a red Dodge Charger that was described in the dispatch call pulling out of the gas station and turned right onto Stony Island Avenue to travel northbound.<sup>19</sup> [REDACTED] Dodge Charger was going at a very slow rate of speed and Officer Cosgrove activated the lights and sirens. Officer Lopez then observed [REDACTED] wave her arms out of the front passenger's side window. Officer Lopez believed that [REDACTED] was waving for help because it was completely unnatural for somebody to just wave hello.<sup>20</sup>

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<sup>15</sup> Officer Cosgrove did not initially know [REDACTED] was the driver of the Dodge Charger she was pursuing.

<sup>16</sup> Officer Cosgrove clarified she was trying to see the actual stop signs before she got to the intersection and was looking for any pedestrians and other vehicles.

<sup>17</sup> Officer Cosgrove stated at the time of the pursuit the weather was cold and clear, it was dark but the road was lit with streetlights, and there was no vehicle or pedestrian traffic.

<sup>18</sup> Attachment 61 is the audio interview and Attachment 63 is the transcript for the audio interview.

<sup>19</sup> Officer Lopez stated he could not see into the Dodge Charger because it had very dark window tint.

<sup>20</sup> Officer Lopez described the wave as frantic, which, according to Office Lopez, indicated a clear sign for help.

████████ Dodge Charger started to accelerate, and the front passenger door of the vehicle opened. ██████████ was frantically waving her arms while exposing her torso and upper body outside of the vehicle. ██████████ Dodge Charger turned right onto 91<sup>st</sup> Street and traveled eastbound. The officers pursued the vehicle and ██████████ Dodge Charger accelerated at a very high rate of speed. Officer Lopez announced over the radio that a female, ██████████ appeared to be in distress and was calling for help. Officer Lopez also reported that ██████████ Dodge Charger was taking off and was disregarding the intersection crossings.<sup>21</sup> Officer Lopez stated that Officer Cosgrove drove through stop signs in pursuit of the Dodge Charger because they felt ██████████ was in danger and was in dire need of help. Officer Lopez stated that upon initiating, and during the pursuit, he and his partner took into account the weather conditions, the road conditions, the traffic conditions, pedestrian traffic, the nature of the crime, and whether or not they had a named offender, which they did not. Officer Lopez stated that the weather was clear and cold, there was no pedestrian or vehicle traffic, and it was dark but light road conditions.

████████ Dodge Charger continued disregarding stop signs as it continued to accelerate in speed. When ██████████ Dodge Charger approached a red light at 91<sup>st</sup> and Jeffery, the vehicle completely disregarded the red light. When the officers approached the same light, they came to a complete stop to make sure that there was no traffic in the area so they would not cause an accident. The officers then lost sight of ██████████ Dodge Charger. Officer Lopez believed he announced that the vehicle may have turned to go southbound, because it was no longer in sight. The officers continued to go east on 91<sup>st</sup> Street for several more blocks, at which point they discovered a major crash scene on Oglesby Avenue. Officer Lopez observed a red Dodge Charger that was heavily damaged about its front end and a gray Dodge Charger was on a front lawn nearby with heavy damage. The officers believed that the red Dodge Charger they first saw was the vehicle they were pursuing so they searched the area for ██████████ and ██████████. Officer Lopez then observed Officer Cosgrove looking at a secondary crash nearby and observed ██████████ lying faceup on the ground. Officer Lopez then observed ██████████ Dodge Charger.

Officer Lopez stated that during the pursuit, the Dodge Charger was at least going over 50 mph, as was Officer Cosgrove. Officer Lopez stated he did not report Officer Cosgrove's speed because he was focused on ██████████ Dodge Charger. Officer Lopez believed he was supposed to give the speed of the Dodge Charger and his marked vehicle. Officer Lopez stated he did not give the speed of either vehicle due to the surrounding circumstances and it was something that unfolded very quickly and was over very quickly.<sup>22</sup> Officer Lopez stated that he activated his body-worn camera as soon as he recalled. He did not activate his body-worn camera at the start of the pursuit because adrenalin took over and because he was worried about his own safety and his partner's safety, as well as the safety of ██████████ who they were attempting to rescue.

#### **b. Digital Evidence**

**Citgo gas station video**<sup>23</sup> depicts ██████████ red Dodge Charger pulling up at the gas station at 23:22:55. ██████████ exits his vehicle at 23:28:25. ██████████ is back and forth from his vehicle to

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<sup>21</sup> There's a woman frantically waving her arms calling for help. Statement of Officer Jesse Lopez dated March 9, 2020 at pg20, lines 5-6

<sup>22</sup> Officer Lopez stated it did not come to his mind to provide the speed.

<sup>23</sup> Attachment 30.

inside the gas station during the entirety of video. [REDACTED] exits the vehicle at 23:37:33 and enters the gas station. [REDACTED] walks out of the gas station and leaves the gas station premises. [REDACTED] returns and gets back into [REDACTED] Dodge Charger at 23:43:19. There appears to be a physical altercation, in the vehicle, between [REDACTED] and [REDACTED] at 23:49:48. [REDACTED] opens up the passenger door to exit and [REDACTED] appears to struggle with [REDACTED] to keep her in the vehicle. [REDACTED] closes the passenger door, but [REDACTED] manages to exit the vehicle and enters the gas station. [REDACTED] follows [REDACTED] inside the gas station. [REDACTED] grabs [REDACTED] from behind in the gas station and causes her to fall at 23:53:10. [REDACTED] and [REDACTED] exit the gas station and get into [REDACTED] vehicle. [REDACTED] drives off at 23:54:53 as Officers Cosgrove and Lopez are about to turn into the gas station. Officers Cosgrove and Lopez change their direction and continue to drive north on Stony Island Avenue while activating their emergency lights.

**In-Car Camera footage from Beat 413R**<sup>24</sup> depicts Officers Cosgrove and Lopez arriving at Citgo Gas Station in their car. [REDACTED] vehicle, a red Dodge Charger, was initially at a gas pump, but the vehicle immediately drives away. Officers Cosgrove and Lopez start to turn into the gas station, but [REDACTED] Dodge Charger exits onto Stony Island Avenue. [REDACTED] Dodge Charger travels north on Stony Island Avenue and Officer Cosgrove and Lopez activate their sirens. The passenger door<sup>25</sup> of [REDACTED] Dodge Charger opens three times before turning to go east on 91<sup>st</sup> Street. [REDACTED] Dodge Charger appears to be accelerating and the passenger door opens again. [REDACTED] Dodge Charger speeds east on 91<sup>st</sup> Street and is almost not visible in the camera's view.

As Officers Cosgrove and Lopez pursue [REDACTED] Dodge Charger, Officer Cosgrove is observed disregarding several stop signs. When the officers approach a red light, [REDACTED] Dodge Charger is no longer visible in the footage. The officers' vehicle appears to slow down before proceeding through the red light. The officers's vehicle continues east on 91<sup>st</sup> Street and the video shows a red Dodge Charger with significant damage to its front bumper on the northwest corner of Oglesby Avenue. There is also a dark colored vehicle, a gray Dodge Charger, parked in the front lawn of a home<sup>26</sup> on the northwest corner. The officers exit their vehicle and approach the vehicles. A few seconds later, Officer Cosgrove runs east on 91<sup>st</sup> Street towards a black Nissan Rogue, that appears to be flipped over onto its hood.

**POD #7705**, located at 9211 S. Stony Island,<sup>27</sup> depicts Officer Cosgrove and Lopez driving north on Stony Island Avenue. The officers drive up to the Citgo gas station<sup>28</sup> as [REDACTED] Dodge Charger starts to exit the gas station. Officers Cosgrove and Lopez activate their lights and [REDACTED] Dodge Charger continues to drive without stopping.<sup>29</sup> [REDACTED] Dodge Charger turns right onto 91<sup>st</sup> Street and drives east with Officers Cosgrove and Lopez following.

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<sup>24</sup> Attachment 25. Officers Cosgrove and Lopez marked vehicle.

<sup>25</sup> It is not clear if it is the front or rear passenger door.

<sup>26</sup> 9058 S. Oglesby Avenue.

<sup>27</sup> Attachments 26, 31, and 32.

<sup>28</sup> POD #7705 video at 34:55.

<sup>29</sup> POD #441, located at 9133 S. Stony Island,<sup>29</sup> depicts the same as POD #7705, but does not show [REDACTED] vehicle turning right to go east on 91<sup>st</sup> Street. POD #441 video (Attachment 27).

**Body-Worn Camera** footage from Officer Lopez<sup>30</sup> and Officer Cosgrove<sup>31</sup> depicts the aftermath of the pursuit. Officers Lopez and Cosgrove did not activate their body-worn camera until they reached the scene of the traffic crash.<sup>32</sup>

**Body-Worn Camera of Officer Zachary Norvell, #9707,<sup>33</sup> and Officer Brendan Nolan, #18943,<sup>34</sup>** depicts the officers at University of Chicago Hospital speaking to ██████████ ██████████ states that ██████████ was hitting the gas and she was screaming for him to stop. ██████████ states she opened the car door and started waving so the cops could see. ██████████ states she jumped in the backseat, placed her feet up on the ceiling and window, and prayed. ██████████ remembers the vehicle hitting something, the driver and passenger airbags being deployed, and being pulled out of the vehicle. ██████████ states that she blacked out for a minute. ██████████ states that ██████████ had been drinking, doing cocaine, and smoking marijuana.

**Office of Emergency Management and Communication Records<sup>35</sup>** document the following:

- December 24, 2019, at 01:50 am, a male caller reports that a Black guy was drunk and beating a White woman inside a red Dodge Charger at the Citgo gas station, located at 9155 S. Stony Island Avenue, at pump 3.
- December 24, 2019, 01:53 am, the same male caller calls again and reports that he called the police about a drunk Black male beating a White female. The Black male was now inside the gas station store beating the White female. The Black male left while the male caller was on the phone with the call taker. The male caller stated that the Black male drove off in a red Dodge Charger going north on Stony Island Avenue.
- December 24, 2019, 01:56 am, a female caller reports that a car accident occurred on 91<sup>st</sup> between Yates and Oglesby Avenue.
- OEMC transmissions details that dispatch<sup>36</sup> assigned Beat 413R a battery in progress at the Citgo gas station located at 9155 S. Stony Island Avenue. The dispatcher relates to Beat 413R that a Black male was beating a White female in a red Dodge Charger at pump #3. Beat 413R responds and Officer Lopez reports<sup>37</sup> that the red Dodge Charger was taking off and it looks like somebody was inside waving for help. Officer Lopez states they are headed eastbound on 91<sup>st</sup> towards Cornell and the Dodge Charger was taking off. The dispatcher asks for a plate, but Officer Lopez states he could not catch a plate because the Dodge Charger was taking off and he was unable to see the plate. Officer Lopez states ██████████ keeps waving her hand out the window for help. Officer Lopez reports ██████████ may have gone south on Crandon and he does not have sight on ██████████ vehicle. Officer Lopez then reports that ██████████ crashed his vehicle, but he and Officer Cosgrove did not see the crash. Officer Lopez gives the location of the accident as 91<sup>st</sup> and Oglesby Avenue. Officer Lopez

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<sup>30</sup> Attachment 23.

<sup>31</sup> Attachment 24.

<sup>32</sup> The two-minute mark on the body-worn camera details when Officers Cosgrove and Lopez activated their cameras. There is no audio prior to the two-minute mark because the body-worn cameras had not been activated.

<sup>33</sup> Attachment 70.

<sup>34</sup> Attachment 69.

<sup>35</sup> Attachment 33.

<sup>36</sup> At 2:20, this can be heard on the OEMC transmissions.

<sup>37</sup> At 4:31, this can be heard on the OEMC transmissions.



states that [REDACTED] and [REDACTED] were not in the vehicle and provides the license plate numbers of the gray Dodge Charger and the first red Dodge Charger he observed. Officer Lopez then reports a car being flipped over and a male, [REDACTED] on the ground who was possibly DOA. EMS was requested to the scene. Officer Lopez provided the license plate number of the second red Dodge Charger<sup>38</sup> and reports that there were four cars involved in the traffic crash. Shortly afterwards, [REDACTED] was discovered in [REDACTED] Dodge Charger.

**Evidence Technician Photographs**<sup>39</sup> depicted the scene of the vehicle crash and all the vehicles involved in the traffic crash accident.

### c. Physical Evidence

**City of Chicago Fire Department Ambulance Report**<sup>40</sup> documented that the crew found an approximate 40-year-old, [REDACTED] unresponsive, pulseless and not breathing. [REDACTED] was lying face up on the scene with severe open head trauma. The report indicates that [REDACTED] was the driver of a car with major damage/rollover with trauma criteria and was apparently ejected. CPR and ventilations were initiated and continued throughout call with minimal interruptions. [REDACTED] was transferred to a backboard/stretcher and placed in ambulance due to unsafe scene/smoldering vehicle. [REDACTED] was transported to University of Chicago Hospital.

**City of Chicago Fire Department Ambulance Report**<sup>41</sup> documented the crew found [REDACTED] fully alert and sitting in a rear passenger of a red vehicle smoking a cigarette. [REDACTED] denied any head, neck, or back pain but complained of left shoulder pain. [REDACTED] was secured to a stretcher and taken to an ambulance. [REDACTED] admitted to using ethanol, cocaine, and marijuana. [REDACTED] told the crew she was dragged by her hair and thrown into a vehicle. She buckled herself in the front seat when the driver, [REDACTED] began to drive recklessly. [REDACTED] feared for her life and went to the backseat. The vehicle flipped and hit multiple parked cars. [REDACTED] stated she never lost consciousness. [REDACTED] was transported to University of Chicago Hospital.

**Medical Records from University of Chicago Hospital**<sup>42</sup> for [REDACTED] documented that she told hospital personnel that she was dragged into a car by [REDACTED]. She tried to get out of the car multiple times, but [REDACTED] sped away. [REDACTED] jumped into the backseat and put on a seat belt, then crouched down. [REDACTED] stated the car hit trees and rolled. [REDACTED] complained of pain in the left shoulder and reported using alcohol, cocaine, and marijuana. [REDACTED] was diagnosed with possible liver laceration and other closed displaced fracture of proximal end of left humerus.

**Medical Records from University of Chicago Hospital**<sup>43</sup> for [REDACTED] documented that he arrived at the hospital with no pulse, no electrical activity, and no cardiac motion. [REDACTED] was pronounced dead on arrival.

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<sup>38</sup> [REDACTED] vehicle.

<sup>39</sup> Attachment 44.

<sup>40</sup> Attachment 42.

<sup>41</sup> Attachment 43.

<sup>42</sup> Attachment 68.

<sup>43</sup> Attachment 67.

**Office of the Medical Examiner's Report of Postmortem Examination**<sup>44</sup> M.E. Case # [REDACTED], for [REDACTED], by [REDACTED], MD, documents [REDACTED] sustained multiple abrasions, lacerations of the head, left lower leg, brainstem, heart, and aorta, hemopericardium and bilateral hemothoraces, fractures of multiple left ribs, and disarticulation of the left hip. The cause of death was multiple blunt force injuries due to motor vehicle striking fixed objects and the manner of death was an accident. The toxicology report revealed that [REDACTED] tested positive for Ethanol, Cocaine, Cocaethylene,<sup>45</sup> Benzoylcegonine,<sup>46</sup> Delta-9 Carboxy THC,<sup>47</sup> and Delta 9 THC.<sup>48</sup> [REDACTED] blood alcohol concentration (BAC) was 0.198.

#### d. Documentary Evidence

An **Original Case Incident Report**,<sup>49</sup> Kidnapping – Unlawful Restraint, RD# [REDACTED] documented that officer were dispatched to a call of a battery in progress at 9155 S. Stony Island Avenue. Beat 413R, Officers Cosgrove and Lopez, related that they witnessed [REDACTED] driving a red Dodge Charger matching the description given by OEMC from the location northbound on Stony Island Avenue. Officers Cosgrove and Lopez activated their emergency lights in an attempt to curb the vehicle. At this time, the officers observed [REDACTED] waving her hands frantically out of the passenger side window in an attempt to get the officers' attention. As [REDACTED] continued driving, the officers observed [REDACTED] attempt to open the passenger door and jump from the moving vehicle to flee from [REDACTED]. Officers observed [REDACTED] open the door three separate times to make an escape.

[REDACTED] increased the speed of the vehicle, while now traveling eastbound on 91<sup>st</sup> Street. [REDACTED] disregarded multiple stop signs while traveling eastbound at a high rate of speed, with Officers Cosgrove and Lopez in pursuit. Officers Cosgrove and Lopez observed [REDACTED] vehicle disregarding the solid red stoplight at the intersection of 91<sup>st</sup> and Jeffery. As the officers approached the same intersection, Officers Cosgrove and Lopez slowed their squad car for safety measures and lost sight of [REDACTED] vehicle. Officers Cosgrove and Lopez continued to travel eastbound on 91<sup>st</sup> Street to tour the area and observed a traffic crash reported under RD # [REDACTED]. [REDACTED] and [REDACTED] were both transported University of Chicago Hospital and [REDACTED] was pronounced deceased.

An **Original Case Incident Report**,<sup>50</sup> Law Enforcement Related – Death: Traffic Report, RD# [REDACTED] and an **Illinois Traffic Crash Report**,<sup>51</sup> documented the traffic crash. Unit 1, [REDACTED] vehicle, was traveling east bound on 91<sup>st</sup> Street when it struck Unit 2, a gray Dodge Charger with license plate # [REDACTED] and Unit #3, a red Dodge Charger with license plate # [REDACTED]. Unit 2 and 3 were both parked. Unit 1 continued eastbound striking Unit 4, a black Nissan Rogue, which was also parked. Unit 1 came to a rest and the driver of Unit 1, [REDACTED] was ejected from the vehicle.

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<sup>44</sup> Attachment 40.

<sup>45</sup> This is a by-product of cocaine/ethanol.

<sup>46</sup> This is considered a "Cocaine Degradation Product."

<sup>47</sup> This is the principle psychoactive ingredient of marijuana/hashish.

<sup>48</sup> This is the active ingredient in marijuana.

<sup>49</sup> Attachment 7.

<sup>50</sup> Attachment 6.

<sup>51</sup> Attachment 64.

The **Case Supplementary Report**<sup>52</sup> documented Officers Lopez's and Cosgrove's account of the incident. Officers Lopez and Cosgrove provided a similar account in their statement to COPA. The report also provided [REDACTED] account of the incident.<sup>53</sup> [REDACTED] stated that she was hanging with [REDACTED] all day and he started going nuts in the gas station. [REDACTED] had been drinking, doing cocaine, and smoking marijuana. [REDACTED] dragged [REDACTED] out of the gas station store as she screamed. [REDACTED] got in the car because she thought [REDACTED] would hurt her if she did not. [REDACTED] had been pulling her hair and threatening her. The cops showed up.

**GPS Data Report**<sup>54</sup> documented that during the pursuit, Officers Cosgrove and Lopez marked vehicle reached 59 mph<sup>55</sup> as they travelled eastbound on 91<sup>st</sup> Street.

A **Crash Data Retrieval Report**<sup>56</sup> documented that the Airbag Control Module ("ACM") from [REDACTED] vehicle was recovered. When the ACM was imaged, the ACM adaptor was used and detected during download. Two events were recovered, those being identified as "most recent event" and "1<sup>st</sup> prior event." The driver's front airbag and the passenger's side airbag were deployed. Prior to the crash, the frontal airbag warning lamp was off. The driver safety belt status indicated no which means unbuckled. Unbuckled would not have the seat belt latch locked in the buckle. The pre-crash data recorded with the report extends five seconds prior to impact with 10 samples per second. [REDACTED] vehicle remained at/near 106 mph at -5 seconds to 109 mph at -0.1 seconds. During the 5 second time, the service brake is off the entire time. The accelerator remained at 100 percent through the entire 5 second sample.

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<sup>52</sup> Attachments 66,71,72.

<sup>53</sup> The Case Supplementary Report documented that [REDACTED] account of the incident was captured on the body-worn camera of Officer Zachary Norvell, #9707.

<sup>54</sup> Attachment 13.

<sup>55</sup> GPS Data Report pinned the officers' route. Between 01:55:32 – 01:56:32 (Attachment 13, page 4, lines 51-53), Officers Cosgrove's and Lopez's marked vehicle, Beat 413R, was in the area of 9155 S. Stony Island Avenue. The officers speed went from 30 mph, while in the area of 9155 S. Stony Island, to 59 mph prior to stopping near the intersection of 91<sup>st</sup> Street and Oglesby Avenue. The data is reported in thirty second increments.

<sup>56</sup> Attachments 46, 66, 71, 72.

## VI. LEGAL STANDARD OF PROOF

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.<sup>57</sup> If the evidence COPA gathers 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.<sup>58</sup> Clear and convincing evidence 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.”<sup>59</sup>

## VII. ANALYSIS and CONCLUSION

### I.

A. Officers Cosgrove and Lopez violated Department policy by failing to activate their body worn cameras at the beginning of a law-enforcement-related activity.

To increase transparency and improve the quality and reliability of investigations, Department policy requires law-enforcement-related encounters to be electronically recorded.<sup>60</sup> Law-enforcement encounters include, but are not limited to, vehicle pursuits, traffic stops, investigatory stops, high risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.<sup>61</sup> The decision to record is mandatory, not discretionary.<sup>62</sup> The system is to be activated at the

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<sup>57</sup> 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.”).

<sup>58</sup> See *People v. Coan*, 2016 IL App (2d) 151036 (2016) (*quoting* Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

<sup>59</sup> *Id.* at ¶ 28.

<sup>60</sup> Special Order S03-14, section II.A. (Attachment 59).

<sup>61</sup> Special Order S03-14, section III.A.2. (Attachment 59).

<sup>62</sup> Special Order S03-14, section III.A.1. (Attachment 59).

beginning of an incident and record the entire incident.<sup>63</sup> If there are circumstances preventing the activation of the Body Worn Camera at the beginning of the incident, Department policy provides that it shall be activated as soon as practical.<sup>64</sup>

In this instance, Officers Cosgrove and Lopez received a call for service related to a battery in progress at a Citgo gas station after the dispatcher reported that a male was beating a female near pump 3. The officers headed in the direction of the gas station. Due to the nature of the call, the officers were aware or should have been aware when they received the call that they were embarking upon a law-enforcement encounter. It would have been practical to activate each of their body worn cameras in that instance. Additionally, when the officers drove after [REDACTED] vehicle, initiating the pursuit, it would have been practical to activate the body worn camera as vehicle pursuits are specifically identified as a law enforcement activity in Department policy.<sup>65</sup> Officer Cosgrove and Officer Lopez did not activate their body worn cameras until after the vehicle pursuit had ended.

During a COPA interview, Officer Cosgrove expressed that she was unaware that her body camera was not activated due to the high stress situation. “She also informed COPA that the speed in which she was driving required her to keep both hands on the wheel, preventing her from activating her body worn camera “

Officer Lopez informed COPA that the reason that he did not activate his body worn camera at the beginning of the pursuit was due to his adrenalin taking over as he was concerned for his own safety, as well as the safety of [REDACTED] who they were attempting to rescue. COPA appreciates Officer Lopez’s concerns, however Department policy mandates that all law enforcement encounters be recorded, including high-risk situations, vehicle pursuits, and emergency driving situations. That policy is in place in order to protect the safety and welfare of both the public, as well as, involved officers. Moreover, there were no other witnesses to the incident, making the body worn camera footage crucial to the investigation of [REDACTED] death.

For the reasons stated above, COPA finds that a preponderance of the evidence establishes that Officer Cosgrove and Officer Lopez each failed to activate their Body Worn Cameras at the beginning of the law-enforcement encounter as required by Special Order S03-14 (III)(A). Therefore, Allegation 1 against Officer Cosgrove and Allegation 1 against Officer Lopez, are each **Sustained**.

- II. Officer Cosgrove did not violate Department policy by initiating and continuing the pursuit of Mr. [REDACTED] vehicle.<sup>66</sup>
  - A. Officer Cosgrove’s initiation and continuation of the pursuit were within Department policy because they were objectively reasonable under the balancing test in General Order G03-03-01(II)(B).

Under Illinois state law, police vehicles are afforded special privileges and exemptions from certain traffic laws when executing an emergency response or engaging in motor vehicle pursuits.<sup>67</sup> Those privileges are incorporated into Department directives governing Department members’ activities and

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<sup>63</sup> Special Order S03-14, section III.A.2.

<sup>64</sup> Special Order S03-14, section III.A.2.

<sup>65</sup> Special Order S03-14, section III.A.2

<sup>66</sup> General Order G03-03, Glossary Terms #1.A. Neither Officer Cosgrove nor Officer Lopez contended or suggested to COPA that this incident did not qualify as a motor vehicle pursuit.

<sup>67</sup> Public Officers and Employees to Obey Act- Exceptions, 625 ILCS 5/11/205(c).

police procedure.<sup>68</sup> In appropriate circumstances, Department members may, among other things, exceed maximum speed limits and proceed through stop signals or signs. The Department's stated goal for their police vehicle directives is "to ensure the safety of the public as well as Department members at all times."<sup>69</sup> Accordingly, Department members retain full responsibility for driving with "due regard for the safety of all persons."<sup>70</sup> This requires Department members to slow down before passing through stop signals and exceeding speed limits in a manner that will not endanger life or property.<sup>71</sup>

Department members engaging in motor vehicle pursuits are bound by additional restrictions set forth in Department General Order G03-03-01, entitled "Emergency Vehicle Operations - Pursuits." Department policy defines a "motor vehicle pursuit" as:

[a]n active attempt by a sworn member operating an authorized vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction, increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.

Pursuant to General Order G03-03-01, the initiation, continuation, and supervisory authorization of each motor vehicle pursuit must conform to a balancing test, in which the Department member determines that the necessity to immediately apprehend the fleeing suspect outweighs the level of inherent danger created by a motor vehicle pursuit. When deciding whether to pursue, the officer is to consider whether:

- the speeds involved and/or maneuvering practices engaged in permit the Department vehicle operator complete control of the Department vehicle and do not create unwarranted danger to himself or others;
- the volume of pedestrian/vehicle traffic reasonably permits initiating or continuing the pursuit; and
- weather/road conditions reasonably permit initiating or continuing the pursuit.<sup>72</sup>

Department members are directed not to pursue or terminate an active motor vehicle pursuit whenever the suspect's identity has been clearly established to the point that later apprehension can be accomplished without jeopardizing the life or safety of another individual.<sup>73</sup>

In this instance, Officer Cosgrove was not prohibited from pursuing ██████ because the balancing test was applied prior to initiating and throughout the pursuit. The information known by the officers at the initiation of the pursuit was that a woman, later identified as Ms. ██████ was being beaten both inside the Citgo gas station, as well as, inside a red Dodge Charger at Pump 3 of the gas station by a man, later identified as Mr. ██████. The electronic evidence shows Ms. ██████ frantically waving her hands outside of the fleeing vehicle, in addition to, her opening the passenger door multiple times as the vehicle traveled at a high rate of speed. Officers Cosgrove and Lopez reasonably believed that Ms. ██████ was in danger and calling out for help. The need to immediately apprehend Mr. ██████ outweighed the level of inherent

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<sup>68</sup> G03-03.III.C.3.

<sup>69</sup> G03-03.II.

<sup>70</sup> G03-03.III.A.

<sup>71</sup> GO3-03.III.C.3.

<sup>72</sup> General Order G03-03-01Section IV.B.

<sup>73</sup> General Order G03-03-03 Section IV. B. 2.

danger created by the motor vehicle pursuit, especially considering the clear road conditions and lack of pedestrian or vehicular traffic.

Furthermore, at the time of the pursuit, law enforcement did not know Mr. [REDACTED] identity. Transmissions from OEMC establish that when the officers responded to the call, Officer Lopez reported that the red Dodge Charger was taking off and it looks like somebody was inside waiving for help. When the dispatcher requests a license plate number, Officer Lopez informs dispatch that he is unable to see the plate because the Dodge Charger was taking off. The nature of the dispatch regarding a battery, in addition to Ms. [REDACTED] actions and Mr. [REDACTED] unknown identity created an objectively reasonable belief that later apprehension was not an option.

In interviewing Officer Cosgrove, she noted that the weather was clear and though it was dark outside, the roads were illuminated by streetlights. There were no pedestrians or vehicle traffic from the moment the pursuit began until the pursuit terminated. Moreover, although traveling at speeds in excess of the speed limits, Officer Cosgrove was able to maintain complete control of the department vehicle.. The Crash Data Retrieval Report documents Mr. [REDACTED] vehicle traveling at a maximum speed of 109 mph. Though Mr. [REDACTED] vehicle traveled at speeds in excess of 100mph through a residential area, the GPS Data Report reveals that Officer Cosgrove's vehicle reached a maximum speed of 59mph.

For the reasons stated above, COPA finds that the preponderance of the evidence establishes that Officer Cosgrove's initiation and continuation of the pursuit was objectively reasonable and conformed with the balancing test within Department policy.

B. Officer Cosgrove did not violate Department policy because she proceeded through intersections only after determining that it was reasonable and safe to proceed.

Pursuant to General Order G03-03-01(V)(C), "[n]o department vehicle will be driven through an intersection until the member operating the vehicle has determined that it is reasonable and safe to proceed."<sup>74</sup> Though the officers observed Mr. [REDACTED] vehicle disregard the red stoplight at the intersection of 91st and Jeffrey, electronic evidence demonstrates that Officer Cosgrove stopped her vehicle for safety measures when approaching the same intersection, causing her to lose sight of [REDACTED] vehicle. Interviews with Officer Cosgrove revealed that prior to proceeding through intersections, she ensured that she was able to see ahead of her, checking corners beyond stops for pedestrians before proceeding. Moreover, she was also cognizant that at 2'o clock in the morning, there would be minimal pedestrian and vehicle traffic in the area. Officer Cosgrove followed Department policy because she did not drive through intersections without first determining that it was safe and reasonable to proceed.

For these reasons, COPA finds that the preponderance of the evidence establishes that in performing the vehicle pursuit, Officer Cosgrove drove through intersections after first determining that it was reasonable and safe to proceed and therefore did not violate General Order G03-03-01(V)(C). Thus, Allegation 2 against Officer Cosgrove is **Not Sustained**.

III. Officer Cosgrove and Officer Lopez complied with Department policy because Officer Lopez properly notified OEMC at the initiation of the pursuit.

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<sup>74</sup> G03-03-01(V)(C).

Department policy provides that an officer initiating a vehicle pursuit, must notify OEMC of a pursuit in progress and provide other information including the reason for the pursuit, a vehicle description, the number of occupants, and the location, speed, and direction of travel.<sup>75</sup>

OEMC records reveal that Officer Cosgrove and Officer Lopez responded to the Citgo after receiving the assigned dispatch. In response, Officer Lopez provided the vehicle description and reason for the pursuit, in reporting that “the red Dodge Charger was taking off and it looks like somebody was inside waiving for help.”<sup>76</sup> He also reported the location and direction of travel being eastbound on 91<sup>st</sup> towards Cornell. Officer Lopez initially reported that he was unable to see the license plate due to the speed of the vehicle and losing sight of the vehicle. However, upon catching up to the traffic crash, Officer Lopez reported the description of each of the vehicles involved, the license plate of each vehicle, and the location of the crash.

Department General Order 03-03-01 does not define or clarify when an officer is considered “the officer initiating the pursuit.”<sup>77</sup> Given this lack of clarity, COPA has determined that Officer Lopez satisfied the requirements of G03-03-01(VI)(A) even though the Department may not consider him “the officer initiating the pursuit” because he was not the driving officer. COPA has determined that it was reasonable for Officer Cosgrove to rely on Officer Lopez to make the required communications while she drove the police vehicle.

Therefore, COPA finds that a preponderance of the evidence establishes that Officer Lopez timely notified OEMC of a pursuit in progress and provided the required information to OEMC. For these reasons, Allegation 3 against Officer Cosgrove and Allegation 2 against Officer Lopez, are **Not Sustained**.

### **Conclusion**

Both Officer Cosgrove and Officer Lopez failed to activate their Body Worn Cameras at the beginning of the law-enforcement encounter as required by Special Order S03-14 (III)(A), which requires Department members to activate their cameras at the beginning of the incident and record the incident in its entirety. Accordingly, Allegation 1 against Officer Cosgrove and Allegation 1 against Officer Lopez are **Sustained**.

Based on interviews with both Officer Cosgrove and Officer Lopez, COPA finds that the officers applied the balancing test prior to the initiation of the pursuit of [REDACTED]. Officer Cosgrove also took steps to ensure that the pursuit was performed in a way that was reasonable and as safe as possible under the circumstances. Further, Officer Lopez provided the necessary communications to OEMC upon initiation of the pursuit. Accordingly, allegations #2 and #3 against Officer Cosgrove, as well as, Allegation #2 against Officer Lopez are **Not Sustained**.

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<sup>75</sup> G03-03-01(V)(A)(1)(a).

<sup>76</sup> Attachment 33.

<sup>77</sup> See G03-03-01.



**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS****a. Officer Brittany Cosgrove****i. Complimentary and Disciplinary History**

One Department Commendations and 5 Honorable Mentions. No disciplinary history.

**ii. Recommended Penalty**

Officer Cosgrove failed to timely activate her body worn camera. Special Order S03-14, Body Worn Cameras, details that members will activate the system (body worn camera) to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical. There were no circumstances preventing Officer Cosgrove from activating her body worn prior to responding to Citgo Gas Station. Even when the officers arrived at Citgo Gas Station, they still did not activate their body worn cameras. While Officer Cosgrove stated the incident was a high stress situation, she did not the magnitude of the situation until [REDACTED] exited the gas station and [REDACTED] was frantically waving her arms. It is for these reasons that COPA recommends a penalty of **3-day suspension**.

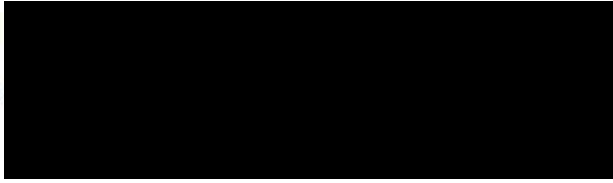
**b. Officer Jesse Lopez****i. Complimentary and Disciplinary History**

One Department Commendations and 15 Honorable Mentions. No disciplinary history

**ii. Recommended Penalty**

Officer Lopez failed to timely activate his body worn camera. Special Order S03-14, Body Worn Cameras, details that members will activate the system (body worn camera) to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical. There were no circumstances preventing Officer Lopez from activating his body worn prior to responding to Citgo Gas Station. Even when the officers arrived at Citgo Gas Station, they still did not activate their body worn cameras. While Officer Lopez was concerned about [REDACTED] safety, he did not that [REDACTED] was in danger until [REDACTED] exited the gas station and she was frantically waving her arms. It is for these reasons that COPA recommends a penalty of **3-day suspension**.

Approved:



7/30/2021

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

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Date



7/30/2021

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Andrea Kersten  
*Interim Chief Administrator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Major Case Specialist:</b>	LaKenya White
<b>Supervising Investigator:</b>	Andrew Dalkin
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass