

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 26, 2020
Time of Incident:	10:00 pm
Location of Incident:	7800 S. Greenwood Avenue
Date of COPA Notification:	February 26, 2020
Time of COPA Notification:	10:43 am

On February 25, 2020, Complainant, [REDACTED] was detained by Department members Officer Voitik and Officer Popp, who stated they were conducting a traffic stop for [REDACTED] not having a functioning license plate light. [REDACTED] was required to exit his car and submit to a pat-down search of his person. His identity was confirmed by Officer Voitik who entered his driver’s license into the Department database. After approximately three minutes, [REDACTED] was released without being issued a citation or investigatory stop receipt. COPA finds the allegations are Sustained in part.

II. INVOLVED PARTIES

Involved Officer #1:	Dylan Voitik #4288, employee ID# [REDACTED], Date of Appointment: December 15, 2017, rank: Police Officer, Unit of Assignment: 006, DOB: [REDACTED], 1994, male, white
Involved Officer #2:	Kevin Popp #13364, employee ID# [REDACTED], Date of Appointment: April 25, 2016, rank: Police Officer, Unit of Assignment: 001, DOB: [REDACTED], 1990
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1973, male, black

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Dylan Voitik	It is alleged that on or about February 25, 2020, at approximately 10:00 pm at or near 7800 S. Greenwood Ave. Chicago, Illinois, Officer Dylan Voitik, Star #4288, committed misconduct through the following acts or omissions, by:	
	1. Stopped and detained [REDACTED] without justification.	Exonerated
	2. Performed a pat down search of [REDACTED] without justification.	Unfounded
	3. Failed to document the traffic stop of [REDACTED] with a Driver’s Information Transportation Statistical Survey Card.	Sustained
	4. Failed to document the pat down search of [REDACTED] and issue an Investigatory Stop Receipt.	Sustained
	5. Failed to activate your Body Worn Camera.	Sustained
Officer Kevin Popp	It is alleged that on or about February 25, 2020, at approximately 10:00 pm at or near 7800 S. Greenwood Ave. Chicago, Illinois, Officer Kevin Popp, Star #13364, committed misconduct through the following acts or omissions, by:	
	1. Stopped and detained [REDACTED] without justification.	Exonerated
	2. Performed a pat down search of [REDACTED] without justification.	Exonerated
	3. Failed to document the traffic stop of [REDACTED] with a Driver’s Information Traffic Statistical Survey Card.	Sustained

4. Failed to document the pat down search of [REDACTED] and issue an Investigatory Stop Receipt.	Sustained
5. Declined to provide name and badge number when requested by [REDACTED]	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impeded the Department’s efforts to achieve its policy goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 37: Failure of a member, whether or on duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

Special Orders¹

1. S04-13-09 Investigatory Stop System
2. S03-14 Body Worn Cameras

Federal Laws

1. Fourth Amendment, United States Constitution

Municipal Code

1. Section 9-76-050(d) Required Lighting

¹ All references in this report to Department Directives are to the orders that were in effect at the time of this incident, unless otherwise noted.

V. INVESTIGATION²

a. Interviews

COPA interviewed complainant [REDACTED] [REDACTED] on April 17, 2020. The following is a summary of his statement.

[REDACTED] said he was sitting in his parked car when he was approached by CPD officers inquiring how long he had been in the area and if he knew anything about a shooting in the vicinity. [REDACTED] told them that he had just gotten off work and had no knowledge of any shooting in the area. [REDACTED] said he first saw the officers when he was at the stop sign at 78th and Greenwood Avenue. He was traveling southbound on Greenwood Avenue, and the CPD squad was traveling northbound. [REDACTED] said the officers looked at him as if they wanted to turn around towards him. He said the CPD officers, now known as Officer Voitik and Officer Popp, continued northbound moving slowly. [REDACTED] pulled over and waited to see if they were going to turn around. From his rearview mirror, [REDACTED] observed the squad make a U-turn at 77th and Greenwood. The officers pulled behind [REDACTED] vehicle and activated their emergency lights.

Officer Voitik approached on [REDACTED] driver's side, and Officer Popp was on his passenger side. Officer Voitik asked how long [REDACTED] had been in the neighborhood. After [REDACTED] told Officer Voitik that he just got in neighborhood after getting off work and closing his business. Officer Voitik told [REDACTED] that there had been shootings around the neighborhood and he was checking to make sure everyone was safe. [REDACTED] said he told the officer that he did not do any shooting and reiterated that he just got off work. Officer Voitik then asked if [REDACTED] had a driver's license. [REDACTED] told him that he did. When Officer Voitik asked to see his driver's license, [REDACTED] refused and told the officer that he had not committed a crime.⁴

[REDACTED] said the officer wanted to "check him out,"⁵ but [REDACTED] was adamant that because he hadn't committed a crime, he was not required to present his driver's license to the officers.

COPA interviewed accused Officer Kevin Popp on September 3, 2020.⁶ After Officer Popp reviewed his Body Worn Camera (BWC)⁷ footage, the following is a summary of his statement.

Officer Popp recalls responding to the location of 7700 S. Greenwood Ave., in reference to a ShotSpotter call. Initially when [REDACTED] was observed in his vehicle, he drove past the officers, and was observed not wearing a seatbelt. The officers also observed that the rear registration light of [REDACTED] vehicle was not illuminated. Officer Popp does not recall which traffic violation was observed first.

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Att. 4 (audio).

⁴ Att. #6 at the 7:33 mark.

⁵ Att.#4 at the 7:39 mark.

⁶ Att. #6 (audio).

⁷ Att. 3. All references to specific times within a BWC video correspond to the time stamped on the upper righthand corner of the video.

Officer Popp said Officer Voitik approached [REDACTED] vehicle on the driver's side and he approached on the passenger side. Officer Popp assumed that Officer Voitik asked [REDACTED] for his driver's license and insurance card because [REDACTED] failed to produce it. [REDACTED] was asked to step out of the car due to his refusal to provide driver's license information and combative nature, and the officers wished to further investigate.

When Officer Popp was asked if he refused to provide [REDACTED] with his name and badge number when asked by [REDACTED], he said, "I did not decline to give my name to him."⁹ "He asked if I would be able to give my name to him, and I had a conversation with him to which I responded with a question, and he never demanded my name."¹⁰ Officer Popp continued, "My name is also listed on my vest as you can see here, it's clearly legible and would have been at that time."¹¹ Officer Popp said he is aware of the CPD rule requiring an officer to provide their name and badge number when requested by a member of the public; however, [REDACTED] did not specifically ask for it.

Officer Popp was provided with text of Rule 37 to review and asked again if he was obligated to provide his name to [REDACTED] based on the rule's exact wording. Officer Popp stated [REDACTED] did not ask "What is your name?"¹²

Officer Popp was then asked about the absence of a prepared Investigatory Stop Report ('ISR') documenting the interaction he and Officer Voitik had with [REDACTED]. Officer Popp agreed that one should have been completed and [REDACTED] should've been given a receipt. He does not recall why the ISR was not created by him or his partner.

COPA interviewed accused Officer Dylan Voitik¹³ on September 18, 2020. After Officer Voitik reviewed the Body Worn Camera (BWC) footage of Officer Popp, the following is a summary of his statement.

While on duty with his partner, Officer Popp, Officer Voitik recalled responding to a call of shots fired detected by ShotSpotter in the area of 7700 S. Greenwood Avenue. When they drove onto Greenwood, they were not given offender or vehicle information, but they did observe a lone vehicle idling in the location ShotSpotter detected. They also observed that the rear registration light of the vehicle was not illuminated. They then stopped to investigate further and made contact with [REDACTED] advising him as to why they were there and of the traffic violation.

When asked what the reasonable articulable suspicion for them was to stop or detain [REDACTED] Officer Voitik said that he and Officer Popp had probable cause to stop [REDACTED] for the traffic infraction. Officer Voitik did not recall any of the conversation he had with [REDACTED]. He described [REDACTED] as being initially resistant to exiting the vehicle, but eventually [REDACTED] complied and stood outside his car. Officer Voitik recalls that [REDACTED] was patted down, but his vehicle was not searched.

⁸ Att. 3. At 22:32:54

⁹ Att. 5 at the 17:23 mark.

¹⁰ Att. 5 at the 17:27 mark.

¹¹ Att. 5 at the 17:37 mark.

¹² Att.#6 at the 1:00 mark.

¹³ Att. 8 (audio).

Officer Voitik described the interaction with ██████ as an investigatory stop.¹⁴ When asked about the absence of an Investigatory Stop Report ('ISR'), Officer Voitik indicated he did not recall preparing one.¹⁵ Officer Voitik also stated he did not believe that he or Officer Popp issued an ISR receipt to ██████ at the conclusion of the stop.¹⁶ Officer Voitik does not recall the reason why he and Officer Popp failed to complete the ISR documentation process; speculating that it was possible that they got another call and forgot to complete it. When asked about the absence of a driver's information card documenting the stop, Officer Voitik stated to the best of his recollection they completed one at the end of their shift. If one could not be located, it was likely lost or not entered by clerks handling them.

Officer Voitik was then asked about his failure to activate his BWC, he indicated he forgot to activate it when he was getting out of the vehicle¹⁷ and it was unintentional. Officer Voitik was asked if he heard ██████ ask Officer Popp for his name and badge number; he said he did not.

b. Digital Evidence

The Body Worn Camera ("BWC") footage of Officer Popp captures most of the incident.

Officer Popp's BWC¹⁸ shows Officer Popp at the front passenger side of ██████ vehicle shining a flashlight into the window, and Officer Voitik standing at the front driver's side of the vehicle.¹⁹ There is no sound due to buffering. ██████ is observed to be the only occupant in the vehicle as he and Officer Voitik are talking. After a few seconds Officer Popp walks around to the driver's side of the vehicle. The front driver's side door is open, and ██████ is seated in the driver's seat.²⁰ The audio comes on and Officer Voitik is heard saying, "I asked you politely." ██████ responded, "You gonna kidnap me bro?" as he exits the vehicle. ██████ turns to face Officer Popp with his hands in an upwards motion. Officer Popp's left hand is observed pushing the right lower area of ██████ coat. He then placed both of his hands slightly in between the coat and outside of ██████ sweater near the lower abdomen/waist area.²¹ Officer Popp tells ██████ to relax. ██████ tells the officers that they are "doing too much." Officer Popp tells ██████ "You're supposed to give your license when you are asked."²² ██████ respond, "Bro, if I ain't committed no crimes bro." Officer Popp tells ██████ that he did commit a crime because his license plate light was out, which ██████ did not view as a crime.

There is back and forth conversation between the officers and ██████ which ended with ██████ telling them to write him a ticket. Officer Voitik asked ██████ for his I.D. ██████ complied, grabbed his I.D. from his left rear pocket and handed it to Officer Voitik. ██████ told the officers

¹⁴ Att.#8 at the 15:33 mark.

¹⁵ Att.#8 at the 15:56 mark.

¹⁶ Att.#8 at the 16:16 mark.

¹⁷ Att.#8 at the 19:20 mark.

¹⁸ Att. 3, (video)

¹⁹ Att. 3, at 22:31:02.

²⁰ Att. 3, at 22:31:42.

²¹ Att. 3, at 22:31:51.

²² Att. 3, at 22:31:53.

that they were “on bullshit.” BWC shows Officer Voitik close the front driver’s side door²³ as ██████ move towards the rear of the vehicle.

██████ states, as he points towards an intersection, “I seent ya’ll, ya’ll was finna turn around on me right there.”²⁴ Officer Popp responded, “Because when we passed you, we saw that your rear license plate was out.”²⁵ BWC shows ██████ leaning against the rear driver’s side of his vehicle with his arms folded in front of him. Officer Popp and Officer Voitik are shown standing to the right of ██████ a few feet from him. ██████ asked, “Ya’ll can’t give me ya’ll name, huh?”, “Ya’ll can’t give me ya’ll names huh?” Officer Popp responded, “Huh?” ██████ asked again, “Ya’ll can’t give me ya’ll names?”²⁶ Officer Popp responded, “What do you need my name for?”²⁷ ██████ responded, “Cuz, this is illegal.” Officer Popp explained to ██████ that it was not illegal, due to the traffic violation they observed. ██████ told him he was parked and did not violate any laws. Officer Popp pointed out to ██████ that he was not wearing a seatbelt as he drove past them.²⁸

██████ then tells the officers that he was going to tell his uncle and that he had connections at the police department. The conversation continues about whether ██████ was pulled over by the officers because his vehicle was already parked when the officers approached him. Officer Popp explains to ██████ that even if he ran from the vehicle, they could still stop him. ██████ tells him he hates them. The BWC shows Officer Voitik walk up in view from the right side of Officer Popp and tell him that ██████ was good as he hands ██████ the I.D. card. ██████ takes the I.D. card and says he knew he was good, at which time he quickly walked towards the front driver’s side door. Officer Popp asks ██████ if it was that hard. ██████ called them “assholes” as Officer Voitik and Officer Popp walked towards their squad car. The BWC was three minutes in length.

c. Documentary Evidence

OEMC Event Query #2005615514²⁹

Event Query #200561554 documents a traffic stop by Beat 465A at 10:33 pm on February 25, 2020. The location of the event is given as 78th/Greenwood.

OEMC Event Query #2005615469³⁰

Event Query #2005615469 documents a shot-spotter incident that occurred at 7705 S. Greenwood Avenue at 10:27 pm.

Screen Capture from CLEAR picturing Investigatory Stop Reports (‘ISR’) completed by Officer Voitik³¹

²³ Att. 3, at 22:32:22.

²⁴ Att. 3, at 22:32:25.

²⁵ Att. 3, at 22:32:29.

²⁶ Att. 3, at 22:33:02.

²⁷ Att. 3, at 22:33:00.

²⁸ Att. 3, at 22:33:23.

²⁹ Att.#1

³⁰ Att.#2

³¹ Att.#8

A search of the CLEAR database for an ISR completed by Officer Voitik shows no ISRs were created involving [REDACTED]

Screen Capture from CLEAR picturing Investigatory Stop Reports ('ISR') completed by Officer Popp³²

A search of the CLEAR database for an ISR completed by Officer Popp shows no ISRs were created involving [REDACTED]

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 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.

³² Att.#9

VII. ANALYSIS

a. Allegation #1 Officer Voitik and Officer Popp stopped and detained ██████████ without justification.

“A lawful traffic stop must have at least [an] articulable and reasonable suspicion that a particular person stopped is breaking the law,” including traffic law. *United States v. Rodriguez-Escalera*, 884 F.3d 661-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).” Here, Officer Voitik and Officer Popp both provided COPA with statements that they observed the rear registration light out and ██████████ not wearing his seatbelt as the vehicle he was driving by them. That observation was confirmed when the vehicle was in the 7800 block of Greenwood Ave. In addition, Officer Popp is heard explaining both violations to ██████████ on BWC.

Although, as ██████████ opines in his statement to COPA and at the scene of the incident that he does not believe that this is a crime, the Illinois Vehicle Code states:

Illinois Vehicle Code (625 ILCS 5/12-201) (from Ch. 95 1/2, par. 12-201) Sec. 12-201, When lighted lamps are required. (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light a rear registration plate when required and render it clearly legible from 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating a rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.”

As COPA did not discover any verifiable articulable evidence to dispute Officer Voitik’s and/or Officer Popp’s observation of the traffic violation, COPA finds that the stop of ██████████ was based upon reasonable and articulable suspicion. Furthermore, ██████████ did not deny that he committed the traffic violation in question. Therefore, based on clear and convincing evidence, COPA finds that Officer Voitik and Officer Popp are **Exonerated** regarding this allegation.

b. Allegation #2 Officer Voitik and Officer Popp performed a pat down search of ██████████ without justification.

The BWC footage³³ shows that Officer Popp conducted the pat down search of ██████████ person. Therefore, COPA finds this allegation did not occur against Officer Voitik and is **Unfounded** as to Officer Voitik.

As to Officer Popp, ██████████ was asked to produce his driver’s license, to which he refused. ██████████ was also combative and uncooperative. This, coupled with the fact that the officers were responding to the area for shots fired, makes the accused Officers request that ██████████ step out of the

³³ Att. 3, at 22:31:51.

vehicle and the subsequent pat down of ██████ person, reasonable.³⁴ Thus, allegation #2 against Officer Popp is **Exonerated**.

c. Allegation #3 against Officer Voitik and Officer Popp, that they failed to document the traffic stop of ██████ with a Driver's Information Transportation Statistical Survey Card.

COPA conducted a database search for the document with negative results. Officer Voitik said "to the best of his recollection they completed a stop card at the end of their shift. If one could not be located, it was likely lost or not entered by clerks handling them." There is no verifiable evidence that supports Officer Voitik's assertion. COPA finds allegation #3 against Officer Voitik and Officer Popp is **Sustained**.

d. Allegation #4 against Officer Voitik and Officer Popp, that they failed to document the pat down search of ██████ and issue an Investigatory Stop Receipt.

COPA conducted a database search via CLEARNET "Investigatory Stops for Officer Voitik³⁵ and Officer Popp³⁶ with negative results. Both officers stated they did not recall if they drafted an ISR and acknowledged that ██████ was not issued a receipt. COPA finds this allegation against Officer Voitik and Officer Popp is **Sustained**.

e. Allegation #5 against Officer Voitik failed to activate your Body Worn Camera.

Officer Voitik states he forgot to activate his body worm camera and it was unintentional. CPD Special Order S03-14 Body Worn Cameras, requires officers to activate their cameras when engaged in law enforcement activity. Officer Voitik was engaged in a law enforcement activity with a member of the public when he stopped ██████ COPA finds the allegation against Officer Voitik **Sustained**.

f. Allegation #5 against Officer Popp, that he Declined to provide name and badge number when requested by ██████

██████ Officer Popp and BWC depict articulable verifiable evidence that the alleged conduct complained of occurred. BWC depicts ██████ asking Officer Popp three times, "Ya'll can't give me ya'll name, huh?", "Ya'll can't give me ya'll names huh?"³⁸ Officer Popp responded, "Huh?" ██████ asked again, "Ya'll can't give me ya'll names? Officer Popp responded, "What do you need my name for?"³⁹ ██████ responded, "Cuz, this is illegal."

³⁴ Att. 2.

³⁵ Att.10.

³⁶ Att. 11.

³⁷ Att. 4.

³⁸ Att. 3, at 22:33:02.

³⁹ Att. 3, at 22:33:00.

Rule 37 prohibits “Failure of a member, whether or on duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.”

When asked whether ██████ requested his name, Officer Popp’s response that ██████ did not ask him directly is not consistent with CPD rules. COPA finds the allegation against Officer Popp **Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Dylan Voitik

i. Complimentary and Disciplinary History

Officer Voitik complimentary history consists of the following: (1) 2019 Crime Reduction Award, (1) Complimentary Letter, (2) Department Commendation, (35) Honorable Mention, (1) Life Saving Award. Total of (41) Awards.

No SPAR’s or sustained complaint history as of March 4, 2022.

ii. Recommended Penalty, by Allegation

For the allegations that Officer Voitik failed to document the traffic stop of ██████ with a Driver’s Information Transportation Statistical Survey Card, failed to document the pat down search of ██████ and issue an Investigatory Stop Receipt, and failed to activate his Body Worn Camera, COPA recommends a Written Reprimand.

b. Officer Kevin Popp

i. Complimentary and Disciplinary History

Officer Voitik complimentary history consists of the following: (1) 2019 Crime Reduction Award, (3) Department Commendation, (1) Emblem of Recognition-Physical Fitness, (43) Honorable Mention, (43) Honorable Mention, (1) Traffic Stop of the Month Award, (1) Unit Meritorious Award. Total of (50) Awards.

No SPAR’s and 1 sustained finding for log #2021-4864, Operational/Personnel Violations; Insubordination with an incident date of 12/7/2021 where the officer was suspended for over 30 days as of March 4, 2022.

ii. Recommended Penalty, by Allegation

For the allegations that Officer Popp failed to document the traffic stop of ██████ with a Driver’s Information Transportation Statistical Survey Card, failed to document the pat down search of ██████ and issue an Investigatory Stop Receipt, and declined to provide his

name and badge number when requested by [REDACTED] COPA recommends a 15-day Suspension. Officer Popp showed a collective lapse of judgment and failure to follow Department Rules and Regulations. He also minimized his failure to identify himself and failed to take responsibility for this violation.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Investigator

3/31/22

Date