



Log # 2021-0000353

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On January 27, 2021, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on January 27, 2021, CPD Officers Charles O'Connor and Alec Gomez stopped and searched without justification the vehicle ██████████ was driving and searched without justification ██████████ purse and the backpack of ██████████ ██████████ boyfriend and front-seat passenger.<sup>2</sup> Upon review of the evidence, COPA served an additional allegation that Officer O'Connor<sup>3</sup> failed to complete an Investigatory Stop Report (ISR), in violation of Special Order S04-13-09. Following its investigation, COPA reached a Not Sustained finding for stopping ██████████ and Sustained findings for searching ██████████ vehicle; the occupants' belongings; and for failure to complete an ISR.

### II. SUMMARY OF EVIDENCE<sup>4</sup>

██████████ was parking her vehicle on the street when a police vehicle pulled over in front of her and Officers Charles O'Connor and Alec Gomez exited.<sup>5</sup> ██████████ boyfriend, ██████████ ██████████ was the front-seat passenger.<sup>6</sup> Officer O'Connor approached the driver's side and asked ██████████ for her driver's license.<sup>7</sup> Officer O'Connor then explained that the reason he was stopping her was that the vehicle's rear license plate light was out.<sup>8</sup> ██████████ handed her driver's license to Officer O'Connor and the officer then asked<sup>9</sup> her to exit the vehicle and step to the back and ██████████ complied.<sup>10</sup> Officer Gomez questioned ██████████ if the vehicle belonged to her and she replied that it

<sup>1</sup> Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup> One or more of these allegations falls within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>3</sup> Officer Gomez was not served with allegations because he resigned from CPD, effective March 2, 2022 (Att. 11).

<sup>4</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body worn camera (BWC) footage, civilian and officer interviews, and request for in-car camera (ICC) video and response from CPD.

<sup>5</sup> Att. 3, ██████████ audio-recorded statement, at 6:49-7:22.

<sup>6</sup> Att. 3, at 18:38-18:59.

<sup>7</sup> Att. 7, Officer O'Connor's BWC, at 2:10-2:12.

<sup>8</sup> Att. 7, at 2:20-2:33.

<sup>9</sup> Att. 16, Pg. 7, Ln. 5-11. Officer O'Connor asked ██████████ and ██████████ to step out of the vehicle due to ██████████ being hostile with Officer Gomez and his observation of a plastic cup in the center console that may have contained alcohol.

<sup>10</sup> Att. 7, at 2:37-3:11.

belonged to her sister who was in the military but allowed her to drive it.<sup>11</sup> Officer Gomez asked if there were any firearms<sup>12</sup> in the car and ██████ said “No.”<sup>13</sup> Officer Gomez then asked if it was all right to take a quick look and ██████ said, “Do you.”<sup>14</sup> ██████ told ██████ to exit the vehicle; Officer Gomez conducted a pat down and escorted him to the back of the vehicle.<sup>15</sup> ██████ asked what the stop was about and noted that the back light was on.<sup>16</sup> Officer O’Connor replied that the license plate must be visible<sup>17</sup> from a distance of fifty feet.<sup>18</sup> Officer Gomez stayed with ██████ and ██████ while Officer O’Connor looked<sup>19</sup> inside the vehicle, including ██████ purse, ██████ backpack and the glove compartment.<sup>20</sup> Officer O’Connor then told ██████ that they are free to go and returned the driver’s license to her.<sup>21</sup> Officer Gomez stated, “Look at that, no ticket. Breaks on top of breaks. Breaks, breaks, breaks, that’s all you guys get,” as he entered the police vehicle.<sup>22</sup> The officers did not run<sup>23</sup> ██████ driver’s license or the vehicle’s license plate and did not provide her with any receipt<sup>24</sup> for the stop.<sup>25</sup>

### III. ALLEGATIONS

#### Officers O’Connor and Gomez:

1. Stopped without justification the vehicle ██████ was driving.
  - Not Sustained (Closed/Hold for Officer Gomez, who resigned)
2. Searched without justification the vehicle ██████ was driving.
  - Sustained (Closed/Hold for Officer Gomez)
3. Searched without justification ██████ purse and the backpack of ██████ ██████ boyfriend and front-seat passenger.
  - Sustained (Closed/Hold for Officer Gomez)

<sup>11</sup> Att. 6, Officer Gomez’s BWC, at 3:10-3:13.

<sup>12</sup> Att. 5, Event Query #2102614913. A citizen called 911 on January 26, 2021, at approximately 11:42 p.m., stating that a young black male with a thin build was waving a gun and walking southbound in the middle of the street in the vicinity of 799 S. Independence and 3737 W. Polk Street. Officers O’Connor and Gomez’s BWC’s for the traffic stop were titled with the above Event Number. Officer O’Connor stated to COPA that he did not see a connection between the two incidents due to their distance from each other and did not know why the Event Number was associated with his BWC video from the traffic stop (Att. 16, Pg. 12, Ln. 1-9).

<sup>13</sup> Att. 6, at 3:13-3:16.

<sup>14</sup> Att. 6, at 3:16:3:18.

<sup>15</sup> Att. 6, at 3:20-3:48.

<sup>16</sup> Att. 7, at 3:29-3:32.

<sup>17</sup> Atts. 2, 10. In July 2021, COPA requested any ICC video from the officers’ marked vehicle; however, CPD responded in September 2021 that any video had been purged.

<sup>18</sup> Att. 7, at 3:33-3:36.

<sup>19</sup> Att. 16, Officer O’Connor’s transcript, Pg. 8, Ln. 3-22. After seeing a plastic cup in the console, Officer O’Connor searched for alcohol and narcotics.

<sup>20</sup> Att. 7, at 3:40-5:05.

<sup>21</sup> Att. 7, at 5:05-5:10.

<sup>22</sup> Att. 6, at 5:06-5:14.

<sup>23</sup> Att. 3, at 23:12-23:32.

<sup>24</sup> Att. 16, Pg. 18, Ln. 2-22. Officer O’Connor stated that when he drove the police vehicle, Officer Gomez would do the paperwork, but admitted that under CPD rules, both officers would be responsible for issuing a stop receipt.

<sup>25</sup> Att. 3, at 31:01-31:08.

4. Failed to complete an Investigatory Stop Report (ISR), in violation of Special Order G04-13-09, after conducting a traffic stop of the vehicle [REDACTED] was driving.
  - Sustained (Closed/Hold for Officer Gomez)

#### IV. CREDIBILITY ASSESSMENT

COPA interviewed [REDACTED] on February 19, 2021.<sup>26</sup> Although [REDACTED] provided information that was mostly consistent with BWC footage, she also stated that she did not consent to the officers' search of the vehicle; however, BWC footage indicated that Officer Gomez asked her if it was all right to look around the vehicle and her response was somewhat ambivalent in that her response was "do you.". COPA finds this response to be insufficient as voluntary consent to search the vehicle. The affirmative responsibility is on the CPD member to obtain voluntary consent sufficiently and clearly. Notable to this discussion is the fact that Officer Gomez asked about the vehicle search; yet it was Officer O'Connor who conducted the search without proper authorizing consent.

COPA interviewed Officer O'Connor on December 1, 2022.<sup>27</sup> Due to the passage of time, the officer did not have an independent recollection of the incident. Officer O'Connor provided information which COPA finds to be both consistent with his BWC footage and inconsistent with the actions he took. For example, he stated there was a plastic cup in the center of the console, and that this cup contained a liquid, which is commonly how he saw alcohol consumed in vehicles.<sup>28</sup> A plastic cup alone in the center console of a vehicle with an undetermined liquid is not illegal or sufficiently alone indicative of probable cause to conduct or justify a vehicle and/or occupant search. Officer O'Connor goes on to state that he reached across to see if there was alcohol in the cup and he believed he determined that it was. He then conducted a brief search of the driver side and passenger side of the vehicle to see if there was additional alcohol.<sup>29</sup> This is inconsistent with BWC as at no time does Officer O'Connor state or indicate he has discovered open alcohol in the vehicle. Consequently, COPA finds Officer O'Connor's statement on the incident to be diminished by its inaccuracies be it attributable to the passage of time or the insufficiency of evidence to justify the vehicle search and related alleged actions.

#### V. ANALYSIS<sup>30</sup>

##### a. Detention Allegations

COPA finds the allegation that Officers O'Connor and Gomez stopped [REDACTED] in her vehicle without justification is **Not Sustained**. CPD members are authorized to conduct investigatory stops when they have reasonable articulable suspicion that the person stopped is committing, is about to

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<sup>26</sup> Att. 3.

<sup>27</sup> Atts. 13, 16. (Officer Gomez resigned prior to COPA's attempt to interview him ((Att. 11)).

<sup>28</sup> Att. 16, page 7, beginning line 7.

<sup>29</sup> Ibid.

<sup>30</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

commit, or has committed a criminal offense.<sup>31</sup> Reasonable articulable suspicion has been described as less than probable cause but more than a hunch or general suspicion. It “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>32</sup>

In this case, Officers O’Connor and Gomez claimed that they stopped [REDACTED] because the light over the vehicle’s rear license plate was not visible from fifty feet away. [REDACTED] disputed that claim when she stood at the back of the vehicle and indicated to the officers that the back light was on. The officers’ marked vehicle was equipped with an in-car camera that may have captured the back light. COPA requested ICC (In-Car Camera) video footage; however, this footage was not available due to it having been purged. Consequently, COPA finds there is insufficient evidence to either prove or disprove the allegation by a preponderance of the evidence, and the allegation is Not Sustained against Officer O’Connor.

### b. Searching Allegations

COPA finds the allegations that Officer O’Connor searched [REDACTED] vehicle, her purse and [REDACTED] backpack without justification are **Sustained**. Under *Michigan v. Long*, officers may make a protective search of the passenger compartment of a vehicle, limited to those areas in which a weapon may be placed or hidden, when they “possess an articulable and objectively reasonable belief that the suspect is potentially dangerous.”<sup>33</sup> Officer O’Connor informed [REDACTED] that the officers were stopping her vehicle because of an alleged faulty rear license plate light. The officer then asked for and [REDACTED] provided her driver’s license. Officer O’Connor then ordered [REDACTED] to exit the vehicle; Officer O’Connor did not provide [REDACTED] with a reason for his order, but in his statement to COPA, he claimed that he issued the order due to [REDACTED] hostility toward Officer Gomez and the presence of a plastic cup in the center console that may have contained alcohol. Officer O’Connor did not reference the presence of any firearms or the affirmative determination of alcohol inside the vehicle neither in his statement to COPA nor in his conversation with [REDACTED]

Officer Gomez, on the other hand, asked [REDACTED] if there were any firearms inside the vehicle and she replied in the negative; however, Officer Gomez then asked it was all right for the officers to look around and [REDACTED] answered, “Do you.” Officer O’Connor proceeded to search the interior of the vehicle, while Officer Gomez remained outside with [REDACTED] and [REDACTED]. In her statement to COPA, [REDACTED] denied consenting to the search for her vehicle. Moreover, in his statement to COPA, Officer O’Connor provided contradictory evidence to justify his search of the vehicle. Specifically, Officer O’Connor claimed that he was searching for alcohol or narcotics and that probable cause existed for the search based on [REDACTED] hostility and a plastic cup in the center console. Officer O’Connor did not inquire about firearms like his partner did and denied that this traffic stop was connected to the assignment the officers had acknowledged for a person with a gun. Despite

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<sup>31</sup> The authority for conducting an investigatory stop is delineated in 725 ILCS 5/107-14(a) and Special Order S04-13-09, Investigatory Stop System (effective July 10, 2017 – present).

<sup>32</sup> S04-13-09(III)(C).

<sup>33</sup> *Michigan v. Long*, 463 U.S. 1032, 1051 (1983).

Officer O'Connor's denial that the two incidents were not connected, the event query indicated that the two officers were in fact in the process of investigating a separate and distinct service call. For these reasons, COPA finds, by a preponderance of evidence, that Officer O'Connor's decision to search [REDACTED] vehicle and personal items during the traffic stop was neither reasonable nor supported by specific and articulable facts.

### c. Investigatory Stop Documentation Allegation

COPA finds the allegation that Officer O'Connor and Gomez failed to comply with Special Order S04-13-09 by failing to complete an Investigatory Stop Report (ISR) is **Sustained**. The order provides that, "Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report."<sup>34</sup> During his COPA interview, Officer O'Connor stated that because he was driving on the date of the incident, his partner, Officer Gomez, would have been in charge of completing any paperwork. However, Officer O'Connor also admitted that under CPD rules, both officers are responsible for completing an ISR. The BWC footage captured the officers leaving the scene immediately after searching [REDACTED] vehicle and a search of CPD records did not reveal an ISR regarding this incident. As a result, there is clear and convincing evidence that the officers failed to complete an ISR, and the allegation is Sustained against Officer O'Connor.

## VI. DISCIPLINARY RECOMMENDATION

### a. Officer Charles O'Connor

#### i. Complimentary and Disciplinary History<sup>35</sup>

Officer O'Connor has received a total of 108 awards, including 3 Department commendations, 101 honorable mentions and 2 Top Gun Arrest awards.<sup>36</sup> He has been reprimanded twice for Sustained complaints (2019-0005242 & 2021-0004414) and additionally, reprimanded four times for CPD Sustained SPARs, within the past five years.<sup>37</sup>

#### ii. Recommended Discipline

COPA has found that Officer O'Connor violated Rules 2, 3, 6, and 10 by searching [REDACTED] vehicle without justification, searching [REDACTED] purse and [REDACTED] backpack without justification, and failing to complete an ISR. While Officer O'Connor claimed that he had probable cause to conduct the search, COPA disagrees and finds that Officer O'Connor's search lacked justification. Officer O'Connor failed to document this traffic stop in an ISR and as an event number. Based on this information, and combined with Officer O'Connor's history, COPA recommends a **25-day suspension**.

<sup>34</sup> S04-13-09(III)(C).

<sup>35</sup> Att. 18.

<sup>36</sup> Att. 18, Pg. 4.

<sup>37</sup> Att. 18, Pg. 1-3.

Approved:



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Angela Hearts-Glass  
*Deputy Chief Investigator*

5-1-2023

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Date

Appendix ACase Details

Date/Time/Location of Incident:	January 27, 2021 / 12:30 a.m. / 4114 W. Washington Street
Date/Time of COPA Notification:	January 27, 2021 / 1:04 p.m.
Involved Member #1:	O'CONNOR, Charles; star #8546; employee ID# [REDACTED] Date of Appointment: August 29, 2016; Police Officer; Unit 011; DOB: [REDACTED] 1984; Male; White.
Involved Member #2:	GOMEZ, Alec; star #13917; employee ID# [REDACTED]; Date of Appointment: April 17, 2017; Police Officer; Unit 011; DOB: [REDACTED], 1993; Male; White Hispanic.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1998; Female; Black.
Involved Individual #2:	[REDACTED] DOB: Unknown; Male; Black.
Case Type:	Traffic Stop; Illegal Search

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 10:** Inattention to duty.

Applicable Policies and Laws

- S04-13-09, Investigatory Stop Systems (effective July 10, 2017, to present).
- 725 ILCS 5/107-14(a)

## Appendix B

### **Definition of COPA’s Findings and Standards of Proof**

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 a proposition is proved.<sup>38</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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>39</sup>

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<sup>38</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 is found to be more probably true than not).

<sup>39</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).



**Appendix C**

**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation