

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	January 4, 2020
Time of Incident:	12:10 am
Location of Incident:	3999 W. Belmont Ave., Chicago IL 60618
Date of COPA Notification:	January 6, 2020
Time of COPA Notification:	10:33 am

On January 4, 2020, [REDACTED] was driving his vehicle when he was stopped by Officers Bryan Mordan and Michael Orta (collectively “the Officers”). Once [REDACTED] pulled over, the Officers requested that he exit his vehicle. [REDACTED] complied with the requests. The Officers then subjected [REDACTED] to a search of his person and vehicle. After the search was completed, the Officers released [REDACTED] without providing any documentation of the interaction. COPA’s investigation determined there is insufficient evidence to prove or disprove the allegations made by [REDACTED] but certain procedural allegations identified by COPA are sustained.

## II. INVOLVED PARTIES

Involved Officer #1:	Officer Bryan Mordan, Star #11437, Employee ID # [REDACTED], DOA: February 29, 2016, Unit: 011, Male, White.
Involved Officer #2:	Officer Michael Orta, Star #11485, Employee ID # [REDACTED], DOA: February 29, 2016, Unit: 189, Male, Hispanic.
Involved Individual #1:	[REDACTED], Date of Birth: [REDACTED], 1988, Male, Black.

## III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officers Mordan <sup>1</sup> and Orta	1. Stopping [REDACTED] vehicle without justification.	Not Sustained.
	2. Searching [REDACTED] without justification.	Not Sustained.
	3. Searching [REDACTED] vehicle without justification.	Not Sustained.

<sup>1</sup> COPA notes that there is an error in the allegations served on Officer Mordan, as the text of the allegations inadvertently lists Officer Orta’s name. However, Officer Mordan’s name is listed on the top of the forms, he signed the paperwork acknowledging the allegations against him, and he addressed each of the allegations during his COPA statement. Att. 15; see Att. 14 at 2:34-3:08 minutes & 16:04-17:10 minutes.

	4. Failing to follow Special Order 03-14 by not activating your body worn camera to record your interaction with ██████████	Sustained / 10-day suspension.
Officer Mordan	5. Failing to follow Special Order S04-13-09 by failing to complete an investigatory stop report for the investigatory stop of ██████████	Sustained / 10-day suspension.
Officer Orta	5. Failing to complete an investigatory stop report for the investigatory stop of ██████████	Sustained / 10-day suspension.

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

- Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.

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##### Special Orders

- S03-14:** Body Worn Camera.<sup>2</sup>
- S04-13-09:** Investigatory Stop System.<sup>3</sup>

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##### Federal Laws

- Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

#### V. INVESTIGATION<sup>4</sup>

##### a. Interviews

COPA interviewed ██████████<sup>5</sup> on January 8, 2020. On January 4, 2020, ██████████ was leaving a nightclub near Belmont & Kostner, when three unmarked police cars drove past him. ██████████ signaled and turned left, at which point the Officers stopped his vehicle. ██████████ provided

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<sup>2</sup> Att. 18

<sup>3</sup> Att. 17

<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> Att. 9

his license and insurance and complied with requests to exit his vehicle. After [REDACTED] exited, Officer Orta began searching [REDACTED] vehicle while Officer Mordan searched [REDACTED]. [REDACTED] told the Officers he did not consent to a search of his person or his vehicle. Officer Mordan eventually told [REDACTED] that he did not use his turn signal when turning left. The Officers asked [REDACTED] if he had consumed alcohol, and [REDACTED] confirmed he had been drinking but denied being intoxicated. The Officers also informed [REDACTED] that cannabis could be smelled coming from his vehicle. However, [REDACTED] denied smoking marijuana. The Officers completed a name check on [REDACTED] and released him without further incident.

COPA interviewed Officer **Michael Orta**<sup>6</sup> on January 27, 2021. On January 4, 2020, Officers Orta and Mordan were surveilling a nightclub near Belmont & Western, after learning there would be firearms and narcotics present. Officer Orta recalled that an officer watching the nightclub's entrance, Officer Demenyon Meeks, gave a description of [REDACTED] and his vehicle. Officers Orta and Mordan located [REDACTED] driving his vehicle and completed a traffic stop for [REDACTED] failure to use a turn signal. [REDACTED] provided his driver's license and was asked to exit his vehicle. Officer Orta then proceeded to search the vehicle. After the vehicle search, [REDACTED] was free to leave.

Officer Orta recalled that the search of the vehicle resulted in cannabis residue, but it was insufficient to arrest [REDACTED] or issue him a citation. Officer Orta also believed that Officer Mordan smelled alcohol coming from [REDACTED] but Officer Orta did not recall searching [REDACTED] person. Further, Officer Orta was unsure if [REDACTED] was issued an Investigatory Stop Receipt and did not believe an Investigatory Stop Report (ISR) was completed. He acknowledged an ISR should have been completed and was uncertain why one was not. Officer Orta expressed remorse that he did not complete an ISR or activate his Body Worn Camera ("BWC").

COPA interviewed **Officer Bryan Mordan**<sup>7</sup> on May 25, 2021. On January 4, 2020, Officer Mordan and Officer Orta were enforcement officers conducting surveillance. Another officer in the 11<sup>th</sup> District had learned that known-gang members were going to be at a nightclub near Belmont and Kostner while possibly possessing illegal firearms.<sup>8</sup> A surveillance officer informed Officer Mordan that [REDACTED] vehicle had made a traffic infraction, and [REDACTED] was one of the previously identified individuals who was possibly in possession of a firearm. After receiving this information, the Officer located and stopped [REDACTED] in his vehicle. As Officer Mordan approached [REDACTED] on the driver's side, and he smelled burnt cannabis coming from the vehicle and alcohol on [REDACTED] breath. Officer Mordan asked [REDACTED] to exit the vehicle. [REDACTED] complied and was detained in handcuffs. Officer Mordan performed a protective pat-down of [REDACTED] while another member searched his vehicle. The vehicle search revealed remnants of cannabis, but the amount was insufficient for enforcement action. After the searches were completed, the Officers released [REDACTED] without further issue.

Officer Mordan acknowledged an ISR should have been completed but was not, which Officer Mordan attributed to a lapse in judgement. He believed he was wearing a BWC but could

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<sup>6</sup> Att. 10

<sup>7</sup> Att. 14

<sup>8</sup> Att. 14 at 9:21 minutes.

not recall why this incident was not recorded. Officer Mordan could not recall who was on surveillance or where they were located during the incident.

### b. Digital Evidence<sup>9</sup>

During his COPA interview, ██████ provided COPA with a cellphone recording of this incident.<sup>10</sup> No relevant content was included in this video.

### c. Documentary Evidence

While no ISR was found for ██████ a related ISR was identified for an individual named ██████ (“██████”).<sup>11</sup> On January 4, 2020, at approximately 12:40 AM, Officer David Taylor performed a traffic stop on ██████. The narrative states that CPD members “received information from an informant that an aluminum-colored Chevrolet Impala would be coming from a club called ‘Astoria Lounge’ located at 4400 W Belmont and would contain several firearms.” Additional details were specific to ██████ and unrelated to the present investigation.

## 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 occurred and violated Department policy.<sup>12</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, 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. Clear and convincing can be defined as a “degree of proof, which, considering all the

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<sup>9</sup> Neither Officer Orta nor Officer Mordan had body worn camera (“BWC”) footage from this incident.

<sup>10</sup> Att. 12

<sup>11</sup> Att. 19

<sup>12</sup> *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).

evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>13</sup>

## VII. ANALYSIS

COPA finds that Allegations #1 to 3 against the Officers are **not sustained**. While ██████ asserted that he used his turn signal prior to being stopped, the Officers maintained ██████ did not use his turn signal. Since there is no other evidence to confirm or refute ██████ assertion, COPA cannot determine if the Officers’ decision to stop ██████ vehicle was reasonable and proper. Therefore, this allegation is not sustained.

Further, COPA finds the allegations related to the search of ██████ and his vehicle are not sustained. ██████ asserted that, despite consuming alcohol, he was not intoxicated and was not in possession of cannabis. The Officers, specifically Officer Mordan, recalled smelling the odors of alcohol on ██████ breath and cannabis in his vehicle.<sup>14</sup> The Officers also reported having information that ██████ had a gun. However, the lack of video footage or additional evidence to confirm or refute the allegations prevents COPA from determining if the Officers’ decisions to search ██████ and his vehicle were reasonable and proper. Therefore, these allegations must be not sustained.

COPA finds Allegation #4 against the Officers is **sustained**. Department Members are required to activate BWC “at the beginning of” or “as soon as practical” for “all law-enforcement-related activities.”<sup>15</sup> This requirement is mandatory, not discretionary. Here, it is undisputed that the Officers failed to activate their BWCs and did not record this incident. This failure violated Department policy and Rules 2, 3, and 6.

COPA finds Allegation #5 against the Officers is **sustained**. Department members who complete an investigatory stop are required to complete an investigatory stop report that details “all of the factors that support” the detention of the subject.<sup>16</sup> Here, it is undisputed that the Officers failed to complete an Investigatory Stop Report detailing the basis of ██████ detention. This failure violated Department policy and Rules 2, 3, and 6.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Bryan Mordan

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<sup>13</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>14</sup> While the Officers reported that the search of ██████ vehicle resulted in the discovery of cannabis remnants, the discovery of contraband during a search cannot be used to justify the search.

<sup>15</sup> Law-enforcement-related activities include but are not limited to: “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to present).

<sup>16</sup> S04-13-09 VIII (A)(1), Investigatory Stop System (effective July 10, 2017 to present).

**i. Complimentary and Disciplinary History<sup>17</sup>**

Officer Mordan has received 37 various awards. He has no disciplinary history in the past five years.

**ii. Recommended Penalty**

Here, it is undisputed that Officer Mordan failed to complete an ISR and failed to activate his BWC. Both of Officer Mordan’s failures directly impacted COPA’s investigation and ability to reach positive findings. These failures should not have occurred. It is for these reasons COPA recommends Officer Mordan receive a **10-day suspension**.

**b. Officer Michael Orta**

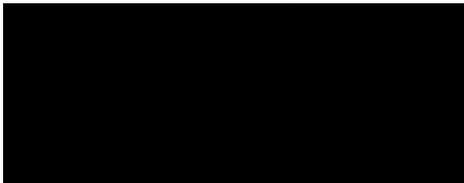
**i. Complimentary and Disciplinary History<sup>18</sup>**

Officer Orta has received 37 various awards. Officer Orta has no disciplinary history in the past five years.

**ii. Recommended Penalty**

Here, it is undisputed that Officer Orta failed to complete an ISR and failed to activate his BWC. Both of Officer Orta’s failures directly impacted COPA’s investigation and ability to reach positive findings. These failures should not have occurred. It is for these reasons COPA recommends Officer Orta receive a **10-day suspension**.

Approved:



10/29/2021

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date

<sup>17</sup> Att. 21  
<sup>18</sup> Att. 20.

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Six
<b>Investigator:</b>	Kelsey Fitzpatrick
<b>Supervising Investigator:</b>	Steffany Hreno / Garrett Schaaf
<b>Deputy Chief Administrator:</b>	Matthew Haynam