

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 25, 2019
Time of Incident:	2:47 am
Location of Incident:	4101 W. Madison Street
Date of COPA Notification:	October 25, 2019
Time of COPA Notification:	2:19 pm

On October 25, 2019, [REDACTED] ([REDACTED]) was stopped by Officers Anna Hosepian (Officer Hosepian) and Matthew Gozdal (Officer Gozdal) for committing a traffic violation. During the traffic stop, Officer Hosepian recovered a firearm from [REDACTED] passenger, [REDACTED] ([REDACTED]) and he was subsequently arrested for unlawful possession of a firearm. The officers released [REDACTED] without any citations.

II. INVOLVED PARTIES

Involved Officer #1:	Anna Hosepian ¹ , star# 2851, emp.# [REDACTED], Date of Appointment: December 14, 2015, Officer, Unit 011, DOB: [REDACTED], 1980, Female, White
Involved Officer #2:	Matthew Gozdal III, star# 9220, emp# [REDACTED], Date of Appointment: September 24, 2007, Officer, Unit 011, DOB: [REDACTED], 1981, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1971, Male, Black
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1997, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Anna Hosepian	It is alleged by [REDACTED] that on or about October 25, 2019, at approximately 2:47 am, at or near 4101 W. Madison Street, Officer Anna Hosepian, star 2851, committed misconduct through the following act or omission: 1. by stopping [REDACTED] vehicle, without justification.	Not Sustained

¹ At the time of the incident, Officer Hosepian’s star number was 18922.

<p>Officer Matthew Gozdal</p>	<p>It is alleged by ██████████ that on or about October 25, 2019, at approximately 2:47 am, at or near 4101 W. Madison Street, Officer Matthew Gozdal III, star 9220, committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. by stopping ██████████ vehicle, without justification. 2. by handcuffing ██████████ without justification. 	<p>Not Sustained</p> <p>Exonerated</p>
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IV. APPLICABLE RULES AND LAWS

Federal Laws

1. Fourth Amendment of the U.S. Constitution

V. INVESTIGATION²

a. Interviews

██████████ was interviewed by COPA on October 28, 2019.³ According to ██████████ on the night of the incident, he was driving his vehicle and his brother, ██████████ was his passenger. ██████████ observed a marked SUV following his vehicle for approximately one block, then activate its emergency lights. ██████████ pulled over and rolled his window down. The male officer, now identified as Officer Matthew Gozdal, approached the driver’s side of ██████████ vehicle and informed ██████████ that he blew through a yellow light. The female officer, now identified as Officer Anna Hosepian, approached the passenger’s side of the vehicle and spoke to ██████████. Officer Gozdal proceeded to open ██████████ door and ordered him to exit the vehicle. As Officer Gozdal escorted ██████████ out of the vehicle, ██████████ heard his brother tell Officer Hosepian that he had a gun. ██████████ stated he did not know his brother was carrying a gun. Officer Gozdal walked ██████████ to the passenger’s side of the vehicle, where ██████████ was standing, and handcuffed the two men together in a shared pair of handcuffs. Officer Hosepian asked ██████████ if he had been drinking, and ██████████ responded that he does not drink.

According to ██████████ told Officer Hosepian he was from Arkansas and was just in Chicago visiting while on leave from the military. Officer Hosepian informed ██████████ that Illinois does not honor any other states’ conceal and carry permits, and the officers took ██████████ into custody. ██████████ alleged that Officer Gozdal searched his front seat driver’s area, and Officer Hosepian searched the passenger’s side of his vehicle. Officer Gozdal then returned ██████████ ID and told him he was free to leave. ██████████ got back into his vehicle and drove

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. 18.

to the police station at Harrison and Kedzie to file a complaint. According to [REDACTED] one of the officers⁴ at the station told him he could not file a complaint because it would not go anywhere.

[REDACTED] was interviewed by COPA on June 4, 2020.⁵ [REDACTED] stated that on the date of the incident, he and his brother, [REDACTED] were returning to his [REDACTED] house following a family function. [REDACTED] stated that all his luggage was inside his brother's vehicle, including his gun. According to [REDACTED] as the officers were in the process of curbing the vehicle, he reached to the back seat, grabbed his gun case, removed the gun, and placed the gun on his lap with the clip in it. [REDACTED] stated he did this because he wanted the officers to know where the gun was located, and that he posed no danger to them. Officer Hosepian exited the squad vehicle and approached on the passenger's side, while Officer Gozdal approached on the driver's side. [REDACTED] lowered his window and placed his hands outside the window. Officer Hosepian asked [REDACTED] why his hands were out the window and he responded he had a gun in the vehicle. She looked shocked and asked where the gun was located, at which point [REDACTED] informed her the gun was on his lap. Officer Hosepian reached inside the vehicle, grabbed the gun, and told [REDACTED] to exit the vehicle. As [REDACTED] complied, he heard Officer Gozdal ask [REDACTED] out of the vehicle.

The officers asked [REDACTED] if he had a license for the gun. He stated he was from Arkansas, which is an open carry state. The officers patted [REDACTED] and [REDACTED] down, and one of the officers took [REDACTED] wallet out of his pocket. Officer Gozdal then placed handcuffs on [REDACTED] which he explained was for officer safety. [REDACTED] asked the officers why they pulled him over, and they responded that he swerved in a lane. [REDACTED] denied that [REDACTED] had swerved in his lane, and the officers did not issue any citations to [REDACTED]. [REDACTED] repeatedly asked the officers why he was being arrested, but they did not inform him until they got to the station. Once at the station, Officer Hosepian ran a search on the gun and confirmed it was registered to [REDACTED].

Officer Anna Hosepian was interviewed by COPA on March 16, 2021.⁶ On the date of the incident, Officer Hosepian was in uniform working in the 11th district with her partner, Officer Gozdal. The officers were on routine patrol when they observed [REDACTED] vehicle traveling eastbound on Madison. Officer Hosepian noticed the vehicle swerve between lanes on two different occasions. The officers curbed the vehicle; Officer Hosepian approached on the passenger's side while Officer Gozdal approached on the driver's side. Officer Hosepian noticed [REDACTED] passenger, [REDACTED] making furtive movements and she asked him if he had anything he was not supposed to have. [REDACTED] responded that his gun was on his lap. Officer Hosepian opened the vehicle's door and recovered the gun from between [REDACTED] legs. She asked him to step out of the vehicle, and [REDACTED] complied with her request and was cooperative throughout the stop. Officer Gozdal asked [REDACTED] to exit the vehicle, and he handcuffed [REDACTED] and [REDACTED] together. Officer Hosepian did not recall if she or her partner searched [REDACTED] vehicle. They arrested [REDACTED] for not having a conceal to carry license and carrying the gun on his lap.

⁴ [REDACTED] did not obtain the officer's name or badge number. He described the officer as a slim white male, in his late 20s to early 30s. COPA was unable to identify the officer from [REDACTED] description.

⁵ Att. 14.

⁶ Att. 19.

Officer Matthew Gozdal was interviewed by COPA on April 27, 2021.⁷ On the date of the incident, Officers Gozdal and Hosepian were on routine patrol in the 11th district. Officer Gozdal observed [REDACTED] vehicle commit several traffic violations, including accelerate through a yellow/red light and swerve between lanes. After the officers curbed the vehicle, Officer Gozdal asked [REDACTED] out of the vehicle for officer safety, as it was dark outside and he could not see inside the vehicle. [REDACTED] complied and exited the vehicle, and Officer Gozdal escorted him to the passenger's side of the vehicle where [REDACTED] and Officer Hosepian were standing. Officer Hosepian informed Officer Gozdal that she found a gun on [REDACTED]. At that point, Officer Gozdal placed a shared pair of handcuffs on [REDACTED] and [REDACTED] for officer safety. Officer Gozdal explained that his partner was holding a loaded gun she had recovered from [REDACTED] and he handcuffed the two men to keep the scene secure. Officer Gozdal asked [REDACTED] for his credentials for the gun but he was unable to provide them, so the officers arrested [REDACTED] for possession of a handgun. Officer Gozdal did not recall if [REDACTED] vehicle was searched.

b. Digital Evidence

COPA obtained **in car camera (ICC) video** from the incident.⁸ The ICC video begins with the officers driving and captures [REDACTED] vehicle driving in front of the officers' squad vehicle. [REDACTED] vehicle is significantly ahead of the officers' vehicle, and it is unclear whether or not [REDACTED] proceeds through the light when it is yellow or red. The officers then perform a traffic stop on [REDACTED] vehicle, and both officers exit the squad vehicle and approach [REDACTED] vehicle.

COPA also obtained **body worn camera (BWC) video** from both officers. **Officer Hosepian's BWC** begins with her riding on the passenger's side of the squad vehicle.⁹ Officer Hosepian exits the squad vehicle and walks up to the passenger's side of [REDACTED] vehicle. She asks [REDACTED] what he is doing and if he has anything he is not supposed to have. [REDACTED] responds that he has a firearm, at which point Officer Hosepian asks if he has a conceal and carry license. [REDACTED] tells Officer Hosepian that he is from Arkansas, and he asks her to grab the gun from his lap. Officer Hosepian takes possession of the gun and [REDACTED] exits the vehicle. Officer Gozdal handcuffs [REDACTED] and [REDACTED] together and tells them they are being detained.

Officer Hosepian then informs [REDACTED] he drove between the yellow lines, and Officer Gozdal adds that he also ran a light. Officer Hosepian returns to the squad vehicle, calls a sergeant, and asks if Illinois recognizes conceal and carry licenses from other states. She also tells the sergeant that [REDACTED] had the gun on his lap. The sergeant tells Officer Hosepian to bring [REDACTED] to the station. Officer Hosepian returns to [REDACTED] vehicle and informs [REDACTED] that he has to come to the station with them.

Officer Gozdal's BWC was also activated during the traffic stop.¹⁰ The video shows Officer Gozdal exit the squad vehicle and approach the driver's side of [REDACTED] vehicle. Officer Gozdal informs [REDACTED] that he did not stop at the second red light, and "took the yellow

⁷ Att. 21.

⁸ Att. 10.

⁹ Att. 11.

¹⁰ Att. 9.

light through the red.”¹¹ He asks ██████████ to step out of the vehicle and ██████████ complies. Officer Gozdal walks ██████████ to the passenger’s side of his vehicle, where ██████████ is standing, and the officer places a shared pair of handcuffs on the men. ██████████ informs Officer Gozdal that he does not have a conceal and carry license because Arkansas is an open carry state. He indicates he is in the military and has only been in Chicago for two days. ██████████ then asks Officer Gozdal if he is going to get in trouble for the gun and Officer Gozdal tells him probably, as Illinois does not recognize Arkansas’s open carry law. Officer Gozdal removes the handcuff from ██████████ arm and places both cuffs on ██████████ then escorts ██████████ to the back of his squad vehicle.

c. Documentary Evidence

The **arrest report**¹² and **case incident report**¹³ document ██████████ arrest on October 25, 2019. According to the narratives, Officers Hosepian and Gozdal observed a gold Cadillac swerve out of its lane near Madison and Keeler. The officers curbed the vehicle and conducted a field interview. Officer Hosepian approached the passenger, ██████████ and observed him making movements that were consistent with concealing a gun. ██████████ informed Officer Hosepian that he had a weapon, and Officer Hosepian observed a black handgun on the seat between ██████████ legs. Officer Hosepian then recovered and cleared the weapon. The officers placed ██████████ into custody, and he was subsequently charged with one count of U UW.

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.¹⁴ 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.

¹¹ Att. 9 at 3:45 minutes.

¹² Att. 15.

¹³ Att. 17.

¹⁴ 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).

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 evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”¹⁵

VII. ANALYSIS AND CONCLUSION

COPA finds **Allegation 1**, that Officers Hosepian and Gozdal stopped [REDACTED] vehicle without justification, is **Not Sustained**. Traffic stops are considered seizures under the Fourth Amendment, and thus are subject to the Fourth Amendment reasonableness requirement.¹⁶ A lawful traffic stop requires at least an articulable and reasonable suspicion that the particular person stopped is breaking the law, including traffic law.¹⁷ According to [REDACTED] the officers stopped him and told him he ran a yellow light, which [REDACTED] denied. According to Officer Gozdal, [REDACTED] was stopped because he failed to stay in his lane and accelerated through a yellow/red light. Officer Hosepian also reported [REDACTED] swerved between lanes on two different occasions. The ICC video from the incident does not clearly show whether [REDACTED] accelerated through the yellow/red light or drove outside his lane. In this instance, COPA is unable to assess the reliability of either [REDACTED] or the officers perspectives, as the ICC video is not definitive and there is no other independent evidence that exists to support or refute the allegation. For these reasons, COPA finds Allegation 1 against both officers is not sustained.

COPA finds **Allegation 2**, that Officer Gozdal handcuffed [REDACTED] without justification, is **Exonerated**. Illinois courts have recognized that “there are situations in which concerns for the safety of the police officer or the public justify handcuffing [a] detainee for the brief duration of an investigatory stop.”¹⁸ The critical question is whether the use of such restraints is reasonably necessary for safety under the specific facts of the case.¹⁹ In the present case, Officer Gozdal used one pair of handcuffs to handcuff [REDACTED] and [REDACTED] during the traffic stop, placing one cuff on [REDACTED] arm and the other cuff on [REDACTED] arm. Officer Gozdal explained that his partner had recovered a loaded firearm from [REDACTED] and he handcuffed the men for officer safety and to keep the scene secure. The BWC footage confirms Officer Gozdal’s account, including Officer Hosepian’s recovery of the firearm from [REDACTED] lap. Additionally, [REDACTED] acknowledged to COPA that Officer Gozdal explained he was placing him in handcuffs for officer safety. Given the totality of the circumstances, COPA finds there is clear and convincing evidence that Officer Gozdal’s decision to handcuff [REDACTED] and [REDACTED] was reasonable and lawful under the circumstances. Therefore, COPA finds this allegation is exonerated.²⁰

¹⁵ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

¹⁶ *Whren v. United States*, 517 U.S. 806, 809-10 (1996).

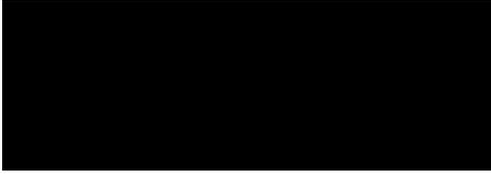
¹⁷ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

¹⁸ *People v. Arnold*, 394 Ill. App. 3d 63, 71 (2nd Dist. 2009).

¹⁹ *See id.*

²⁰ It should be noted that [REDACTED] also complained that Officers Gozdal and Hosepian searched his vehicle without justification. Although the officers could not recall if they searched [REDACTED] vehicle, their BWC footage shows that neither officer searched the vehicle.

Approved:



2/24/2022

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date