

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 20, 2018
Time of Incident:	6:54 p.m.
Location of Incident:	8330 S. Holland
Date of COPA Notification:	May 23, 2018
Time of COPA Notification:	2:39 p.m.

During a traffic stop, [REDACTED] was pulled over for failing to stop at a stop sign. Officer Rosali Perez questioned [REDACTED] about his accent and country of origin without justification and issued a traffic citation for failing to stop at a stop sign. COPA learned that Officer Perez was in violation of Department Policies and directives when he questioned [REDACTED] about his accent and country of origin.

II. INVOLVED PARTIES

Involved Officer #1:	Rosali Perez, Star #8803, Employee # [REDACTED] - Officer Date of Appointment: October 31, 2005 Date of Birth: [REDACTED] 1970, Unit 006 Male / Hispanic
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1980 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Rosali Perez	1. It is alleged that Officer Perez pulled over a vehicle being operated by [REDACTED]	Exonerated
	2. It is alleged that Officer Perez questioned [REDACTED] about his country of origin.	Sustained/
	3. It is alleged that Officer Perez issued [REDACTED] [REDACTED] traffic citations without justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Disobedience of an order or directive, oral or written
 2. Rule 8: Disrespect to or maltreatment of any person, whether on or off-duty
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General Orders

1. G02-01 – Human Rights and Human Resources – effective October 5, 2017
 2. G02-04 – Prohibition Regarding Racial Profiling and other Bias Based Policing – effective December 1, 2017.
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V. INVESTIGATION¹

a. Interviews

In his interview to COPA on June 4, 2018, the **Complainant** ██████████ stated he arrived at a stop sign near 8300 S. Holland, when he observed, now identified Officer Perez stationary in a squad car for over 25 seconds without moving. ██████████ blew his horn and PO Perez moved out of the way and allowed him to pass. ██████████ noticed that Officer Perez pulled back out into traffic and got behind him for a couple of blocks. When ██████████ came to a complete stop at the stop sign located at 84th and Holland, Officer Perez activated the emergency lights and pulled him over. ██████████ observed Officer Perez approach his vehicle on the driver's side and asked for his driver's license and insurance card. A black male officer approached on the passenger side. When ██████████ asked what the reason for the stop was, Officer Perez told him he failed to stop at a stop sign.

██████████ said he took his seatbelt off to retrieve his wallet from his back pocket and provided Officer Perez with his driver's license. Officer Perez said, "Apparently you are not from here, because in America you don't blow your horn at police officer's³." ██████████ said Officer Perez then asked if he was from America. ██████████ took offense to the question and asked Officer Perez what his accent had to do with the traffic stop. He told Officer Perez that he was a citizen and called him a racist. Officer Perez told ██████████ that he was asking due to ██████████ heavy accent. ██████████ said he was upset and called for a supervisor.

The supervisor now identified as Sergeant Davros arrived and spoke with ██████████ ██████████ told Sergeant Davros that if Officer Perez gave him a citation, he was going to call COPA and complain on the officer. ██████████ left with no further interaction with the officers. ██████████ felt that Officer Perez had no right to ask him about the origin of his country simply because of his accent, being that America is the land of immigrants. He also felt that Officer Perez should have just issued him a citation and not asked him what country he was from. He also felt

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. 6.

³ Att. 6. At 6:20 minutes, ██████████ stated that PO Perez asked him, "Are you from here?"

the stop was retaliatory because he blew his horn at him. ██████████ said there was no way he would not stop at the stop sign when officers were directly behind him.

In his interview to COPA on October 3, 2018, **Witness Officer Justin Sherrod**⁴ related that he was working with Officer Perez, and while driving, Officer Perez mentioned that ██████████ was driving erratic. Officer Sherrod looked through his side mirror and observed ██████████ rushing behind them. He then observed that ██████████ did not stop at a stop sign. ██████████ passed them and continued driving erratic, at which time Officer Perez pulled ██████████ over. During the traffic stop, Officer Perez approached the driver's side and Officer ██████████ approached on the passenger side. Officer Sherrod related that he could not clearly hear the conversation between Officer Perez and ██████████. However, he recalled Officer Perez explaining the rules of the road to ██████████ who appeared to be upset. Officer Sherrod denied that Officer Perez racially profiled ██████████ as alleged and did not hear Officer Perez make any racially profiled comments toward ██████████. Officer Sherrod also related that they were parked in traffic, and it was windy outside. The police radio was active with other officers talking and he was approximately 10 feet away from ██████████ and Officer Perez.

When Officer Sherrod was asked if he ever heard Officer Perez state to ██████████ "I'm guessing you are not from the United States because you have an accent," Officer Sherrod admitted that although he did not recall verbatim the statement made by Officer Perez, but he did hear words to the effect directed at ██████████. Officer Sherrod also recalled that during Officer Perez's conversation with ██████████ he mentioned something about ██████████ accent. Officer Sherrod stated that it was after that comment that ██████████ raised his voice and became upset. When Sergeant Davros arrived at the scene, he did not hear ██████████ request to file a complaint against Officer Perez. Officer Sherrod did not remember if Officer Perez made or directed any racial comments at ██████████.

In his interview to COPA on October 11, 2018, **Accused Officer Rosali Perez**⁵ stated that he had stopped at a stop sign near 87th and Holland and was waiting for traffic to clear before proceeding in traffic. ██████████ pulled up behind him and blew his horn. Officer Perez initially ignored him. He waited for traffic to clear, then proceeded in traffic. He observed that ██████████ failed to completely stop at the stop sign. Officer Perez stated that ██████████ passed him on the right, and he observed that he was not wearing his seatbelt. He further observed ██████████ fail to properly stop at a second stop sign on Holland. At this time, Officer Perez conducted the traffic stop of ██████████ and asked him for his license and insurance. ██████████ was irate. Officer Perez said initially, he could not recall the statement he made to ██████████ but after watching his body worn camera (BWC), he admitted that he asked ██████████ if he was from the United States because of his heavy accent, when he asked him why he fail to stop properly at the stop sign. Officer Perez stated that ██████████ became upset and took offense to his statement. ██████████ was loud and irate, accused him of being racist.

Officer Perez explained that he was trying to ask ██████████ about his accent because he had difficulty understanding him. He wanted to ensure there were no language barriers, and if needed, request a translator, but he was not able to explain that to ██████████ because he kept

⁴ Att. 18.

⁵ Att. 24.

yelling at him. However, ██████ took offense to his comments and line of questions and accused him of being a racist. Officer Perez added that he was not a racist and did not direct any racial comments at ██████. He further said the traffic citations issued were justified.

Officer Perez stated that when Sergeant Davros responded to the scene, he explained what happened and the comments made by him. Sergeant Davros then spoke with ██████. Officer Perez does not believe that he was unprofessional toward ██████.

b. Digital Evidence

The **Body Worn Camera (BWC)**⁶ videos for this incident captured the conversations between all the involved parties. Officer Perez approached the driver side of ██████ vehicle. **The BWC of Officer Perez** captured him telling ██████ that he guessed he was not from the United States because he had a heavy accent⁷ and because he failed to stop properly at two stop signs and failed to wear his seatbelt. The BWC captured Officer Perez explaining to ██████ the proper way to make a stop, but ██████ appeared upset and talked loudly. ██████ appeared upset and accused Officer Perez of being racist for asking him about the origin of his country. ██████ also accused Officer Perez of stopping him because he blew his horn at him while he was stopped at the previous stop sign. Officer Perez asked ██████ for his driver's license and insurance. ██████ continued to yell and called Officer Perez an asshole.

The **BWC of Officer Sherrod** captured a different angle of the conversation but nothing additional material to what is depicted on Officer Perez's BWC.

The **BWC of Sergeant Davros** captured him talking to ██████ about Officer Perez and he appears argumentative and loud. ██████ told Sgt. Davros that if Officer Perez gave him tickets, he was going to file a complaint with COPA. ██████ asked to file a complaint against Officer Perez. Sgt. Davros did not response to ██████ request to file a complaint.

c. Documentary Evidence

Traffic Citations⁸ were issued by Officer Perez to ██████ for failure to stop at a stop sign and failure to wear a seatbelt.

Event Query Report⁹ and **OEMC 911 Transmissions**¹⁰ documented a traffic stop being conducted by Officer Perez, and a call from ██████ requesting to file a complaint against the officer.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

⁶ Att. 22.

⁷ Att. At

⁸ Att. 12.

⁹ Att. 9.

¹⁰ Atts. 13-15.

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 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 that **Allegation #1** against Officer Perez is **EXONERATED**. Traffic stops are seizures under the Fourth Amendment, and thus subject to the Fourth Amendment reasonableness requirement. Traffic stops are analyzed under Terry because "the 'usual traffic stop' is more analogous to a so-called Terry stop than a formal arrest." A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law," including traffic law. Articulate and reasonable suspicion means that the police "must be able to identify some 'particularized and objective basis,' for thinking that the person to be stopped is or may be about to engage in unlawful activity," amounting to more than a hunch. Police need not meet the higher threshold of probable cause to perform a traffic stop, but if the stop is supported by probable cause, its lawfulness is still evaluated under *Terry*. *Rodriguez v. United States*, 135 S. Ct. 1609, 1617-18 (2015).

In this incident, Officer Perez had probable cause to stop [REDACTED] after he and Officer Sherrod observed him committing traffic violations, by not stopping properly at two stop signs. The officer further observed that upon approaching [REDACTED] vehicle that he was not wearing his seatbelt. Officer Perez followed Department policies regarding traffic stops and his actions were all within policy.

COPA finds that **Allegation #2** against Officer Perez, is **SUSTAINED**. The Chicago Police Department is committed to observing, upholding, and enforcing all laws relating to the

individual rights of all persons. Department members will respect and protect each person's human rights and comply with all laws relating to human rights. Department members will treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak, and conduct themselves in a professional manner and maintain a courteous attitude in all contacts with the public.

In this incident, Officer Perez, and Officer Sherrod's BWC video captures Officer Perez making statements to ██████████ that because of his heavy accent he must not be from the United States. He also referred to a person from the United States would know better not to run stop signs in front of the police. The comments made by Officer Perez toward ██████████ were unprofessional, unnecessary, demeaning and inappropriate, which is not consistent with the Department's vision and mission. Therefore, COPA finds this allegation as Sustained.

COPA finds that **Allegation #3** against Officer Perez is **EXONERATED**. Although there was no in-car camera video to support or capture the traffic violations, Officer Perez and Officer Sherrod observed the violations and validated their observations by issuing traffic citations. The citations issued were justified according to traffic laws, therefore, COPA finds this allegation as Exonerated.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Rosali Perez

i. Complimentary and Disciplinary History

Officer Perez complimentary history consists of the following: (1) 2009 Crime Reduction Award, (1) 2019 Crime Reduction Award, (3) Attendance Recognition Award, (12) Complimentary Letter, (2) Department Commendation, (2) Emblem of Recognition-Physical Fitness, (70) Honorable Mention, (1) Joint Operations Award, (4) Life Saving Award, (1) NATO Summit Service Award, (1) Other Awards, (1) Police Officer of the Month Award, (1) Presidential Election Deployment Award, 2008, (1) Problem Solving Award, (1) Superintendent Honorable Mention. Total of (102) Awards.

There is (1) SPAR dated January 20, 2020, reprimand for a preventable accident. No other complaint history as of June 24, 2021.

ii. Recommended Penalty

Copa recommends a penalty of 1 day Suspension for allegation #2 against Officer Perez.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Rosali Perez	1. It is alleged that Officer Perez pulled over a vehicle being operated by [REDACTED]	Exonerated
	2. It is alleged that Officer Perez questioned [REDACTED] about his country of origin.	Sustained/ 1 day Suspension
	3. It is alleged that Officer Perez issued [REDACTED] traffic citations without justification.	Exonerated

Approved:

[REDACTED]

10-8-2021

 Angela Hearts-Glass
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	11
Investigator:	Maira Webb
Supervising Investigator:	Valiza A. Nash
Deputy Chief Administrator:	Angela Hearts-Glass