

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 8, 2018
Time of Incident:	5:15 p.m.
Location of Incident:	5555 W. Grand Ave.
Date of COPA Notification:	October 15, 2018
Time of COPA Notification:	11:20 a.m.

██████████ was involved in a fender-bender on October 8, 2018 in a Dollar Tree parking lot. After the accident, she and the other driver went to the police station to make a report about it. The parties had differing accounts of what happened. ██████████ asserts she was discriminated against by the desk clerk because of her race, and that the Traffic Crash Report falsely documented the accident to favor the other party.

II. INVOLVED PARTIES

Involved Member #1: Jerves Spain	Department Jerves Spain	Jerves Spain / Employee No. ██████████ / Date of Appointment: November 16, 2016 / Police Administrative Clerk / 25th District / Black Female
Involved Individual #1: ██████████		██████████ / DOB August, 1975 / Hispanic Female
Involved Individual #2: ██████████		██████████ / DOB January, 1977 / Hispanic Male

III. ALLEGATIONS

Member	Allegation	Finding
Officer Jerves Spain	It is alleged that on October 8, 2018 at approximately 5:15 p.m. at 5555 W. Grand Ave. Chicago, Illinois 60639, you: 1. Did not accurately take ██████████ information regarding a vehicle crash because of ██████████ race. 2. Did not allow ██████████ or her husband to speak to a Sergeant when requested.	Not Sustained Unfounded

	3. Told ██████████ to “shut up.”	Not Sustained
--	----------------------------------	---------------

IV. APPLICABLE RULES AND LAWS

Rules of Conduct

- **Rule 01:** Prohibits violation of any law or ordinance.
- **Rule 02:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- **Rule 03:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- **Rule 05:** Failure to perform any duty.
- **Rule 08:** Disrespect to or maltreatment of any person, while on or off duty.
- **Rule 09:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G04-07 Preliminary Investigations – Traffic Crashes

Special Orders

1. S04-07 Preliminary Investigations – Traffic Crashes
2. S02-01-05 Limited English Proficiency

Illinois Laws

The Constitution of the State of Illinois
Article 1, § 2

Federal Laws

The Constitution of the United States
14th Amendment

INVESTIGATION¹

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

The Civilian Officer of Police Accountability (COPA) investigated this incident. The following is a summary of the most relevant evidence, including interviews of the complainant, involved Department members, and documentary evidence.

a. Interviews

The Complainant, [REDACTED] was interviewed by COPA investigators on October 18, 2018. In her statement, [REDACTED] said she was involved in a minor traffic accident on October 8, 2018 in the parking lot of a Dollar Tree store. [REDACTED] said she was pulling out of a parking spot, when another driver coming straight towards her, hit the right-front passenger side of her car. [REDACTED] called 9-1-1 and was informed that since no one was injured, she should proceed to the nearest police station to file an accident report. Both women got out of their cars, the other driver was a black woman. The other driver told [REDACTED] the accident was [REDACTED] fault because the parking lot is one-way traffic only. Someone from the Dollar General came out and said the parking lot is not one-way, that traffic goes both ways in the parking lot.

The other driver didn't immediately provide insurance information and said she was waiting for her mother. Meanwhile, [REDACTED] called her husband, who was nearby, and he was on his way as well. [REDACTED] husband [REDACTED] came, then the other driver's mother arrived. The other driver's mother tried to negotiate with [REDACTED] and her husband in order not to file a police report. She offered to pay for the damage, but [REDACTED] said she wanted to make the report to document the accident and get their insurance information.

[REDACTED] her husband, the other driver and her mother all proceeded to the police station located at 5555 W. Grand Ave. Upon entering the station, the other driver's mother, [REDACTED] provided information to the Administrative Clerk behind the desk, Jerves Spain, and told her she was the one driving, when in-fact, her daughter was driving. [REDACTED] asked for a translator. The Spanish-speaking officer at the station was preoccupied with another case, but briefly came to assist. [REDACTED] told the translator what happened, who relayed that to Department Member Spain, while [REDACTED] told her version as well. When [REDACTED] tried to interject that [REDACTED] was not the driver of the vehicle, Clerk Spain told her to "shut up, it's not your turn yet." Meanwhile, Clerk Spain, who is black, seemed to be siding with [REDACTED] and said she knew the Dollar Tree parking lot and agreed that it's one-way. [REDACTED] said she wanted to talk to a sergeant and her husband went to ask for one, but he was told his wife was already being taken care of. Clerk Spain would not provide a copy of the police report but said [REDACTED] had to get a copy of it online.

It wasn't until that evening when [REDACTED] got a copy of the report that she saw the wrong driver and wrong vehicle listed as the other party. She and her husband went to the 25th District police station where they informed an officer of the errors in the report. An amendment to the report was made to indicate the vehicle involved was a Black Nissan Rogue with damage to its front side fender.²

² Attachments 18 and 23.

Witness, ██████████ was interviewed by COPA investigators on October 15, 2018. ██████████ said his wife, ██████████ was involved in a traffic accident on October 8, 2018 in the parking lot of a Dollar Tree at 5469 W. North Ave. His wife called him immediately after the accident and ██████████ relocated there. When he arrived, he saw the other driver was a black female in her 40s who had three children with her. ██████████ told his wife they should call 9-1-1 to report the accident and exchange insurance information with the other driver. The other driver did not want to provide her insurance information. ██████████ called 9-1-1 and the dispatcher said they should proceed to the nearest police district. After that, the other driver's mother approached ██████████ and tried to negotiate an agreement with him so they wouldn't have to go to the police station and file a police report about the accident. She said they would pay for all the damages. She also said she wanted to be listed as the driver of the vehicle instead of her daughter. When ██████████ declined her offer to pay for the damages without a police report, the woman said she thought he wasn't cooperating because she is black. ██████████ said that wasn't the case, he simply wanted to officially file a police report about the accident. ██████████ saw a police vehicle parked nearby and asked the officer if he could assist. The officer then instructed the other party that they should go to the police station with ██████████ and his wife to make the report, which they finally did.

Once at the police station, the other party began telling the officer behind the desk, Officer Spain, about the accident, however, ██████████ could hear they were telling her that the driver's mother was the driver when ██████████ knew that wasn't true. ██████████ interrupted and informed the officer that wasn't the case. An argument ensued and Officer Spain told ██████████ to "shut up." A Sergeant stepped in and told ██████████ and the other party's mother they had to wait somewhere else. ██████████ told the Sgt. his wife doesn't speak English so she needed a translator. One of the other officers spoke Spanish and said he would translate, however, he only spoke to ██████████ for about a minute and it didn't seem like he translated anything for her, but rather left it to Officer Spain to continue writing the accident report without the translator. They asked for a copy of the report and were told they could get it online later.

When ██████████ and his wife reviewed the traffic report online later that evening, they noticed the wrong vehicle and driver were listed for the other party. The officer had written down the information of the other party's mother, even though she hadn't arrived until after the accident happened, and her vehicle was not the one involved in the accident.³

Accused Department Member Jerves Spain was interviewed by COPA investigators on August 16, 2019. Ms. Spain is an Administrative Clerk with the Chicago Police Department. Clerk Spain said she had no independent recollection of speaking to anyone regarding this traffic crash or drafting the traffic crash report for it. She said she was working on that date; however, she typically does between 10 – 50 traffic crash reports per watch. Clerk Spain said Spanish speaking citizens regularly come into the station and she would ask for a translator if necessary.

³ Attachment 19.

She said she would not treat someone differently based on their ethnicity. Clerk Spain also said she wouldn't tell someone to shut up or deny their request to speak to a sergeant.⁴

b. Documentary Evidence

The **Illinois Traffic Crash Report** for the accident which occurred on October 8, 2018. The report documents that [REDACTED] and [REDACTED] were involved in a collision at 5469 W. North Ave. at about 5:15 pm. There is no illustration to show the accident or the position of the vehicles in the crash report. There is a written narrative provided by Officer Jerves Spain. The narrative states that Unit 1, operated by [REDACTED] pulled out of a parking spot and was hit by Unit 2, which was entering the parking lot. The report says there were two different accounts of where Unit 1 was parked and that Unit 1 pulled out of the parking spot facing the wrong way because the parking lot only allows for one way traffic. There is an amendment to the report which states the vehicle involved in the accident was a Nissan Rogue, and not the Buick Century listed on the first page as Unit 2.⁵

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 reviewed complied with 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 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.

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

⁴ Attachments 13 and 14.

⁵ Attachment 20.

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 recommends a finding of **Not Sustained for Allegation #1 against Clerk Spain**. It is unclear whether race played a role in how Officer Spain reported the traffic accident in the Traffic Crash Report.

Department Rules 1 and 8 prohibit officers from violating any law and prohibit disrespect or maltreatment of any person. State and Federal law prohibit discrimination on the basis of race. ██████ said she felt discriminated against by the way she was treated at the police station and how the report of the accident was handled by Officer Spain. ██████ and her husband asked for an interpreter, but the interpreter only spoke to ██████ for about one-minute, which ██████ felt was not enough time to fairly interpret what happened to the reporting officer. ██████ also felt that Officer Spain automatically accepted the other party’s version of the event although they were providing false information about who was driving and what vehicle was involved in the accident.

While it is problematic that information may have been taken hastily and a more thorough examination of the account from both drivers was not done, on its own, it cannot be attributed to discrimination. Even if ██████ account of the crash is taken as true, other factors could have led to what information was put into the traffic crash report that had nothing to do with racial bias. ██████ did not contend that anything was said overtly that led her to believe she was discriminated against; it was only an assumption based on how she was being treated. Clerk Spain said she would not take race into account when documenting traffic accidents, and said she routinely handles reports of accidents from Hispanic citizens. Based on the foregoing, COPA recommends a finding of Not Sustained for Allegation No. 1 against Clerk Spain.

COPA recommends a finding of **Unfounded for Allegation #2 against Officer Spain**. It is clear that Officer Spain did not prevent the complainant from speaking to a sergeant.

Department Rules 2 and 3 prohibit officers from engaging in conduct which impedes the Department’s efforts to achieve its policy and goals, or failure to promote those goals, part of which is fostering trust with the public. In her statement, ██████ said she *wanted* to talk to a sergeant and that her husband asked to speak to one, but then Clerk Spain or a sergeant told her husband it wasn’t necessary. In his statement, ██████ said a sergeant was present and stepped in at one point to ask him to wait somewhere else. ██████ also said he asked the sergeant for a translator for his wife. According to ██████ own statement, a sergeant was present, and he asked the sergeant about a translator. ██████ not ██████ is the one who asked for a sergeant, and according to him, he spoke to one. Clerk Spain could not have been preventing either of them from speaking to a sergeant when it is clear a Sergeant was present; ██████ spoke to the sergeant and ██████ didn’t ask to speak to one. Based on the foregoing, COPA recommends a finding of Unfounded for Allegation No. 2 against Clerk Spain.

COPA recommends a finding of **Not Sustained for Allegation #3** against **Clerk Spain**. It is uncertain whether Officer Spain told ██████████ to “shut up.”

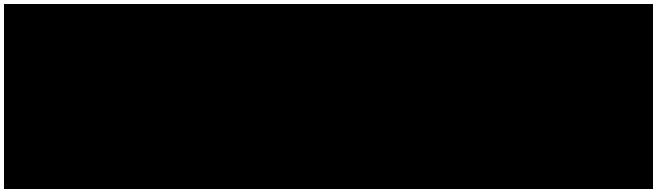
Department Rules 2, 3 8, and 9 prohibit officers from conduct which impedes the Department’s efforts to achieve its policy and goals, failing to promote those goals, disrespecting any person, and engaging in unjustified verbal altercations. According to ██████████ and ██████████ at some point in the conversation about the accident with Clerk Spain, she told ██████████ to “shut up.” Again, we only have ██████████ and her husband to establish this. Although Clerk Spain did not recall the incident in detail, she denies ever telling someone to “shut up”. COPA recommends a finding of Not Sustained for Allegation No. 3 against Clerk Spain.

VII. CONCLUSION

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

Member	Allegation	Finding
Department Member Jerves Spain	It is alleged that on October 8, 2018 at approximately 5:15 p.m. at 5555 W. Grand Ave. Chicago, Illinois 60639, you: 1. Did not accurately take ██████████ information regarding a vehicle crash because of ██████████ race. 2. Did not allow ██████████ or her husband to speak to a Sergeant when requested. 3. Told ██████████ to “shut up.”	Not Sustained Unfounded Not Sustained

Approved:



6-23-2020

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	06
Investigator:	Linda Wyant
Supervising Investigator:	Elaine Tarver
Deputy Chief Administrator:	Angela-Hearts-Glass