

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	August 15, 2020
Time of Incident:	01:23 AM
Location of Incident:	12700 S. Halsted St.
Date of COPA Notification:	August 15, 2020
Time of COPA Notification:	12:06 PM

COPA received an Initiation Report from the Chicago Police Department, 005<sup>th</sup> District, on August 15, 2020. The report summarized the complaint of [REDACTED] as it relates to a traffic stop. On August 15, 2020, at approximately 0100 – 0120 hours, four Chicago Police Department officers, now known as Officers Daniel Fair, Jeffery Morrow, Natalie Kobik, and Gabriel Rodriguez conducted a traffic stop at or near 800 W. 127th St. involving the driver, [REDACTED]. After pulling [REDACTED] car over, officers approached him and questioned him regarding his expired license plate and suspicions of driving while intoxicated.

Officer Fair asked [REDACTED] if had been drinking. At some point during the investigation, Officer Rodriguez reached into the open rear driver-side window, unzipped it, and began to search the bag located on the rear seat. [REDACTED] informed the officer that he did not consent to the search of his personal property. Members requested [REDACTED] driver's license and insurance. He was unable to provide proof of insurance. He was compliant in response to verbal directions to step out of his vehicle. Officers detained [REDACTED] and subsequently handcuffed him, patted him down and directed him to walk to the rear of his vehicle. During the investigatory stop, Officers Fair, Kobik, and Rodriguez searched the interior of the vehicle. Officers did not issue citations nor provide an Investigatory Stop Receipt.

[REDACTED] relocated to the 005<sup>th</sup> District police station to file a complaint to report the incident, alleging the accused officers unlawfully searched his vehicle.<sup>1</sup> COPA alleges that accused officers failed to provide a Stop Receipt to Bennett, in violation of CPD rules.

COPA finds the allegation that Officers Fair, Morrow, Kobik and Rodriguez searched the vehicle of [REDACTED] without justification is Exonerated.

COPA finds the allegation that Officers Fair, Morrow, Kobik and Rodriguez failed to issue an Investigative Stop Receipt in violation of CPD rules is Exonerated.

<sup>1</sup> [REDACTED] initially alleged that members of CPD had taken money from his vehicle, he later located the money after the initiation report was filed. During his interview, Bennett revealed that he had recovered the missing money.

**II. INVOLVED PARTIES**

Involved Officer #1:	Daniel Fair, star #9778, employee ID # [REDACTED], Date of Appointment June 16, 2017, rank Police Officer, Unit of Assignment 005, DOB [REDACTED], 1989, Male, Black
Involved Officer #2:	Jeffery Morrow, star #17957, employee ID # [REDACTED], Date of Appointment July 27, 2018, rank Police Officer, Unit of Assignment 005, DOB [REDACTED], 1995, Male, Black
Involved Officer #3:	Natalie Kobik, star #11177, employee ID # [REDACTED], Date of Appointment March 16, 2018, rank Police Officer, Unit of Assignment 005, DOB [REDACTED] 1997, Female, White
Involved Officer #4:	Gabriel Rodriguez, star #12737, employee # [REDACTED], Date of Appointment April 06, 2015, rank Police Officer, Unit of Assignment 005, DOB [REDACTED] 1991, Male, WWH
Involved Individual #1:	[REDACTED] [REDACTED] 1981, Male, Black

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Daniel Fair	<p>It is alleged that on or about August 15, 2020, at approximately 1:00 a.m., at or near 800 W. 127th St. Chicago, IL 60643, that Officer Daniel Fair committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. searching the vehicle of [REDACTED] during a traffic stop without justification, and</li> <li>2. failing to provide a Stop Receipt to [REDACTED] [REDACTED] in violation of CPD rules.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p>
Officer Jeffery Morrow	<p>It is alleged that on or about August 15, 2020, at approximately 1:00 a.m., at or near 800 W. 127th St. Chicago, IL 60643, that Officer Jeffery Morrow committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. searching the vehicle of [REDACTED] during a traffic stop without justification, and</li> </ol>	<p>Exonerated</p>

	2. failing to provide a Stop Receipt to [REDACTED], in violation of CPD rules.	Exonerated
Officer Natalie Kobik	<p>It is alleged that on or about August 15, 2020, at approximately 1:00 a.m., at or near 800 W. 127th St. Chicago, IL 60643, that Officer Natalie Kobik committed misconduct through the following acts or omissions, by:</p> <p>1. searching the vehicle of [REDACTED] during a traffic stop without justification., and</p> <p>2. failing to provide a Stop Receipt to [REDACTED], in violation of CPD rules.</p>	<p>Exonerated</p> <p>Exonerated</p>
Officer Gabriel Rodriguez	<p>It is alleged that on or about August 15, 2020, at approximately 1:00 a.m., at or near 800 W. 127th St. Chicago, IL 60643, that Officer Gabriel Rodriguez committed misconduct through the following acts or omissions, by:</p> <p>1. searching the vehicle of [REDACTED] during a traffic stop without justification, and</p> <p>2. failing to provide a Stop Receipt to [REDACTED], in violation of CPD rules.</p>	<p>Exonerated</p> <p>Exonerated</p>

**IV. APPLICABLE RULES AND LAWS**

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Rules

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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 “failure to perform a duty”.

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General Orders

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1. **G03-02,** Use of Force, effective date 29 February 2020.
2. **G03-02-01,** Force Options, effective date 29, February 2020.

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Special Orders

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**S04-13-09**, Investigatory Stop System, effective date 10 July 2017.

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Federal Laws

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The Fourth Amendment to the Constitution of the United States, as incorporated by Illinois Constitution Art. 1 Sec 6.1.

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”

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State and Local Laws

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1. **625 ILCS §3-413 (f) Vehicles.** No person shall operate a vehicle, nor permit the operation of a vehicle, upon which is displayed an Illinois registration plate, plates or registration stickers, except as provided for in subsection (b) of Section 3-701 of this Code, after the termination of the registration period for which issued or after the expiration date set pursuant to Sections 3-414 and 3-414.1 of this Code.

2. **725 ILCS 5/108-1.01 Search during temporary questioning.** Search during temporary questioning. When a peace officer has stopped a person for temporary questioning pursuant to Section 107-14 of this Code and reasonably suspects that he or another is in danger of attack, he may search the person for weapons.

3. **625 ILCS 5/7-601(a) Required Liability Insurance Policy.** No person shall operate, register, or maintain registration of, and no owner shall permit another person to operate, register or maintain registration of, a motor vehicle designed to be used on a public highway in this State unless the motor vehicle is covered by a liability insurance policy.

4. **625 ILCS 5/3-707(b) Operation of uninsured motor vehicle.** Any person who fails to comply with a request by a law enforcement officer for display of evidence of insurance, as required under Section 7-602 of this Code, shall be deemed to be operating an uninsured motor vehicle.

5. **People v. Zayed, 2016 IL App (3<sup>rd</sup>) 140780 (2016).** In instances in which an officer smells marijuana, the officer has probable cause to conduct a search of a vehicle; further, this principle has been extended to include searches of the driver and passengers of that vehicle.

6. **Pennsylvania v. Mimms, 434 U.S. 106 (1977),** holds a police officer ordering a person out of a car following a traffic stop and conducting a pat-down to check for weapons did not violate the Fourth Amendment to the United States Constitution.

7. Municipal Code of Chicago (MCC) 2-78-100, means the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, national origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person."

## V. INVESTIGATION<sup>2</sup>

### a. Interviews

#### Complainant – ██████████

In an **interview with COPA on August 19, 2020<sup>3</sup>**, complainant - ██████████ related that on August 15, 2020, he was driving along 800 W. 127<sup>th</sup> St., when he encountered a police vehicle with activated emergency lights. He complied with the traffic stop and acknowledged his vehicle had expired plates and lacked vehicle insurance. ██████████ described an officer reached into his vehicle's back driver side window and searched his bag. ██████████ did not give permission to search his vehicle or personal property. ██████████ recalled he verbally disagreed with the instructions to exit his car and was pulled out of the car by his arm. ██████████ alleged that the four involved officers conducted an illegal search and seizure.

#### Police Statement - Officer Fair

In a **statement to COPA on August 16, 2022<sup>4</sup>**, **Officer Fair related** that after watching the video of the incident in question, Officer Fair recalled the traffic stop. Officer Fair denied searching the vehicle without justification and denied failing to provide a stop receipt.

Officer Fair stated he was accompanied by his partner Officer Morrow, along with team members Officers Kobik and Rodriguez when they stopped ██████████ vehicle for expired registration plates. Based on his BWC video and after review of the Investigative Stop Report, he reported an odor of suspect alcohol and burnt cannabis emitting from the vehicle. He observed the driver's eyes appeared glassy indicating impairment or intoxication. Officer Fair also observed a suspicious bulge on his person. Officer's asked ██████████ to exit the vehicle, then searched him and escorted him to the rear of the vehicle.

A search of the vehicle for narcotics was conducted by officers on the scene. Officer Fair acknowledged that ██████████ did not consent to the search. Officer Fair searched the interior of the vehicle including the front passenger area, the back area and floorboards and the surrounding area. Officers did not recover any evidence of narcotics.

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

<sup>3</sup> Att. #10

<sup>4</sup> Att. #23

Officer Fair stated he did not issue a stop receipt at the scene because [REDACTED] was irate and verbally threatened the officers. He referred to the BWC video capture of [REDACTED] statement that he physically harms people.

#### **Police Statement - Officer Morrow**

In a **statement to COPA on August 11, 2022<sup>5</sup>**, **Officer Morrow related** that while on patrol in the 005<sup>th</sup> district he activated his body worn camera during the stop. Officer Morrow referred to the video throughout the interview, vaguely remembered the incident and had little independent recollection of the traffic stop. He identified the three members he worked with during the incident as Officers Fair, Kobik and Rodriguez. Officer Morrow was unable to describe the driver although he stood at the rear driver's side of [REDACTED] vehicle. Officer Morrow could not recall the description of the vehicle. Based on the ISR, he did not recall the suspicious odor of alcohol, or the odor of suspect burnt cannabis. Officer Morrow stated he did not search the vehicle and denied failing to provide a stop receipt.

#### **Police Statement - Officer Kobik**

In a **statement to COPA on August 12, 2022<sup>6</sup>**, **Officer Kobik related** that she had no independent recollection of the incident or any conversations with those present. After reviewing her BWC video, she related that on the date in question she was on duty patrol on the tactical team along with Officers Fair, Morrow, and Rodriguez. She had no independent recollection of the odor of burnt cannabis as it relates to the ISR. Officer Kobik searched the driver's front seat and door compartment. She admitted that the driver did not consent to the search.

Officer Kobik stated the driver requested a white shirt. Her interpretation of a civilian requesting a white shirt is that they are generally requesting a supervisor respond to the scene. She recalled that officers could not provide a stop receipt because the driver was irate and yelling and drove off before they provided one. She stated that normally she would provide a stop receipt if it were safe and feasible and if the traffic stops results in an investigatory stop.

Officer Kobik stated the driver was compliant and followed the directions. He was handcuffed because of the suspicious bulge as a preventative measure. Officer Kobik denied searching the vehicle without justification. Officer Kobik denied the allegation that she failed to provide an investigative stop receipt.

#### **Police Statement - Officer Rodriguez**

In a **statement to COPA on August 17, 2022<sup>7</sup>**, **Officer Rodriguez related** that he had no independent recollection of the incident or any conversations with those present. After reviewing the Investigative Stop Report and the related BWC videos, he identified the members in the video as the accused officers. He observed a vehicle with expired plates and conducted a traffic stop. Upon his approach he stood near the rear driver's side door and saw only the back of the head of

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<sup>5</sup> Att. #22

<sup>6</sup> Att. #20

<sup>7</sup> Att. #27

the driver, and he could not recall a bulge. According to Officer Rodriguez, the search started once the driver was outside of the car. After watching the BWC of Officer Kobik, Officer Rodriguez acknowledged that it was his arm inside the back window while the driver was seated inside the vehicle. He said he was looking for suspected narcotics. He asked [REDACTED] to exit the vehicle, according to the ISR, to look for suspicious narcotics. Did not recovery anything. According to the video he patted him down and proceeded to pat him down based on a bulge in his front pocket for a possible weapon. Searched the car and did not recover narcotics, alcohol nor weapons.

During the interview Officer Rodriguez did not recall if the driver consented to the search or if he heard the request for a white shirt/supervisor.

After reviewing the video Officer Rodriguez described [REDACTED] demeanor, as irate and recalled [REDACTED] statement regarding, killing people. Officer Rodriguez interpreted [REDACTED] statement as a threat. Officer Rodriguez denied searching the vehicle without justification and denied failing to provide a stop receipt.

#### **b. Digital Evidence**

The **BWC video of Officer Fair**<sup>8</sup>, captures the stop in progress as Officer Morrow, Rodriguez, Kobik stand at the driver's side door and Officer Fair stands at the front passenger door. Officer Fair asks the driver if he had been drinking. The rear window on the left side of the vehicle is open. [REDACTED] exits the vehicle and is patted down by Officer Rodriguez. [REDACTED] denies drinking. He is handcuffed and the vehicle is searched by Officers Fair, Rodriguez and Kobik. [REDACTED] reiterated that he denied doing something wrong and that the officers were illegally searching his vehicle. [REDACTED] states that he does not agree with the officers' orders to step out of the vehicle and does not consent to the search of his car.

[REDACTED] tells the officers to look in his trunk where he keeps his tools, he has nothing illegal in his vehicle. [REDACTED] stated he had a valid driver's license and non-owner's insurance but not on his person or in the vehicle. Officers continue to search the interior of the vehicle. [REDACTED] voices his disagreement with the officers' actions and asks the officers to identify themselves. Officers engage [REDACTED] in conversation and respond that they are out of the 5th District.

While facing Officers Rodriguez and Morrow, [REDACTED] provided details of his background, referred to a gun case and stated that he had beaten police in the past. [REDACTED] stated, "I kill people, you just ran it and saw I have a gun case." [REDACTED] was given the directions to the police station. [REDACTED] replied, "Ask the older police officer's they'll tell you, that brother switched his life around. Man, fuck you, on Larry Bernard Hoover. If I catch you in the club..." Officer Fair stated "If Hoover, gets out, that motherfucker's going right under the ground. Ain't nobody trying to hear none of that shit".<sup>9</sup>

The **BWC video of Officer Morrow**<sup>10</sup>, captures the traffic stop in progress with officers standing at the driver's side of [REDACTED] car. He exits the car without assistance or pulling by the

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<sup>8</sup> Att. #5

<sup>9</sup> COPA notes Officer Fair's use of profanity and lack of respect and courtesy toward [REDACTED].

<sup>10</sup> Att. #6

officers. He is handcuffed and escorted to the back of his vehicle. He argues with the officers regarding his insurance and search of his car without his consent. Officers explain to ██████ that the plates are expired for over one year and the Illinois vehicle insurance requirements versus non-owners' insurance. ██████ is released from the handcuffs, is advised to take care of the license plate issue and does not receive citations. The video ends as officers and ██████ entered their respective vehicles.

The **BWC video of Officer Kobik<sup>11</sup>** captures the traffic stop. The video begins with Officer Kobik standing at the driver's door as ██████ is seated and hands his license to her. The video captures the lowered windows and someone's hand (it appears to be Officer Rodriguez) inside the back window, rummaging through bags. ██████ exited his vehicle, was patted down and handcuffed. He was relocated to the trunk of his vehicle when he stated, "You can look in my trunk, I have all my tools in there, I don't do anything illegal" at 13:59. "Call me a white shirt and I want to know everybody's name." ██████ referred to his arrest report and gun case.

The **BWC video of Officer Rodriguez<sup>12</sup>**, captures the traffic stop. The video begins with Officer Rodriguez ordering ██████ to exit the vehicle. After he steps out, he is patted down and handcuffed. Officer Rodriguez assures ██████ that his BWC is recording. Rodriguez explains that he can ask anyone to step out of the vehicle. ██████ stated, "You're going against will." ██████ continues "why are you telling me to step out of my vehicle. Why are you stopping me?" Officer Rodriguez replies because your plates are expired for over a year. And no insurance, so it is technically an impound. ██████ stated his vehicle insurance was a block away and he had non-owner's insurance. Officer Rodriguez used the Portable Data Terminal and returned to reiterate that the license plate registration was outdated. ██████ requested the officers' names and the location of the district station. Officer Rodriguez provided the address of the district station. ██████ told officers to review his arrest record, he kills people and has a gun case.

### c. Documentary Evidence

**Initiation Report CL2020-0003835<sup>13</sup>**, documented the traffic stop as reported by Officer Fair was dated August 15, 2020. The report included the allegations and description of four accused officers. The report documents Bennett's statement that he was driving a white Honda with expired plates. He was pulled over by an unmarked police vehicle. ██████ stated that he knew the license was expired. While seated inside his vehicle, the male, Hispanic officer reached into the open rear door window, unzipped, and searched his overnight bag. After hearing the zipper, ██████ stated that he was not giving permission for a search. At that point the Hispanic officer opened the driver's door and pulled him out of the vehicle against his will. He was handcuffed and taken to the rear of the car. ██████ stated the officers began to search his entire vehicle. ██████ was released and was not issued any citations or receipts after the 20-minute stop.

**Investigatory Stop Report ISR007778813<sup>14</sup>**, was submitted on August 15, 2021, and documented the investigatory stop that occurred on August 15, 2020, at approximately 0123. The

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<sup>11</sup> Att. #8

<sup>12</sup> Att. #7

<sup>13</sup> Att. #9

<sup>14</sup> Att. #13



investigatory stop involved [REDACTED] at 12700 S. Halsted St., Chicago, IL. 60628. As reported by Officer Fair, while on patrol tactical team member 562A observed a white Honda vehicle bearing Illinois registration with expired plates. Upon the responding officer's approach to the vehicle, officers recognized the suspicious odor of alcohol and burnt cannabis emitting from the vehicle. Responding officers contacted the driver who had glassy eyes. Subject could not produce proof of insurance. Responding officers ordered the driver to exit the vehicle to do a search for narcotics of his vehicle. Subject exited the vehicle and officers observed a large bulge in his right pocket. Subsequently officers conducted a pat down with negative results. During the interaction subject stated he was a Gangster Disciple, and he would kick Officer Fair's ass because he's from the 100's [an area located on the Southside of Chicago]. Subject then stated that he fights police. Subject was released without traffic enforcement. ISR was not given because the subject continued to be irate and threaten the officers' safety before driving off.

## V. 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 occurred and violated 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 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. 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.

## VI. ANALYSIS

COPA finds the allegations against Officers Fair, Morrow, Kobik and Rodriguez that they searched the vehicle without justification are **Exonerated**. CPD's Investigatory Stop System

delineates the authority and circumstances necessary for conducting an Investigatory Stop.<sup>15</sup> An Investigatory Stop is defined as a “temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate suspicion that the person is committing, is about to commit, or has committed a criminal offense.”<sup>16</sup> Reasonable Articulate Suspicion is defined as “less than probable cause but more substantial than a hunch or general suspicion... [and]... depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member’s training and experience.”<sup>17</sup> “An officer may conduct an Investigatory Stop if it is based on specific and articulable facts, which combined with rational inferences from these facts, give rise to Reasonable Articulate Suspicion that criminal activity is afoot.”<sup>18</sup> Additionally, in instances in which an officer smells marijuana, the officer has probable cause to conduct a search of a vehicle, if the officer has the training and experience to detect that the odor is cannabis.<sup>19</sup>

Here, the officers’ decision to conduct an Investigatory Stop of the vehicle driven by Bennett, was reasonable and proper because it was based on the expired registration plate dated 28-NOV-2019.<sup>20</sup> Officers observed ██████ operating a vehicle that displayed an expired Illinois registration plate or registration sticker. The BWC video captured the expired plate.<sup>21</sup> Further, ██████ admitted on the video that the plate was expired. The traffic stop was reasonable and proper.

Officer Fair reported his observation of ██████ physical description and documented glassy eyes.<sup>22</sup> Noted is ██████ denial of engaging in the use of cannabis or of drinking.<sup>23</sup> Further, the officers’ and ██████ contemporaneous discussion about the odor of alcohol emitting from the Honda combined with the Investigative Stop Report summarizing Officer Fair’s observations of the suspicious smell of burnt cannabis and alcohol support the finding that there was probable cause to conduct a search of the vehicle.

The initial search of the vehicle was based on the officers’ detection of the odor of alcohol and marijuana. Officer Rodriguez began to search the vehicle and the personal belongings after the discussion of the odor of alcohol between Officer Fair and ██████.<sup>24</sup> Officers had probable cause based on their observations, training, and experience. Police justifiably believed there were illegal items in the vehicle, either evidence of alcohol and or possession of illegal drugs or activity. In addition, ██████ consented to the search when he told officers “To look in my trunk”. The search of the vehicle was based on probable cause combined with consent, therefore justifying the search. The officers’ actions to search the car were lawful and proper.

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<sup>15</sup> S04-13-09, Investigatory Stop System (effective July 10, 2017, to current).

<sup>16</sup> S04-13-09 (II)(A) Investigatory Stop System (effective 10 July 2017 to current).

<sup>17</sup> S04-13-09 (II)(C) Investigatory Stop System (effective 10 July 2017 to current).

<sup>18</sup> S04-13-09 (V)(A), Investigatory Stop System (effective 10 July 2017 to current).

<sup>19</sup> Maryland v. Dyson, 527 U.S. 465 (1999); People v. Zayed, 2016 IL App (3<sup>rd</sup>) 140780 (2016).

<sup>20</sup> Att. 13.

<sup>21</sup> Att. 6.

<sup>22</sup> Att. 13.

<sup>23</sup> Att. 5.

<sup>24</sup> Att. 8.

COPA finds that the allegations that Officer Fair, Morrow, Kobik and Rodriguez failed to provide a stop receipt to the driver in violation of CPD rules are **Exonerated**. Sworn members who conduct an Investigatory Stop, Probable Cause Stop...a Protective Pat Down, are required to submit an Investigatory Stop Report (ISR) into the Investigatory Stop Database.<sup>25</sup> Upon completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.<sup>26</sup> Officers' may use force mitigation principles including continual communication, time as a tactic, and tactical positioning.<sup>27</sup> Force Options describe the concepts of Force Mitigation and the Department's commitment to de-escalation when responding to all incidents to ensure effective police-public encounters.<sup>28</sup> CPD rules require officers to provide a stop receipt if specific factors are present during the stop however officers are not required to place themselves in further danger of attack or assault. Nothing in this policy requires members to take actions, or fail to take actions, that unreasonably endanger themselves or others.<sup>29</sup>

Officer Fair documented on the ISR the initial reason for the stop was a traffic violation, failure to display a proper registration sticker, and the Reasonable Articulate Suspicion to justify the Protective Pat Down of the driver and the search of the vehicle. The officers' statements corroborated their decisions and responses to not issue a Stop Receipt based on their perception of [REDACTED] behavior. [REDACTED] threatened the use of force that would likely cause physical injury. During the detention, [REDACTED] stated to the officer's that he was a member of the Gangster Disciples [a street gang]; and threatened to assault Officer Fair. The BWC video of Officer Fair captures [REDACTED] state, "[I'll] kick your ass, I fight police [officers]". Officers assessed the situation, based on the totality of the circumstances, consideration of the zone of safety to maintain officer safety, and de-escalation tactics, chose to withdraw from the area. The BWC videos and the ISR narrative provided factors that justified the officers' actions. The ISR including the subject's behavior and verbal threat directed at the officer. The officers' actions were lawful and proper.

Addressing Officer Fair's use of profanity, COPA investigators reviewed Municipal Code of Chicago (MCC) 2-78-100 which describes verbal abuse as "the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, national origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person." [1] While Officer Fair's choice of words is unfortunate and can be deemed unprofessional, it does not rise to the level of verbal abuse as defined and therefore not misconduct.

## VII. CONCLUSION

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

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<sup>25</sup> S04-13-09(VIII)(A)(1), Investigatory Stop System (effective 10 July 2017 to current).

<sup>26</sup> S04-13-09(VIII)(A)(3), Investigatory Stop System (effective 10 July 2017 to current).

<sup>27</sup> Ibid.

<sup>28</sup> G03-02-01, Force Options (effective 29 February 2020 to current).

<sup>29</sup> G03-02(D)(3), Use of Force, (effective date 29, February 2020 to current).

Officer	Allegation	Finding / Recommendation
Officer Daniel Fair	1. searching the vehicle of [REDACTED] during a traffic stop without justification, and  2. failing to provide a stop receipt to [REDACTED], in violation of CPD rules.	Exonerated     Exonerated
Officer Jeffery Morrow	1. searching the vehicle of [REDACTED] during a traffic stop without justification, and  2. failing to provide a stop receipt to [REDACTED] in violation of CPD rules.	Exonerated     Exonerated
Officer Natalie Kobik	1. searching the vehicle of [REDACTED] during a traffic stop without justification, and  2. failing to provide a stop receipt to [REDACTED], in violation of CPD rules.	Exonerated     Exonerated
Officer Gabriel Rodriguez	1. searching the vehicle of [REDACTED] during a traffic stop without justification, and  2. failing to provide a stop receipt to [REDACTED], in violation of CPD rules.	Exonerated     Exonerated

Approved:

[REDACTED]

1-31-2023

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 Angela Hearts-Glass  
 Deputy Chief Investigator

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 Date