

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 11, 2018
Time of Incident:	8:41 am
Location of Incident:	4300 S. Wentworth Ave. ¹
Date of COPA Notification:	December 14, 2018
Time of COPA Notification:	3:01 pm

On December 11, 2018, at approximately 8:41 am, Mr. [REDACTED] was pulled over by Sergeant Yolanda Walton for failing to stop at a stop sign and making an illegal turn between the hours of 7am and 7pm. Sergeant James Gochee and Officers Adnan Saleh and Adrian Martinez Garcia arrived on scene to assist.

Sergeant James Gochee joined Sergeant Walton at the driver’s side window of the vehicle driven by [REDACTED]. Although Mr. [REDACTED] initially refused to exit the vehicle, he finally did so and was issued two tickets, one for failing to stop at a stop sign and one for having expired license plates.

On December 14, 2018, Mr. [REDACTED] lodged a complaint against Sergeant Gochee and alleged that he was ordered to exit his vehicle without justification, that Sergeant Gochee threatened to break his window unless he followed the order to exit his vehicle, and that he threatened to arrest him and place his child with the Department of Children and Family Services.

II. INVOLVED PARTIES

Involved Officer #1:	James Gochee, star # 1301, employee ID# [REDACTED], Date of Appointment February 24, 2003, Sergeant, Unit of Assignment 002, DOB [REDACTED], 1968, Male, White.
Witness Officer #1:	Yolanda Walton, star # 837, employee ID# [REDACTED], Date of Appointment December 5, 2005, Sergeant, Unit of Assignment 002, DOB [REDACTED], 1971, Female, Black.
Witness Officer #2:	Adnan Saleh, star # 18236, employee ID# [REDACTED], Date of Appointment October 31, 2016, PO, Unit of Assignment 002, DOB [REDACTED], 1990, Male, White.

¹ Att. 16-Based on OEMC GPS, the correct street was likely LaSalle rather than Wentworth, which were directly across the expressway from each other.

Witness Officer #3: Adrian Martinez Garcia, star # 8649, employee ID# [REDACTED], Date of Appointment July 17, 2017, PO, Unit of Assignment 002, DOB [REDACTED], 1992, Male, White.

Involved Individual #1: [REDACTED] DOB [REDACTED], 1991, Male, Black.

Witness Individual #2: [REDACTED] DOB [REDACTED], 1989, Female, Black.

III. ALLEGATIONS²

Officer	Allegation	Finding / Recommendation
Sergeant James Gochee	<p>It is alleged that on or about December 11, 2018, at or about 8:41 am, at or near 4300 S. Wentworth Ave.:</p> <ol style="list-style-type: none"> 1. Sergeant Gochee placed his hand on his weapon during an interaction with [REDACTED] without justification. 2. Sergeant Gochee failed to tell [REDACTED] the reason he was ordered to exit the vehicle. 3. Sergeant Gochee acted in an aggressive manner when he threatened to arrest [REDACTED] and place his child with DCFS if he did not exit the vehicle. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</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.

General Orders

1. G03-02-01 *Force Options (16 October 2017)*.
2. G03-02 *Use of Force (16 October 2017)*.

² Att. 4 at 9:40. During his interview with COPA Mr. [REDACTED] mentioned that Sergeant Walton had her BWC holder on but did not have her BWC, which was confirmed using Sergeant Gochee’s BWC video. No allegation has been brought on this issue because, inter alia, she has no previous or subsequent allegations regarding her BWC, and because there were no other sustained findings for this case.

Mr. ██████ alleged Sergeant Gochee failed to advise him as to why he had to exit the vehicle and acted in an aggressive manner when he put his hand on his weapon.

b. Digital Evidence

██████████ CELL PHONE VIDEO¹⁰

Sergeants Walton and Gochee stood at what appeared to be the driver's side of a vehicle. As Sergeant Gochee asked the driver to step out of the vehicle, a woman, now known to be back seat passenger ██████ asked, "so, why he reaching for his gun?" Mr. ██████ told the officer in a loud voice that he did not have to get out of his car because he provided his license and insurance. Sergeant Gochee told the Mr. ██████ he needed to exit his vehicle because it was a traffic stop, that he was obstructing, and that he would break the window if he did not comply. He then told Mr. ██████ that he was operating as an Uber driver which Mr. ██████ denied, and then explained to the Sergeant's that he was not driving as an Uber at the time and that the people in the back seat were his girlfriend and his child. Sergeant Gochee then told him it was for officer safety and that he would be arrested if he obstructed. Soon after Mr. ██████ exited the vehicle.

Ms. ██████ asked Sergeant Gochee to close the door and he reached into the vehicle, appeared to turn it off, and then shut the door.

BODY WORN CAMERA¹¹

Sergeant Walton told Sergeant Gochee that the driver of the vehicle in question, now known to be Mr. ██████ needed tickets for running a stop sign and expired plates.¹² Sergeant Gochee walked over to the vehicle and asked Mr. ██████ to step out of the vehicle to which he responded, "what am I step out of my car for?"¹³ Sergeant Gochee's hand was on the top of the driver's side window and it appeared as though Mr. ██████ attempted to close the window while the sergeant told him not to do it.¹⁴ Sergeant Walton explained to Mr. ██████ that it was just a traffic stop as Sergeant Gochee again ordered him out of the vehicle. Mr. ██████ argued that he did not have to get out of his car because he presented his license and insurance and was then told he was being recorded and that he was obstructing.¹⁵

Mr. ██████ again asked why he was being asked to get out of his vehicle and Sergeant Gochee responded that it was a traffic stop and if he did not comply, he would break the window.¹⁶ Sergeant Walton assured Mr. ██████ that it was just a traffic stop and that they did not intend to search his vehicle. As Sergeant Gochee continued to order Mr. ██████ to step out of the vehicle, he mentioned that Mr. ██████ was operating as an Uber driver which Mr. ██████ denied. The sergeants continued ask him to step out of the vehicle and explained it was for his and the officer's

¹⁰ Att. 15.

¹¹ Att. 15.

¹² Att. 15 Gochee at 00:40.

¹³ Att. 15 Gochee at 00:50.

¹⁴ Att. 15 Gochee at 01:00.

¹⁵ Att. 15 Gochee at 01:50.

¹⁶ Att. 15 Gochee at 01:20.

safety. Mr. [REDACTED] was assured they did not intend to search the vehicle, but that he would go to jail if he obstructed.¹⁷ Soon after, Mr. [REDACTED] stepped out and went to the rear of the vehicle.

Mr. [REDACTED] continued to argue that the sergeants could not ask him to step out of his vehicle because he had a license and insurance. As Sergeant Walton asked Mr. [REDACTED] to calm down, Sergeant Gochee explained that it was a street stop and that he owed ultimate compliance. He went on to say that he had his hand on his weapon in case Mr. [REDACTED] tried to drag him. During the exchange Mr. [REDACTED] tried to interrupt the sergeant who told Mr. [REDACTED] not to talk. He went on to explain that what he did was obstruction and that he could impound the vehicle and take the child to DCFS.¹⁸ Sergeant Walton explained that they believed he was operating as an Uber driver because of the insignia in his windows, and that this mattered because the laws are different for Uber drivers. Sergeant Gochee explained that his behavior could cause an officer to believe his is trying to hide something and that his vehicle could be searched if he obstructed.¹⁹ Sergeant Gochee suggested he review a Rules of the Road book and the policies for Uber drivers. Sergeant Walton gave him the two tickets drafted by PO Adrian Martinez Garcia.²⁰

Documentary Evidence

TRAFFIC TICKETS (Driver Copy)²¹

Mr. [REDACTED] was issued two traffic tickets: [REDACTED] for Disregarding a Stop Sign and [REDACTED] for No Valid State Registration. Both tickets were Dismissed for Want of Prosecution.

TRAFFIC TICKETS (Court Copy)²²

These are consistent with the Driver Copy of the tickets.

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.

¹⁷ Att. 15 Gochee at 02:00.

¹⁸ Att. 15 Gochee at 06:15.

¹⁹ Att. 15 Gochee at 07:30.

²⁰ Att. 15 Martinez Garcia at 02:30.

²¹ Att. 11 and 13.

²² Att. 14.

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 **Allegation #1**, that on or about December 11, 2018, at or about 8:41 am, at or near 4300 S. Wentworth Ave., Sergeant Gochee placed his hand on his weapon during an interaction with ██████████ without justification is not supported by the evidence, therefore Sergeant Gochee is **Exonerated**.

A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his or her official capacity commits a Class A. Misdemeanor. 720 ILCS 5/31-1 *Resisting or obstruction a peace officer, firefighter, or correctional institution officer*. A passive resister is a person who fails to comply (non-movement) with verbal or other direction. An active resister is a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest. When encountering noncompliance to a lawful verbal direction, members are not required to immediately use force. When it is safe and feasible to do so, members will consider adjusting their verbal communication and if feasible, allowing a different member to initiate verbal communication, or members will exercise persuasion, advice, instruction, and warning prior to the use of physical force. G03-02-01 *Force Options*.

Sergeant Gochee's action of putting his hand on his weapon under these circumstances was reasonable. Mr. ██████████ who exhibited a combative demeanor and attempted to close his window with the sergeant's hand in the way, left open the possibility the sergeant could be seriously injured, or worse, had he attempted to drive away. Not only did Mr. ██████████ refuse to comply with a legal order to exit the vehicle (a passive resister), it may have appeared to a reasonable person that he may also attempt to flee (an active resister).

Although Department policy, under these circumstances, would have allowed for use of various types of physical force, both Sergeants Gochee and Walton together were able to resolve the situation using various forms of verbal communication. Because no Department policy was violated, Sergeant Gochee is Exonerated.

COPA finds **Allegation #2**, that on or about December 11, 2018, at or about 8:41 am, at or near 4300 S. Wentworth Ave., Sergeant Gochee failed to tell [REDACTED] the reason he was ordered to exit the vehicle is not supported by the evidence, therefore Sergeant Gochee is **Exonerated**.

Although Sergeant Gochee, at first, did not give a reason when he ordered Mr. [REDACTED] out of the vehicle, he soon after did tell Mr. [REDACTED] it was for his and the Department members' safety. However, even after an explanation was made and Mr. [REDACTED] finally exited the vehicle, he continued to argue. After the sergeants more thoroughly explained the reasons why he was ordered to exit the vehicle and why he was required to comply, Mr. [REDACTED] finally settled down. In this case, there was no violation of Department policy and Sergeant Gochee is Exonerated.

COPA finds **Allegation #3**, that on or about December 11, 2018, at or about 8:41 am, at or near 4300 S. Wentworth Ave., Sergeant Gochee acted in an aggressive manner when he threatened to arrest [REDACTED] and place his child with DCFS if he did not exit the vehicle, therefore Sergeant Gochee is **Exonerated**.

When encountering noncompliance to a lawful verbal direction, members are not required to immediately use force. When it is safe and feasible to do so, members will consider adjusting their verbal communication and if feasible, allowing a different member to initiate verbal communication, or members will exercise persuasion, advice, instruction, and warning prior to the use of physical force. G03-02-01 *Force Options*.

While Mr. [REDACTED] was still in the vehicle, Sergeant Gochee told him that if he continued to obstruct the Department members, he would go to jail. Even after Mr. [REDACTED] exited the vehicle, he was still combative with Sergeant Gochee as he tried to explain the reason why he was ordered to exit the vehicle. It was during this explanation that Sergeant Gochee told him if he continued to obstruct, it was possible he could be arrested, and the child taken to DCFS. It is reasonable then to categorize this comment as instruction and/or a warning to Mr. [REDACTED]. Therefore, there is no violation of Department policy and Officer Gochee is Exonerated.

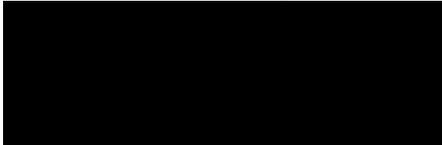
CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant James Gochee	<p>It is alleged that on or about December 11, 2018, at or about 8:41 am, at or near 4300 S. Wentworth Ave.:</p> <p>1. Sergeant Gochee placed his hand on his weapon during an interaction with [REDACTED] without justification.</p>	Exonerated

2. Sergeant Gochee failed to tell [REDACTED] the reason he was ordered to exit the vehicle.	Exonerated
3. Sergeant Gochee acted in an aggressive manner when he threatened to arrest [REDACTED] and place his child with DCFS if he did not exit the vehicle.	Exonerated

Approved:



1/27/2022

Matthew Haynam
Deputy Chief Administrator

Date