

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	04 January 2020
Time of Incident:	09:37 p.m.
Location of Incident:	7800 South Indiana Avenue
Date of COPA Notification:	January 21, 2020
Time of COPA Notification:	11:30 a.m.

The complainant—[REDACTED] was driving in her personal vehicle with her mother and minor grandson when she was curbed by two officers. The officers informed [REDACTED] she did not stop at a stop sign, her license plates were expired, and her driver’s license was suspended. They placed her in custody and towed her vehicle. [REDACTED] complained that she was stopped for no reason, the officers were unprofessional,¹ and her handcuffs were too tight.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Cuevas, Star #16651, Employee # [REDACTED] Appointed 29 August 2016, Police Officer, Unit 006, Born 1992, Female, Hispanic
Involved Officer #2:	Officer O’Connell, Star #8352, Employee # [REDACTED] Appointed 14 December 2015, Police Officer, Unit 006, Born 1990, Male, White
Involved Individual #1:	[REDACTED] Born 1967, Female, Black

¹ Prior to her sworn statement, [REDACTED] wrote that the officers were “mean, aggressive, and nasty.” However, COPA did not bring an allegation of unprofessionalism because [REDACTED] did not mention any acts of unprofessionalism in her sworn statement and the available evidence is clear that the officers were not unprofessional.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Cuevas	<p>It is alleged that on or about January 04, 2020, at approximately 05:00 p.m., at or near 7899 South Indiana Avenue in Chicago, Officer Cuevas, Star #16651, committed misconduct in that:</p> <p>1. she initiated a traffic stop without justification.</p>	Exonerated
Officer O’Connell	<p>It is alleged that on or about January 04, 2020, at approximately 05:00 p.m., at or near 7899 South Indiana Avenue in Chicago, Officer O’Connell, Star #8352, committed misconduct in that:</p> <p>1. he initiated a traffic stop without justification;</p> <p>2. he placed the complainant in handcuffs without justification;</p> <p>3. he excessively tightened the complainant’s handcuffs.</p> <p>4. he searched the vehicle without justification</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p> <p>Unfounded</p>

IV. APPLICABLE RULES AND LAWS

Rules
<p>1. Rule 3: “Any failure to implement Departmental policy.”</p> <p>2. Rule 8: “Maltreatment of any person, while on or off duty.”</p>
General Orders
<p>1. General Order G03-02, Use of Force</p>
Special Orders
<p>1. Special Order S04-13-09, Investigatory Stop System</p> <p>2. Special Order S07-03-05, Impoundment of Vehicles for Municipal Code Violations</p>
Federal Laws
<p>1. U.S. Const., amend. IV.</p>

State Laws

1. 625 ILCS 5/3-413(f) (prohibiting the operation of a vehicle with expired license plates).

V. INVESTIGATION

a. Interviews

The complainant in this matter, ██████████ gave a sworn statement to the Civilian Office of Police Accountability (“COPA”) on January 24, 2020.² According to Ms. ██████████ on the night of January 04, 2020, she was travelling in her personal vehicle with her mother and her minor grandson. ██████████ who was driving—noticed that a police vehicle was following her. She approached an intersection, stopped, and progressed onto South Indiana Avenue. The police vehicle signaled for her to stop, and she did so.

After stopping, ██████████ exited her vehicle. Once outside, she saw two police officers approaching and asked them why they stopped her. The officers ordered her to return to her car. ██████████ protested, saying “Go back to the car for what? You pulled me over!”³

The officers again ordered her to return to her car. ██████████ answered, “I’m going to get back in the car, but I haven’t done anything.”⁴ ██████████ turned and began moving toward her vehicle. However, before she reached her seat, one of the officers—later identified as Officer O’Connell—took hold of her and placed her in handcuffs.⁵ The handcuffs were so tight that ██████████ “couldn’t even itch [her] nose.”⁶ ██████████ repeatedly informed the officers that her handcuffs were causing pain. In response, Officer O’Connell “grabbed [her] underarm” and began “pulling [her] and swinging [her] around.”⁷

Meanwhile, the other officer, later identified as Officer Cuevas—told ██████████ the officers stopped her because she “did not make a complete stop” at the intersection. ██████████ disputed this point, saying she made “sure to make a complete stop because [she] had seen [the officers] behind [her].”⁸ Officer Cuevas then “looked around” and stated, “well, your license plate is expired.”⁹ ██████████ acknowledged her plates were “four days expired,” but insisted she had received a “thirty-day grace period” from the Illinois Secretary of State’s office.¹⁰

Officer Cuevas obtained ██████████ license from her mother (who had remained in the vehicle). The officer discovered that the license was suspended and informed ██████████ expressed disbelief, saying that—although the license was suspended in the past—she believed it had been

² See att. 8.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

reinstated. The officers informed [REDACTED] they needed to impound her vehicle and take her to the station. At that point, they placed her in the squad car.

Officer O'Connell searched the vehicle. Then, without asking [REDACTED] permission, he seized her vehicle and drove her mother and grandson to their residence.

b. Digital Evidence

COPA obtained video from the body-worn cameras (“BWCs”) of Officers Cuevas and O’Connell.¹¹ Video from the BWCs of both officers shows that, at the start of the incident, Officer Cuevas was driving a police vehicle while her partner, Officer O’Connell, entered information into its console.¹² Once O’Connell finished using the console, Cuevas activated the vehicle’s emergency lights.

Soon after, Cuevas stopped the police vehicle and opened her door. As soon as she left her seat, a woman, [REDACTED] exited the target vehicle and turned toward the officer. Cuevas immediately stated, “Hey, hon, do me a favor and stay in the car, okay?”¹³ [REDACTED] remained outside her vehicle and asked, “What did you pull me over for?”¹⁴ Cuevas answered, “One, because your plates are expired. And two, because you don’t know how to come to a complete stop at a stop sign.”¹⁵ [REDACTED] disputed the officer’s claim that she did not stop at the stop sign. Cuevas then gave [REDACTED] multiple orders to “sit in the car,” but she again remained outside her vehicle.

At that point, Cuevas and O’Connell, who had also exited the police vehicle attempted to place [REDACTED] in handcuffs. O’Connell took hold of [REDACTED] right arm and instructed her to place her hands behind her back. With her left hand, [REDACTED] began pointing at the officer’s face, stating “You’re not going to do this! Don’t do this!”¹⁶ Cuevas helped O’Connell turn [REDACTED] around and stated, “You’re pointing your fingers in my partner’s face. That’s becoming an issue. Listen, listen! Stop resisting! You need to stop doing this! I’m not saying you’re going to jail, but at this point, you’re not listening, and I’m not about to fight you in front of your kid.”¹⁷ She then explained to [REDACTED] that the officers had placed her in handcuffs because she failed to return to the vehicle and made aggressive movements towards O’Connell’s face.

As O’Connell locked [REDACTED] in handcuffs, [REDACTED] turned to him and stated, “You got me wrong here, Mister. You got my hand wrong here! Straighten it out!”¹⁸ O’Connell adjusted the position of [REDACTED] arms, and [REDACTED] made no further complaints about the handcuffs.¹⁹

¹¹ See att. 13; att. 14.

¹² See att. 14.

¹³ Att. 13.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Att. 14.

¹⁹ See *id.*

Meanwhile, Cuevas moved over to [REDACTED] vehicle and began speaking to [REDACTED] mother (who had remained seated in the front passenger's seat). She gave [REDACTED] mother the reasons for the traffic stop and explained why the officers had placed [REDACTED] in handcuffs. Cuevas also advised the woman that [REDACTED] grandson (who was seated in the rear of the vehicle) was not properly restrained.

[REDACTED] mother provided Cuevas with copies of [REDACTED] driver's license, registration papers, and proof-of-insurance. Cuevas took these documents and ran the driver's license in LEADS. The LEADS system showed [REDACTED] driver's license had been suspended since June 2019. Cuevas informed [REDACTED] her license was suspended, and [REDACTED] disputed the finding. The officers then placed her in the police vehicle and informed her that she would need to come to the police station.

At that point, O'Connell proposed that he use [REDACTED] vehicle to transport her mother and grandson to their residence. He informed [REDACTED] mother of this plan, and she agreed to let the officer drive her home. O'Connell then took control of [REDACTED] vehicle, and drove the two passengers to their nearby apartment building. Cuevas followed in the police vehicle behind them.

Once the group arrived at the apartment building, O'Connell asked [REDACTED] mother if she wanted his assistance carrying in her groceries (which were in [REDACTED] vehicle). She answered that she did, and O'Connell then carried several bags of groceries to her apartment—making three trips between the building and the vehicle in the process. Following this, Cuevas drove [REDACTED] to the police station and O'Connell impounded her vehicle.

c. Documentary Evidence

COPA obtained a record of searches for the complainant's information from multiple law enforcement databases. These records show that, on January 04, 2020, officers ran the complainant's plates and driver's license.²⁰ According to LEADS, on the date in question, the complainant's plates had been expired since December 2018 and her driver's license was suspended.²¹

VI. ANALYSIS

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

²⁰ See att. 6.

²¹ See *id.*

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.

Preponderance of evidence can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.²² 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 satisfied.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but less demanding than “proof-beyond-a-reasonable-doubt” that applies in criminal cases.²³ 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.”²⁴

A. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS HAD JUSTIFICATION TO INITIATE THE TRAFFIC STOP.

The complainant alleged that the accused officers subjected her to a traffic stop without justification. There is no doubt a traffic stop took place. However, it is well established under federal, state, and local law that police officers may initiate a traffic stop when there are “specific and articulable facts which . . . give rise to [a] reasonable articulable suspicion that criminal activity is afoot.”²⁵ Under Illinois law, it is illegal to operate a vehicle with expired plates.²⁶ Throughout her encounter with [REDACTED] Officer Cuevas pointed to [REDACTED] expired registration plates as the basis of the stop.²⁷

Records show that, on the date of the stop, Cuevas’s partner, Officer O’Connell, ran [REDACTED] plate numbers in the LEADS system, which, on the date of the stop, listed the plates as expired by more than one year. Furthermore, BWC footage clearly shows O’Connell conducting a search in LEADS *before* the officers initiated the traffic stop. Therefore, there is ample evidence to support a firm and abiding belief that the officers had a reasonable articulable suspicion to justify the traffic stop. **For this reason, COPA recommends a finding of EXONERATED with respect to Allegation #1 against Officer Cuevas and Allegation #1 against Officer O’Connell.**

B. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICER HAD JUSTIFICATION TO PLACE THE COMPLAINANT IN HANDCUFFS.

²² 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 is found to be more probably true than not).

²³ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

²⁴ *Id.* at ¶ 28.

²⁵ See Special Order S04-13-09.

²⁶ See 625 ILCS 5/3-413(f).

²⁷ Officer Cuevas also maintained that [REDACTED] failed to stop before the solid marked line of a stop sign. Although [REDACTED] adamantly disputed this point, COPA did not examine the issue because there is ample evidence to support the officers’ initial reason for curbing [REDACTED] (*i.e.*, expired plates). Therefore, even if, for the sake of argument, [REDACTED] did not run the stop sign, the officers *still* had a lawful basis to initiate the traffic stop.

The complainant alleged that one of the officers placed her in handcuffs without justification. Although courts have recognized that “the use of handcuffs” during a traffic stop “heightens the degree of intrusion and is not generally part of a stop,” the law nevertheless permits police officers to apply handcuffs in circumstances which give rise to legitimate concerns for the safety of the officers or the public.²⁸ *I.e.*, police officers may use handcuffs during a traffic stop when such restraints are “reasonably necessary” to ensure the safety of the officers.²⁹

Here, the complainant’s behavior was aggressive, non-compliant, and, unusual: *e.g.*, she exited her vehicle before officers were able to approach her location; she ignored multiple orders to return to her vehicle; and, she repeatedly pointed her finger near Officer O’Connell’s face. Moreover, she took all these actions in the initial moments of an otherwise routine traffic stop for a minor traffic violation. In short, the complainant’s behavior caused the officers to fear for their safety. As a result, Officer O’Connell’s decision to place the complainant in handcuffs was eminently reasonable under the circumstances. For this reason, **COPA recommends a finding of EXONERATED with respect to Allegation #2 against Officer O’Connell.**

C. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICER DID NOT EXCESSIVELY TIGHTEN THE COMPLAINANT’S HANDCUFFS.

The complainant also alleged that one of the accused officers made her handcuffs excessively tight. However, BWC footage shows the complainant spoke about the comfort of the handcuffs only once during the incident. When she did so, the accused officer immediately adjusted the handcuffs, and the complainant did not speak about the issue again. **For this reason, COPA recommends a finding of UNFOUNDED with respect to Allegation #3 against Officer O’Connell.**

D. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICER DID NOT SEARCH THE COMPLAINANT’S VEHICLE WITHOUT JUSTIFICATION.

Finally, the complainant alleged that Officer O’Connell searched her vehicle without justification. BWC does not show any officer undertake a search of [REDACTED] vehicle (although the footage does show Officer O’Connell took control of the vehicle and, before impounding it, used it transport [REDACTED] elderly mother and minor grandson to their residence).

Moreover, the law permits police officers to conduct inventory searches of impounded vehicles.³⁰ Since departmental policy empowers officers to impound the vehicle of a person who is arrested for a suspended license³¹ (as happened here), O’Connell had authority to search [REDACTED] vehicle. **For this reason, COPA recommends a finding of UNFOUNDED with respect to Allegation #4 against Officer O’Connell.**

²⁸ *People v. Daniel*, 2013 IL App. (1st) 111876 ¶39 (2013) (quoting *People v. Johnson*, 408 IL App. (3d) 113, 113 (2010)).

²⁹ *People v. Daniel*, 2013 IL App. (1st) at ¶¶40-41.

³⁰ See *South Dakota v. Opperman*, 426 U.S. 364 (1976).

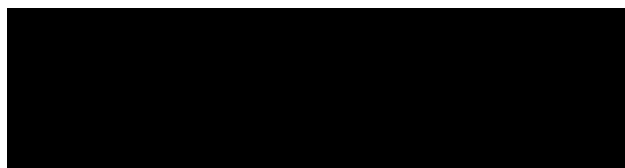
³¹ See Special Order S07-03-05, Impoundment of Vehicles for Municipal Code Violations.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Cuevas	<p>It is alleged that on or about 04 January 2020, at approximately 05:00 p.m., at or near 7899 South Indiana Avenue in Chicago, Officer Cuevas, Star #16651, committed misconduct in that:</p> <p>1. she initiated a traffic stop without justification.</p>	Exonerated
Officer O’Connell	<p>It is alleged that on or about 04 January 2020, at approximately 05:00 p.m., at or near 7899 South Indiana Avenue in Chicago, Officer O’Connell, Star #8352, committed misconduct in that:</p> <p>1. he initiated a traffic stop without justification;</p> <p>2. he placed the complainant in handcuffs without justification;</p> <p>3. he excessively tightened the complainant’s handcuffs;</p> <p>4. he searched the complainant’s vehicle without justification.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Unfounded</p> <p>Unfounded</p>

Approved:



4-6-2020

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	06
Investigator:	Joshua Hock (#55)
Supervising Investigator:	Elaine Tarver
Deputy Chief Administrator:	Angela Hearts-Glass
Attorney:	Michael Hohenadel