

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 17, 2019
Time of Incident:	12:53 AM
Location of Incident:	3904 W. Roosevelt Rd.
Date of COPA Notification:	December 17, 2019
Time of COPA Notification:	9:38 AM

On December 17, 2019, Officer Charles O’Connor (“Officer O’Connor”) and Officer Alec Gomez (“Officer Gomez”) approached the complainant, [REDACTED] ( [REDACTED] ) while he was sitting inside his parked vehicle. [REDACTED] alleged the officers detained him without justification, failed to provide him any documentation, and threatened to give him a citation after his friend questioned the legal basis for the stop.

**II. INVOLVED PARTIES**

Involved Officer #1:	Charles O’Connor, Star #8546, Employee ID# [REDACTED], Date of Appointment: August 29, 2016, Police Officer, 11 <sup>th</sup> District, Date of Birth: [REDACTED], 1984, Male, White
Involved Officer #2:	Alec Gomez, Star #13917, Employee # [REDACTED], Date of Appointment: April 17, 2017, Police Officer, 11 <sup>th</sup> District, Date of Birth: [REDACTED], 1993, Male, White Hispanic
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1994, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officers O’Connor and Gomez	It is alleged that on December 17, 2019, at approximately 12:52 AM, at or near 3900 W. Roosevelt Rd., the accused committed misconduct through the followings acts or omissions:  1. Detaining [REDACTED] without justification.	Exonerated

2. Threatening to issue [REDACTED] a traffic citation after his friend questioned the basis of the traffic stop.	Sustained
3. Failing to complete an Investigatory Stop Report, in violation of CPD Special Order S0[4]-13-09.	Exonerated
4. Failed to adhere to CPD Special Order S04-14-09.	Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. **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.
2. **Rule 5:** Prohibits the failure to perform any duty.
3. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
4. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

Special Orders

1. **S04-13-09:** Investigatory Stop System (effective July 10, 2017 to present).<sup>1</sup>
2. **S04-14-09:** Illinois Traffic and Pedestrian Stop Statistical Study (effective March 23, 2018 to present).<sup>2</sup>

Federal Laws

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

Illinois State Laws

1. **625 ILCS 5/1 – 156:** Definition of Park or Parking.<sup>3</sup>

Chicago Municipal Ordinances

1. **9-76-090:** Parked Vehicles- Lighting Regulations.<sup>4</sup>

<sup>1</sup> Att. 22

<sup>2</sup> Att. 23

<sup>3</sup> Att. 8

<sup>4</sup> Att. 2

## V. INVESTIGATION<sup>5</sup>

### a. Interviews

██████████ (██████████)<sup>6</sup>

COPA interviewed ██████████ on December 17, 2019. ██████████ stated that, at approximately 12:55 AM, he was waiting inside his parked vehicle outside a convenience store. Two officers, now identified as Officers O'Connor and Gomez, approached ██████████ and asked him to exit his vehicle. Officer O'Connor told ██████████ he was violating a city ordinance by parking with his headlights on. The officer asked if he had a firearm, weed, or any other contraband, and ██████████ replied he did not. ██████████ recalled that Officer O'Connor was hostile and held his hand on his firearm throughout the incident. ██████████ exited his vehicle and handed over his driver's license. Simultaneously, ██████████ friend, ██████████ (██████████) exited the store and questioned if the ordinance was real. Officer Gomez waved his ticket book at ██████████ and both officers threatened to give him a citation to prove the ordinance was real. ██████████ acknowledged to COPA that he had his headlights on while parked. He did not receive a citation or any documentation of the traffic stop.

#### *Officer Charles O'Connor ("Officer O'Connor")<sup>7</sup>*

COPA interviewed Officer O'Connor on April 13, 2021. He stated that on December 17, 2019, he and his partner, Officer Gomez, stopped ██████████ after seeing him parked with his headlights activated. Officer O'Connor told ██████████ he was only looking for "guns and dope" to get ██████████ to relax and comply with the officers' directions. Officer O'Connor did not suspect ██████████ had guns or narcotics. The officers asked ██████████ to exit his vehicle for safety reasons, but the vehicle was not searched outside of what was in plain view. ██████████ provided his driver's license and the officers ran his information. Officer O'Connor decided to exercise his discretion not to issue a citation. However, he told ██████████ and ██████████ that he could write a citation to prove there was a valid basis for the stop. Officer O'Connor did not complete an Investigatory Stop Report (ISR) because he did not believe one was required for a traffic stop, and he could not recall if he completed a Traffic Stop Statistical Study (TSSS).

#### *Officer Alec Gomez ("Officer Gomez")<sup>8</sup>*

On March 16, 2021, COPA interviewed Officer Gomez. He stated that on December 17, 2019, he and his partner, Officer O'Connor, were on patrol in the 11<sup>th</sup> District. The officers observed ██████████ vehicle parked with its headlights on, and they decided to conduct a traffic stop. Officer Gomez did not recall Officer O'Connor saying he wanted "guns and dope," nor did Officer Gomez suspect ██████████ possessed either. ██████████ was compliant and exited his vehicle upon the officers' request. Officer Gomez could not recall if he

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<sup>5</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in COPA's analysis.

<sup>6</sup> Att. 1.

<sup>7</sup> Att. 16.

<sup>8</sup> Att. 10.

subjected [REDACTED] to a pat down, but he denied searching his vehicle. The officers gave [REDACTED] a verbal warning for the parking violation and released him without citations. Officer Gomez recalled that either [REDACTED] or [REDACTED] questioned the validity of the stop, and the officers responded by offering a ticket to confirm the ordinance violation was real. Officer Gomez did not believe an ISR was required because the officers had probable cause to detain [REDACTED] and they performed no searches. Officer Gomez admitted he should have completed a TSSS but was uncertain if he did.

### **b. Digital Evidence**

#### ***Body Worn Camera (“BWC”)***<sup>9</sup>

At approximately 12:53 AM, Officers O’Connor and Gomez approach [REDACTED] vehicle, which is stopped next to the curb in front of a convenience store. Officer O’Connor asks for [REDACTED] driver’s license and relates the stop is because [REDACTED] vehicle is parked without its headlights off or dimmed. Officer O’Connor then states he is “looking for guns and dope, bro,”<sup>10</sup> and is unconcerned with other violations. He asks [REDACTED] to exit his vehicle, and [REDACTED] complies. At that point, the videos show Officer O’Connor’s right hand is on the vehicle door, his left hand is near his left hip, and his firearm is holstered on his right side. After [REDACTED] exits the vehicle, [REDACTED] walks up and Officer Gomez instructs him to wait on the sidewalk. Both officers look inside the car windows at various points throughout the incident, but they do not search the vehicle. The officers repeatedly explain the reason for the stop, and Officer O’Connor states that the municipal code in question is 9-76-090(C).<sup>11</sup> Officer Gomez gives [REDACTED] his driver’s license back and the officers prepare to leave. However, when [REDACTED] appears to question the code’s authenticity, Officer Gomez waves his ticket book at him and both officers relate they can still issue the citation.

### **c. Documentary Evidence**

COPA located neither an Investigatory Stop Report (“ISR”) nor a Traffic Stop Statistical Study card (“TSSS”) documenting the officers’ interaction with [REDACTED] on December 17, 2019.<sup>12</sup>

## **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;

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<sup>9</sup> Att. 3.

<sup>10</sup> Approximately 2:51 minute mark of Att. 3, Officer O’Connor BWC.

<sup>11</sup> Approximately 4:25 minute mark of Att. 3, Officer O’Connor BWC.

<sup>12</sup> Atts. 5, 25 – 28.

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>13</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 evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>14</sup>

## VII. ANALYSIS AND CONCLUSIONS

In addition to the allegations detailed below, ██████████ alleged that one of the officers concealed his nametag and refused to identify himself, and placed his hand on his gun in a threatening manner. BWC video disproved both allegations. However, COPA does not believe ██████████ was intentionally untruthful. Rather, it appears his perception was incorrect, possibly due to his confusion and apprehension about being stopped by the police.

### a. Allegation 1: Detaining ██████████ without justification

Allegation 1 against Officers O’Connor and Gomez is exonerated. Traffic stops are considered seizures under the Fourth Amendment, and thus they are subject to the Fourth Amendment reasonableness requirement.<sup>15</sup> A lawful traffic stop requires “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law.”<sup>16</sup> In the City of Chicago, it is an ordinance violation to park a vehicle without depressing or dimming its headlights.<sup>17</sup> Here, both Officers O’Connor and Gomez stated they stopped ██████████ because his vehicle was parked with the headlights fully illuminated. ██████████ admitted as much to COPA, and the BWC videos confirm his vehicle was parked next to the curb, in a legal spot, with the headlights activated. COPA finds the BWC videos constitute clear and convincing evidence the officers had justification to conduct the traffic stop based on the ordinance violation. Therefore, Allegation 1 against Officers O’Connor and Gomez is **exonerated**.<sup>18</sup>

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<sup>13</sup> 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).

<sup>14</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

<sup>15</sup> *Whren v. United States*, 517 U.S. 806, 809-10 (1996).

<sup>16</sup> *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

<sup>17</sup> Municipal Code of Chicago, § 9-76-090(c): Parked Vehicles- Lighting Regulations.

<sup>18</sup> However, COPA notes that during the traffic stop, Officer O’Connor asserted he was not concerned with traffic violations and was looking for “guns and dope.” This suggests the officers performed a pretext stop, using a minor

**b. Allegation 2: Threatening to issue [REDACTED] a traffic citation after his friend questioned the basis of the traffic stop**

Allegation 2 is sustained for both officers. CPD Rule 8 prohibits disrespect to or maltreatment of any person, while on or off duty. Additionally, 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. While the comments from Officers O'Connor and Gomez were not discriminatory, profane, or even particularly inflammatory, they were still disrespectful and unnecessary. Considering [REDACTED] had just been detained and felt infringed upon, the officers' threats to issue the citation added proverbial insult to injury. They also had the potential to escalate the situation unnecessarily. COPA finds the officers' comments were disrespectful to [REDACTED] and brought discredit to the Department, violating Rules 2 and 8. Therefore, COPA finds Allegation 2 against Officers O'Connor and Gomez is **sustained**.

**c. Allegation 3: Failing to complete an Investigatory Stop Report**

Allegation 3 against Officers O'Connor and Gomez is exonerated. Special Order S04-13-09 requires officers to complete an ISR for all probable cause stops "when no other document captures the reason for the detention."<sup>19</sup> However, in addressing traffic stops, the Special Order clarifies that the required documentation is a TSSS, and not always an ISR. For example, if an officer observes a driver run a stop sign, conducts a traffic stop, and issues the driver a verbal warning, the officer must complete a TSSS but not an ISR.<sup>20</sup> The same applies to the present case. Officers O'Connor and Gomez both admitted they did not complete an ISR, but they maintained an ISR was not required for a probable cause stop that did not involve a search. COPA finds the officers' position is consistent with the examples in the Special Order; the officers were required to complete a TSSS but not an ISR for this incident. Therefore, COPA finds Allegation 3 against Officers O'Connor and Gomez is **exonerated**.

**d. Allegation 4: Failing to complete a TSSS**

Allegation 4 is sustained for both officers. Special Order S04-14-09 requires officers to complete a TSSS "for every traffic stop initiated," unless a citation is issued.<sup>21</sup> A TSSS documents the alleged violation(s) that led to the traffic stop, whether a search was conducted or any contraband recovered, the length of the stop, and the identities and demographic information of the involved civilians.<sup>22</sup> Here, both Officer O'Connor and Officer Gomez admitted they should have completed a TSSS but were uncertain whether they actually did. COPA searched for but was unable to locate a TSSS related to this incident. As a result, the preponderance of the evidence shows the officers did not complete a TSSS, in violation of S04-04-19 and Rules 5 and 6. Therefore, COPA finds Allegation 4 against Officers O'Connor and Gomez is **sustained**.

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infraction as an excuse to engage with an individual. Pretext stops are legal, and [REDACTED] was committing an ordinance violation, so this allegation is exonerated.

<sup>19</sup> Att. 22, Special Order S04-13-09(VII)(B)(1)(a).

<sup>20</sup> Att. 22, Special Order S04-13-09(VIII)(A)(4)(d).

<sup>21</sup> Att. 23, Special Order S04-14-09(V)(A).

<sup>22</sup> Att. 23, Special Order S04-14-09(V)(D)(1).

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Complimentary and Disciplinary Histories**

In considering discipline for sustained allegations, COPA reviewed the complimentary and disciplinary histories of Officers O'Connor and Gomez.<sup>23</sup> Officer O'Connor has one sustained complaint for failure to inventory arrestee property and two SPARs for failure to perform assigned tasks and a preventable traffic accident. He received reprimands following all three incidents. Officer O'Connor has received 64 awards, including one life saving award, two Department commendations, two top gun arrest awards, and 58 honorable mentions.

Officer Gomez has one sustained complaint for failure to inventory arrestee property, for which he received a reprimand. He has received 58 awards, including one complimentary letter, two Department commendations, two top gun arrest awards, and 48 honorable mentions.

**b. Recommended Discipline**

COPA has found that Officers O'Connor and Gomez violated Rules 2, 5, 6, and 8 by threatening to issue [REDACTED] a citation after his friend questioned the basis of the traffic stop, and by failing to complete a TSSS documenting the stop. Although the officers did not issue any citations to [REDACTED] the manner in which they interacted with him was disrespectful and dismissive, undermining the Department's efforts to rebuild its relationship with the community. The officers' failure to document the stop also violated Department policy and constituted a breach of the public trust. In mitigation, COPA notes the relative inexperience of both officers, their minimal disciplinary histories, and the fact that they accepted responsibility for their actions. For these reasons, COPA recommends that Officers O'Connor and Gomez each receive a 5-day suspension.

Approved:

[REDACTED]

2/28/2022

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date

<sup>23</sup> Att. 29.

