

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	December 28, 2018/9:11 pm/6905 S. Wolcott Ave.
Date/Time of COPA Notification:	January 3, 2019/12:25 pm
Accused Officer #1:	Matthew Moore, star # 10785, employee ID# [REDACTED], Date of Appointment July 15, 2013, PO, Unit of Assignment, 189/193 DOB [REDACTED], 1988, Male, White.
Accused Officer #2:	Carlos Yanez, Jr., star # 16022, employee ID# [REDACTED], Date of Appointment August 25, 2014, PO, Unit of Assignment 007/716, DOB [REDACTED], 1981, Male, WWH.
Accused Officer #3:	Zachary Girard, star# 14595, employee ID# [REDACTED], Date of Appointment February 2, 2015, PO, Unit of Assignment 007/610, COB [REDACTED], 1992, Male, White.
Accused Officer #4:	Daniel Symons, star# 10534, employee ID# [REDACTED], Date of Appointment April 25, 2016, PO, Unit of Assignment 007/716, DOB [REDACTED], 1990, Male, White.
Involved Officer #1:	Julian Rodriguez, star # 14711, employee ID# [REDACTED], Date of Appointment February 2, 2015, PO, Unit of Assignment 007/716, Male. (RESIGNED April 24, 2021)
Involved Officer #2	Alfredo Ortiz, star # 17347, employee ID# [REDACTED], Date of Appointment February 23, 2015, PO, Unit of Assignment 010, DOB [REDACTED], 1989, Male, WWH.
Involved Sergeant #1:	Rhonda Anderson, star # 1376, employee ID# [REDACTED], Date of appointment February 28, 2000, Sergeant, Unit of assignment 544, DOB [REDACTED], 1973, Female, White.
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1982, Male, Black.
Involved Individual #2:	[REDACTED] DOB [REDACTED], 1990, Male, Black.
Involved Individual #3:	[REDACTED] DOB [REDACTED], 1990, Male, Black.
Case Type:	Fourth Amendment/Excessive Force

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Matthew Moore	1. It is alleged that on or about December 28, 2018, at or about 9:11 pm, Officer Matthew Moore stopped [REDACTED] in his vehicle for a windshield obstruction without justification.	Exonerated

	2. It is alleged that on or about December 28, 2018, at or about 9:11 pm, Officer Matthew Moore arrested [REDACTED] without justification.	Exonerated
Officer Carlos Yanez, Jr.	1. It is alleged that on or about December 28, 2018, at or about 9:11 pm, Officer Carlos Yanez, Jr. used excessive force when he removed [REDACTED] from the vehicle driven by [REDACTED] without justification.	Exonerated
Officer Daniel Symons	1. It is alleged that on or about December 28, 2018, at or about 9:11 pm, Officer Daniel Symons broke the two driver's side windows on the vehicle owned by [REDACTED] without justification.	Exonerated
Officer Zachary Girard	1. It is alleged that on or about December 28, 2018, at or about 9:11 pm, Officer Zachary Girard broke the two passenger side windows on the vehicle owned by [REDACTED] without justification.	Exonerated

II. SUMMARY OF EVIDENCE¹

On December 28, 2018, about 9:11 pm, [REDACTED] and his two cousins, [REDACTED] the front seat passenger, and [REDACTED] the rear seat passenger, were stopped by police for a windshield obstruction as they drove down the 6900 block of S. Wolcott Ave. When an officer approached his vehicle, Mr. [REDACTED] opened his driver's side window enough to pass through his driver's license and proof of insurance. When the officer, now known as Officer Matthew Moore, ordered Mr. [REDACTED] to let the window down further, he declined to do so, and continued to decline the officer's further attempts to gain his compliance.² Officer Yanez made repeated attempts to get the occupant of the rear passenger seat to open the window for officer safety, and stated he could not see inside the tinted window, but he received no response from Mr. [REDACTED].³ Eventually, Officer Moore ordered Mr. [REDACTED] to exit the vehicle, which he also declined to do each time he was asked.⁴ According to Body Worn Camera (BWC) Mr. [REDACTED] and Mr. [REDACTED] also declined to let down their windows or exit the vehicle.⁵

Officer Moore called for a sergeant to come to the scene.⁶ When Sergeant Rhonda Anderson arrived, she too ordered Mr. [REDACTED] and his passengers to exit the vehicle several times, and quoted *Pennsylvania v. Mimms* to explain that they were required to exit the vehicle upon an

¹COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

²[REDACTED] Interview, Att. 12 at 05:54.

³BWC Yanez, Att. 16 at 01:05.

⁴[REDACTED] Interview, Att. 12 at 05:54.

⁵BWC Anderson, Att. 16 at 02:33.

⁶[REDACTED] Interview, Att. 12 at 08:49.

officer's demand.⁷ She further informed Mr. [REDACTED] that he had five seconds to exit the vehicle, or the officers would break his windows.⁸ When neither Mr. [REDACTED] nor the other passengers exited the vehicle, Officer Daniel Symons and Officer Zachary Girard broke the vehicles windows, with the front windows being clear and the rear being tinted. When the officer got to Mr. [REDACTED] window, and just before the officer broke it, Mr. [REDACTED] began yelling that he had no control of the door because of a child proof lock.⁹ BWC captured that neither Mr. [REDACTED] nor Mr. [REDACTED] made any mention of this before the officers began to break the vehicle's passenger side windows.¹⁰

According to Mr. [REDACTED] Officer Moore removed Mr. [REDACTED] from the vehicle first and then other officers extracted the other two passengers. BWC, however, captured each of the occupants stepping out of the vehicle on their own.¹¹ There was no further incident with Mr. [REDACTED] and Mr. [REDACTED] once outside the vehicle, and they were handcuffed then transported to the police station as a matter of routine. Mr. [REDACTED] said that he was pat down, and his vehicle was searched and impounded.¹²

Mr. [REDACTED] however, claimed that the officers took him out of the vehicle, roughly threw him onto the ground, cuffed him, searched him, and took him to a squad car.¹³ During this interaction, he said, an officer smacked his phone out of his hand as he was recording the incident. He also said that he suffered a slight cut to his left hand caused by the broken glass, which produced only a very slight amount of blood. BWC captured Mr. [REDACTED] also step out of the vehicle on his own, however, Officer Yanez performed what appeared to be a "come-along" hold to move him away from the vehicle.¹⁴ Right after, Mr. [REDACTED] appeared to fall to the ground, possibly knocked down by Officer Julian Rodriguez just before he was handcuffed by Officer Rodriguez who was assisted by Officer Alfredo Ortiz.¹⁵ BWC captured Mr. [REDACTED] phone fly in front of him and fall to the ground as he was going down.¹⁶

Regarding Mr. [REDACTED] claim of injury, not only is there no mention of any injury on his arrest report or any other Department generated report, but there is also no evidence the Department members were aware of the injury so claimed. Furthermore, Mr. [REDACTED] did not seek any medical attention and was warned, repeatedly, that the windows would be broken if the occupants did not voluntarily exit the vehicle.

⁷ [REDACTED] Interview, Att. 12 at 10:46. *Pennsylvania v. Mimms* 434 U.S. 106 (1977).

⁸ [REDACTED] Interview, Att. 12 at 11:25.

⁹ BWC Yanez, Att. 16 at 08:47.

¹⁰ BWC Yanez, Att. 16 at 00:00-08:47.

¹¹ BWC Yanez, Att. 16 at 08:56, 09:07, BWC Moore, Att. 16 at 08:56.

¹² Although both Officer Yanez and Sergeant Anderson mentioned that they smelled "weed" emanating from the vehicle, none was found during the vehicle search and none was inventoried.

¹³ [REDACTED] Interview, Att. 14 at 12:30.

¹⁴ BWC Yanez, Att. 16 at 09:00.

¹⁵ BWC Anderson, Att. 16 at 03:50. Because of the quality of the BWC it is difficult to see whether Mr. [REDACTED] fell or was knocked to the ground by Officer Rodriguez before he was handcuffed. Because Officer Rodriguez resigned before this investigation was completed, no allegation was considered for inclusion in this report.

¹⁶ BWC Anderson, Att. 16 at 03:50.

Mr. ██████ was issued two citations, one for having open alcohol in his vehicle, and one for having an obstruction of the driver's view.¹⁷ He stated that the alcohol found was in the back of the vehicle, behind the back seat (there is no trunk of the minivan), that there were no cups in the vehicle, and that the cross hanging from his rear-view mirror was not obstructing his view). Body worn camera, however, established that the bottle of Hennessey and plastic cups were, in fact, found behind the driver's seat in the passenger area where Mr. ██████ was sitting.¹⁸ Mr. ██████ also mentioned that he took and passed the sobriety test given to him at the station.¹⁹

III. ANALYSIS AND CONCLUSION

Before analyzing the allegations, it is important to point out that the credibility of Mr. ██████ is in question. Like Mr. ██████ Mr. ██████ failed to obey the Department members orders to put down their windows and exit the vehicle. In fact, he told the officers they did not need to get out.²⁰ His account of the incident differed, however, in a few different ways. First, he said that Mr. ██████ started to open his door before the officer broke his window, and then closed it again. However, body worn camera established that Mr. ██████ did not open the door to his vehicle before the window was broken.²¹ He also claimed that the officers were forceful when extracting Mr. ██████ from the vehicle, threw him onto the ground and handcuffed him.²² Again, this claim is contradicted by the body worn camera that captured Mr. ██████ exit his vehicle, on his own, and remain on his feet.²³

OFFICER MATTHEW MOORE

COPA finds that **Allegation #1**, that on or about December 28, 2018, at or about 9:11 pm, Officer Matthew Moore stopped ██████ in his vehicle for a windshield obstruction without justification, is not supported by the evidence, therefore Officer Moore is **Exonerated**.

According to Municipal Code of Chicago 9-40-25b) *Driving with view obstructed prohibited*, "No person shall drive any motor vehicle upon the roadway with any object so placed in or upon the vehicle as to obstruct the driver's clear view thorough the windshield, except required or permitted equipment of the vehicle."

In this case, officers performed a traffic stop after they observed an object, which turned out to be a cross, hanging from the rearview mirror of Mr. ██████ vehicle. There was no dispute about that fact. However, the question of whether or not the cross obstructed the driver's clear view out of the windshield was a matter for the court to decide. Therefore, Officer Moore is Exonerated.

¹⁷ ██████ Interview, Att. 12 at 17:30.

¹⁸ BWC Yanez, Att. 16 at 09:53.

¹⁹ ██████ Interview, Att. 12 at 17:05.

²⁰ ██████ Interview, Att. 14 at 09:10.

²¹ BWC Moore, Att. 16 at 08:25.

²² ██████ Interview, Att. 14 at 12:07.

²³ BWC Moore, Att. 16 at 08:55.

COPA finds that **Allegation #2**, that on or about December 28, 2018, at or about 9:11 pm, Officer Matthew Moore arrested [REDACTED] without justification, is not supported by the evidence, therefore Officer Moore is **Exonerated**.

A peace officer may arrest a person when he has reasonable grounds to believe that the person is committing or has committed an offense. 725 ILCS 5/107-2(c).

In this case, Mr. [REDACTED] repeatedly ignored both Officer Moore's and Sergeant Anderson's orders to open the windows and step out of the vehicle, in violation of *Pennsylvania v. Mimms* 434 U.S. 106 (1977), which stated, inter alia, that for officer safety reasons, asking a person to exit a vehicle during a traffic stop is a mere inconvenience which cannot prevail when balance against legitimate concerns for the officer's safety. Therefore, officers may legally order the driver and any passengers out of a vehicle during a traffic stop. Because Mr. [REDACTED] was arrested because he chose not to comply with the Department members' orders, Officer Moore is Exonerated.

OFFICER CARLOS YANEZ, JR.

COPA finds that **Allegation #1**, that on or about December 28, 2018, at or about 9:11 pm, Officer Carlos Yanez, Jr. used excessive force when he removed [REDACTED] from the vehicle driven by [REDACTED] without justification is not supported by the evidence, therefore Officer Yanez is **Exonerated**.

G03-2 (III-B) (2017) *Use of Force* stated, inter alia, that Department members may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject or prevent escape.

In this case, after failing to comply with many and repeated orders from both Officer Moore, Officer Yanez, and Sergeant Anderson to let down his window and exit the vehicle, Mr. [REDACTED]'s window was broken so that Department members to reach him to affect an arrest. Once Officer Yanez was able to get the car door open, he ordered Mr. [REDACTED] out of the vehicle. Mr. [REDACTED] stood up on his own and stood near the open door. Officer Yanez placed his hand on Mr. [REDACTED] and moved him aside. BWC established that this motion was permissible as Mr. [REDACTED] had behaved as a passive resistor. Therefore, Officer Yanez is Exonerated.

OFFICER DANIEL SYMONS

COPA finds that **Allegation #1**, that on or about December 28, 2018, at or about 9:11 pm, Officer Daniel Symons broke two windows on the vehicle owned by [REDACTED] without justification is not supported by the evidence, therefore Officer Symons is **Exonerated**.

G03-2 (III-B) (2017) *Use of Force* stated, inter alia, that Department members may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject or prevent escape.

As mentioned earlier, [REDACTED] and [REDACTED] all refused to comply with Department member orders to let down their windows and exit the vehicle. As a last

resort, Sergeant Anderson ordered Officers Symons and Girard to break the windows of the vehicle so Department members could affect their arrests. Therefore, Officer Symons is Exonerated.

OFFICER ZACHARY GIRARD

COPA finds that **Allegation #1**, that on or about December 28, 2018, at or about 9:11 pm, Officer Zachary Girard broke two windows on the vehicle owned by [REDACTED] without justification is not supported by the evidence, therefore Officer Girard is **Exonerated**.

The analysis for this allegation is consistent with that of Allegation #1 for Officer Symons.

Approved:

[REDACTED]

2/23/2022

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date