

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	05 April 2019
Time of Incident:	10:30 p.m.
Location of Incident:	2000 North Lawndale Avenue
Date of COPA Notification:	January 21, 2020
Time of COPA Notification:	11:30 a.m.

On the night of April 05, 2019, the complainant—who had consumed several alcoholic beverages earlier in the evening—was smoking a cigarette outside a bar at the corner of North Lawndale Avenue and West Armitage Avenue. As he smoked, he began waving his hands at traffic when he observed Sergeant Simon operating his vehicle without head lights. The complainant alleges the two engaged in a verbal altercation and Sergeant Simon threatened him.

COPA conducted a thorough investigation a detailed analysis of COPA’s findings is discussed below.

**II. INVOLVED PARTIES**

Involved Officer #1:	Joseph Simon, Star #1615, Employee # [REDACTED], Appointed 24 September 2001, Sergeant, Unit 025, Born 1978, Male, White
Involved Individual #1:	[REDACTED] Born 1991, Male, White
Involved Individual #2:	[REDACTED] Born 1994, Male, Hispanic

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Sergeant Simon	It is alleged that on or about 05 April 2019, at approximately 10:30 p.m., at or near 2000 North Lawndale Avenue in Chicago, Sergeant Simon, Star #1615, committed misconduct in that:	

	1. he violated 625 ILCS 5/12-201(b) (requiring that drivers light head lamps at night);	Exonerated
	2. he failed to give his name and badge number when requested by the complainant; and,	Not Sustained
	3. he made a verbal threat against the complainant.	Not Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 01: “Violation of any law or ordinance.”
2. Rule 09: “Engaging in any unjustified verbal or physical altercation with any person.”
3. Rule 37: “Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank, and star number when so requested. . . by a private citizen.”

State Laws

1. 625 ILCS 5/12-201(b) (requiring that drivers light head lamps at night).

**V. INVESTIGATION**

**a. Interviews**

██████████ the complainant in this matter, gave a sworn statement to the Civilian Office of Police Accountability (“COPA”) on 08 April 2019.<sup>1</sup> According to Mr. ██████████ he is a second-year law student and has worked as an intern for agencies in the criminal justice system. On the evening of 05 April 2019, he was smoking a cigarette outside WeeGee’s Lounge, a bar at the corner of North Lawndale and West Armitage Avenues. Earlier that evening, he had consumed “three or four beers [and] maybe some shots.”<sup>2</sup> He felt “buzzed,” but not “drunk.”<sup>3</sup>

As he smoked, ██████████ observed a Ford Escape “with its lights off” traveling east on Armitage and concluded the Ford Escape was an unmarked police vehicle.<sup>4</sup> ██████████ is, in his own words, “not a big fan of cops”—felt annoyed that a police officer was committing a traffic infraction.<sup>5</sup> He attempted to alert the driver that the vehicle’s lights were off by waving his hands. The driver—

<sup>1</sup> See att. 16.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

later identified as Sergeant Simon—returned the wave in a manner which ██████ perceived to be sarcastic. Sergeant Simon continued traveling down the road.

█████ waved his hands again. This time, the sergeant drove to the side of the road, lowered his window, and announced, “I’m not your Uber driver!”<sup>6</sup> ██████ replied, “I didn’t think you were! I was trying to tell you to turn your lights on!”<sup>7</sup> The sergeant explained that he was trying to be discreet. ██████ replied, “The cops are going to bust you up if you don’t have your lights on.”<sup>8</sup> The sergeant activated his emergency lights and replied, “I am the fucking cops!”<sup>9</sup> ██████ shouted, “Then turn your fucking lights on!”<sup>10</sup>

At that point, Simon exited his vehicle and approached ██████. The two men continued to argue over whether Simon should turn on his lights. They began “swearing at each other.”<sup>11</sup> As the conversation deteriorated, three of ██████ friends arrived at the bar and began shouting at Sergeant Simon. One used her mobile phone to record the incident.

█████ asked Sergeant Simon for his name. The sergeant refused to identify himself but gave ██████ permission to photograph his license plate. Sergeant Simon stated, “I’ll be around!” and moved his hand near his weapon.<sup>12</sup> ██████ later conceded the Sergeant’s hand may have been there the entire time, but “either way,” he interpreted Simon’s statement to be a threat.<sup>13</sup> ██████ answered, “Good!”<sup>14</sup> Simon asked ██████ “Who are you?”<sup>15</sup> ██████ answered, “I’m nobody!” The two men continued shouting at one another. Sergeant Simon eventually returned to his vehicle and drove away without lighting his headlamps.

█████ and his friends went inside WeeGee’s, and the group discussed the encounter with the sergeant. ██████ “drank more” and decided to “call the cops on the cops . . . as kind of like a joke.”<sup>16</sup> He contacted the non-emergency line of the Chicago Police Department. During the call, the Department transferred him to multiple desks, and he became “irked” as a result.<sup>17</sup> When he finally did speak to a police officer, he began shouting and the officer ended the call. ██████ then contacted emergency services (911) and reported the incident.

A short time later, Sergeant Keenan arrived on the scene. Using “colorful language,” ██████ and his friends told Keenan about their encounter with Sergeant Simon and showed Keenan the photograph of Simon’s license plate.<sup>18</sup> Keenan did not recognize the plate as a police plate. ██████ suggested that the incident may be a case of police impersonation. Sergeant Kennan responded in

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

a manner that ██████ perceived to be dismissive. As a result, ██████ and his friends began shouting about acceptable standards of “policing in the community,”<sup>19</sup> and the conversation “became a shit-show.”<sup>20</sup>

As ██████ and his friends became “fired up,” Sergeant Keenan offered to assist ██████ in making a report at the station.<sup>21</sup> ██████ refused the sergeant’s offer (as he did not want to travel to the station) and demanded that the sergeant make a report from his police vehicle. The sergeant refused and advised that, if ██████ did not come to the station, he would terminate his investigation of the incident. ██████ again refused to come to the station. Following that, he photographed Sergeant Keenan’s name tag, and the sergeant left.

**A civilian witness, ██████ gave a sworn statement to the Civilian Office of Police Accountability (“COPA”) on 11 April 2019.<sup>22</sup>** According to Mr. ██████ he is a second-year law student and a classmate and roommate of ██████. On the night of 05 April 2020, he was inside WeeGee’s Lounge and had consumed approximately six twelve-ounce bottles of beer. He went outside and observed ██████ “interacting” with a man—later identified as Sergeant Simon.<sup>23</sup> ██████ concluded Simon was a police officer because he “had a hard-ass face like cops tend to do”<sup>24</sup> and because he was wearing “a gun belt” with an attached firearm, flashlight, and handcuffs.<sup>25</sup>

██████ observed the exchange between ██████ and Simon: Simon stated, “I’m not your Uber driver! I am the law! I can do whatever I want! I don’t need to put my lights on if I don’t want to.”<sup>26</sup> ██████ shouted, “Just turn your lights on and stop being stupid! It’s dark!”<sup>27</sup> Simon replied, “Who the fuck are you to tell me what do?”<sup>28</sup> ██████ answered, “I’m nobody. I’m just telling you to turn your lights on.”<sup>29</sup> At that point, Sergeant Simon “flashed” his weapon at ██████ (but did not remove it from its holster).<sup>30</sup>

██████ girlfriend arrived on the scene and began recording Simon with the camera of her cell phone. Simon mocked her for recording, returned to his vehicle, and left the area.<sup>31</sup> During the “three minute” encounter, ██████ never interacted with Sergeant Simon.<sup>32</sup>

Later, ██████ contacted emergency services. Sergeant Keenan arrived on the scene in response to ██████ call. ██████ informed him about the incident involving Sergeant Simon and showed him

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *See* att. 18.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

the photograph of the plates. Sergeant Keenan informed ██████ the plates did not belong to police vehicle. ██████ suggested that, if the plates were not in fact police plates, the incident may be a case of police impersonation. Keenan, however, appeared “not [to] care about” the incident: he did not record the license plate number; he did not take anyone’s name; and, he did not take any notes.<sup>33</sup>

Keenan’s indifference to the incident shocked ██████ since Simon had displayed his weapon and yelled at ██████ and his classmates—who, in ██████ words, “are essentially kids.”<sup>34</sup>

**The accused officer, Sergeant Joseph Simon, gave a sworn statement to the Civilian Office of Police Accountability on 20 February 2020.**<sup>35</sup> According to Sergeant Simon, on the night of 05 April 2019, he was on duty and assigned to beat 6340. He was in plain clothes but had attached his weapon and its holster to his belt. He was not assigned a body-worn camera.

At the time of the incident, he was conducting covert surveillance of a nightclub from an unmarked police vehicle parked on West Armitage Avenue.<sup>36</sup> While he was conducting surveillance, Sergeant Simon noticed a man—the complaint, ██████ a cigarette outside WeeGee’s Lounge (across the street from his location). After a little time passed, ██████ began “gesturing” and “pointing” at passing traffic (which included a marked police vehicle).<sup>37</sup>

The sergeant became concerned by ██████ unusual behavior, and “decided to see what was going on.”<sup>38</sup> He moved his police vehicle “twenty or thirty feet” across the street to ██████ location.<sup>39</sup> His light “may” have been off when he did so.<sup>40</sup> As Sergeant Simon stopped his vehicle near ██████ began pointing at the sergeant. Simon lowered his window and stated, “Hey, buddy, I’m not your Uber Driver.”<sup>41</sup>

██████ started shouting, “I don’t give a fuck. Turn your fucking lights on before you kill somebody!”<sup>42</sup> At this point, Simon announced himself as a police officer and said, “I’m working on something.”<sup>43</sup> ██████ shouted, “I don’t give a fuck who you are!”<sup>44</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *See* att. 22.

<sup>36</sup> *See id.* The restaurant was under surveillance because the Police Department had received complaints about illegal activity being carried out on its premises.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

Sergeant Simon was alarmed by ██████ hostility and exited his vehicle. Simon made his way over to ██████ and stated, “Hey, man. I’m the police. What’s your problem?”<sup>45</sup> ██████ replied, “Fuck you! I’m taking a picture of your plate!”<sup>46</sup> Simon replied, “Go ahead!”<sup>47</sup>

██████ and Simon then walked to the front of the vehicle together. ██████ photographed the vehicle’s license plate, and Simon returned to his seat. After ██████ photographed the plates, he began shouting again. Simon did not “pay attention” to what ██████ was saying as, by that point, another person (a Hispanic man, possibly matching the description of ██████) had approached Simon’s vehicle and was talking about “free speech.”<sup>48</sup>

██████ made another profane comment to the police officer. The sergeant responded, “You’re a real tough guy in front of a camera.”<sup>49</sup> ██████ “flicked his cigarette,” and went inside the bar.<sup>50</sup> Following that, the sergeant drove to another nearby location so he could continue to conduct surveillance.

### b. Digital Evidence

**Mr. ██████ provided COPA with video of the incident which he obtained from the camera of a civilian witness.**<sup>51</sup> The recorder captured only the final moments of the encounter between Mr. ██████ and Sergeant Simon. As the footage opens, Sergeant Simon points to his license plate. ██████ then appears to photograph the license plate and shouts, “Thanks very much!”

Sergeant Simon gets into his vehicle and asks, “Who are you?”<sup>52</sup> ██████ answers, “I’m nobody! I’m not a fucking cop driving with my fucking lights off like a dick-fuck! Fuck yourself, my man! Fuck yourself!”<sup>53</sup>

Sergeant Simon makes an inaudible response, and ██████ answers “Do whatever you want, alright? Why don’t you go torture some people, you piece of shit!”<sup>54</sup> Sergeant Simon makes another inaudible response, and ██████ answers, “Hey, try to run a mile, you fat piece of shit!”<sup>55</sup>

Sergeant Simon answers, “I can!” ██████ responds, “Yeah, I bet you could! You could fucking walk one!”<sup>56</sup> Sergeant Simon answers, “Yeah, you’re a real tough guy in front of a camera.”<sup>57</sup> ██████ shouts, “I don’t have a camera, motherfucker!” Sergeant Simon’s vehicle moves forward a few inches while its lights remain off. At that point, the recording ends.

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *See* att. 19.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

## VI. ANALYSIS

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.

**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>58</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 satisfied.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but less demanding than “proof-beyond-a-reasonable-doubt” that applies in criminal cases.<sup>59</sup> 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>60</sup>

**A. THERE IS CLEAR AND CONVINCING EVIDENCE TO SUPPORT A FINDING THAT THE ACCUSED OFFICER OPERATED HIS ASSIGNED POLICE VEHICLE IN A MANNER THAT WAS CONSISTENT WITH DEPARTMENTAL POLICY.**

The complainant alleged that Sergeant Simon drove his police vehicle at night without lighted headlamps in violation of 625 ILCS 5/12-201(b). For his part, Sergeant Simon acknowledged he *may* have moved his vehicle a short distance without turning on his lights. However, at the time of the incident, Simon was engaged in a covert police operation, and he only moved the vehicle because he had become concerned by the complainant’s unusual behavior. His actions balanced two legitimate police purposes: (1) maintaining discretion during covert operations; and, (2) ensuring the safety and welfare of members of the community (in this case, by checking on a person who was acting erratically). **For this reason, COPA finds Allegation #1 EXONERATED.**

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<sup>58</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>59</sup> See e.g., *People v. Coan*, 2016 Ill. App. 2d 151036 (2016).

<sup>60</sup> *Id.* at ¶ 28.

**B. THERE IS NOT ENOUGH EVIDENCE TO PROVE THAT THE ACCUSED OFFICER REFUSED TO GIVE HIS NAME AND BADGE NUMBER IN RESPONSE TO THE COMPLAINANT’S REQUEST FOR THAT INFORMATION.**

The complainant alleged that, when he asked Sergeant Simon for his name, the sergeant refused to identify himself. Video of the incident does not capture this exchange, and Sergeant Simon disputed the claim, saying the complainant only ever asked for permission to photograph his license plate (which he granted).

The complainant’s reliability as a witness is in doubt because on the night of the incident, he had consumed at least three beers and multiple shots. This suggests that, during the incident, he was under the influence of alcohol, and his memory of the encounter might be less accurate as a result.

However, complainant was forthright in acknowledging that, when he spoke to the sergeant, he used petulant and profane language. And, on most points, the complainant’s account of the incident is corroborative of what is shown by other evidence, including the officer’s statement and the video recording.

As a result—while there is insufficient evidence to support a finding that Sergeant Simon refused to give his name—there is also insufficient evidence to support a firm and abiding belief that the complainant’s claim is untrue. **For this reason, COPA finds Allegation #2 NOT SUSTAINED.**

**C. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICER DID NOT MAKE A VERBAL THREAT AGAINST THE COMPLAINANT.**

Finally, the complainant alleged that Sergeant Simon made an unnecessary threat against him. Specifically, he accused Sergeant Simon of gesturing toward his weapon and stating, “I’ll be around.” The complainant concedes that the officer may have had his hand at or near his weapon the entire time but that he considered the statement a threat. The witness to the incident, Mr. ██████ also claimed the sergeant “flashed” his weapon at the complainant. The sergeant denied doing this, and video of the incident does not show him taking that action or making that statement. The sergeant stated that his weapon was visible the entire time as it was holstered on the outer side of his belt.

First, even if, for the sake of argument, the sergeant did take these actions, COPA cannot conclude they constitute a threat: the sergeant’s firearm remained attached to his belt throughout the incident, and he never removed it from its holster, and, the statement “I’ll be around”, itself does not imply a threat. It would not have been unreasonable for the sergeant to provide this warning in light of the officer’s belief that the complainant was in violation of the law coupled with his aggressive and erratic behavior.

Furthermore, ██████ himself conceded that he felt “buzzed” at the time and that he may not have actually seen the officer move his hand near his weapon. He also acknowledged that the threatening nature of the sergeant’s remarks was merely his interpretation.



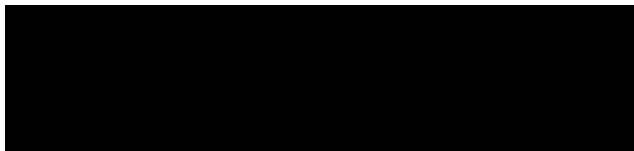
Therefore, the evidence supports a firm and abiding belief that Sergeant Simon did not threaten the complainant. **For this reason, COPA finds Allegation #3 EXONERATED.**

**VII. CONCLUSION**

For the above reasons, COPA finds as follows:

Officer	Allegation	Finding / Recommendation
Sergeant Simon	<p>It is alleged that on or about 05 April 2019, at approximately 10:30 p.m., at or near 2000 North Lawndale Avenue in Chicago, Sergeant Simon, Star #1615, committed misconduct in that:</p> <ol style="list-style-type: none"> <li>1. he violated 625 ILCS 5/12-201(b) (requiring that drivers light head lamps at night);</li> <li>2. he failed to give his name and badge number when requested by the complainant; and,</li> <li>3. he made a verbal threat against the complainant.</li> </ol>	<p>Exonerated</p> <p>Not Sustained</p> <p>Not Sustained</p>

Approved:



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 Angela Hearts-Glass  
 Deputy Chief Administrator – Chief Investigator

5-13-2020

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	06
<b>Investigator:</b>	Joshua Hock (Badge #55)
<b>Supervising Investigator:</b>	Elaine Tarver
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass