

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	January 24, 2020
Time of Incident:	2:20 PM
Location of Incident:	7627 N. Paulina St.
Date of COPA Notification:	February 6, 2020
Time of COPA Notification:	12:30 PM

On January 24, 2020, at approximately 12:30 PM, Officers Alcazar and Neita-Scott, working in the 24<sup>th</sup> District as Beat 2462E, stopped complainant [REDACTED] for allegedly having illegal contraband in his possession in the vicinity of 7627 N. Paulina St. Mr. [REDACTED] alleged that he was stopped without justification.

**I. INVOLVED PARTIES**

Involved Officer #1:	Alcazar, Victor, star # 11046, employee ID# [REDACTED], Date of Appointment: September 28, 1998, Police Officer, Unit of Assignment: 024, DOB: [REDACTED], 1971, gender: Male, Race: Spanish
Involved Officer #2:	Neita-Scott, Brandon, star # 18908, employee ID# [REDACTED], Date of Appointment: December 12, 2016, Police Officer, Unit of Assignment: 024, DOB: [REDACTED], 1993, gender: Male, Race: Black
Involved Individual #1:	[REDACTED], 1992, gender: Male Race: Black

**II. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Alcazar, Victor	1. That on or about January 24, 2020, at approximately 2:20 pm, in the area of 7627 S. Paulina Street, you unlawfully stopped the [REDACTED] Fireman without justification.	Exonerated

Officer Neita-Scott, Brandon	1. That on or about January 24, 2020, at approximately 2:20 pm, in the area of 7627 S. Paulina Street, you unlawfully stopped the [REDACTED] without justification.	Exonerated
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**III. APPLICABLE RULES AND LAWS**

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 5: Failed to perform any duty

General Orders

1. G01-01 – CPD Vision Mission Statement, and Core Values
2. G02-01 – Human Rights
3. G02-04 – Prohibition Regarding Racial Profiling and Other Bias Based Policing

Federal Laws

1. Fourth Amendment, United States Constitution
2. Terry V. Ohio

State Laws

1. 720 ILCS 600/3.5(c)<sup>1</sup>

<sup>1</sup> A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or in preparing a controlled substance for that use, is guilty of a Class A misdemeanor for which the court shall impose a minimum fine of \$750 in addition to any other penalty prescribed for a Class A misdemeanor.

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

### a. Interviews

In an interview with COPA<sup>3</sup> ██████████ related that on February 6, 2020, at approximately 12:30 PM, he was stopped by members of the Chicago Police Department in the vicinity of ██████████. Mr. ██████████ was leaving his sister's house, holding trash and a broken cigarette in his hand. He began walking down the alley while talking to his wife, ██████████. They saw the undercover car ride past them. ██████████ could not light his cigarette, because he had trash in my hand. As Officers came to the alley, they looked at Mr. ██████████ and Mr. ██████████ looked at them. When ██████████ and ██████████ approached the end of the alley, which opens on to Paulina Street, he was stopped by the officers. Mr. ██████████ asked the officers why he was being stopped and was advised that he had a "one hitter" in his hand. Mr. ██████████ stated that officers told him he was being detained, but was not under arrest, nor was he handcuffed. Mr. ██████████ alleged that he was stopped without justification.

In an interview with COPA<sup>4</sup> ██████████ related on January 24, 2020, at approximately 12:30 PM, her husband, ██████████ was stopped by members of the Chicago Police Department in the vicinity of ██████████. Ms. ██████████ stated during her interview that she and Mr. ██████████ were leaving his sisters' apartment complex, when they began walking down the alley toward the train. They saw a detective car travel down Jonquil, then come back around as Mr. ██████████ was carrying the garbage through the alley. The officers came through the alley and looked at him, and her husband looked at them. Mr. ██████████ continued throwing the garbage away and then continued to walk down the alley. The police, turned back around, went through the alley and stopped them on Paulina, when Ms. ██████████ and Mr. ██████████ came out of the alley.

The officers jumped out the car and asked them what they were doing. Mr. ██████████ asked why they were stopping them. The officers responded that he, Mr. ██████████ had a one hitter. Mr. ██████████ thought they were referring to a firearm. Ms. ██████████ advised Mr. ██████████ that a one hitter is used to smoke marijuana. Ms. ██████████ advised COPA that Mr. ██████████ was fixing his cigarette, which is what made officers think he had a one hitter. Ms. ██████████ further explained that Mr. ██████████ had the cigarette in his hand and, while holding the trash, he attempted to place it in his pocket but was unable to. Upon throwing away the trash he somehow broke the cigarette and was putting it back together when the officers observed him. She assumed that was why they thought he had a one hitter.

### b. Digital Evidence

#### **The Body Worn Camera (BWC) footage of Accused Officer Alcazar 's camera<sup>5</sup>**

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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. 1, Audio Interview of ██████████

<sup>4</sup> Att. 2, Audio Interview of ██████████

<sup>5</sup> Att. 8

The BWC video shows Officer Alcazar as he and his partner, Officer Neita-Scott, exit their patrol vehicle and approach Mr. [REDACTED] who is outside on foot with a female, now known as [REDACTED]. Mr. [REDACTED] immediately states “Don’t touch me, you have no right to pull me over.”<sup>6</sup> Officer Neita-Scott responds, “sure we do, you had a one hitter in the alley.”<sup>7</sup> Ms. [REDACTED] then intervenes and asks “a one hitter, who get high?”<sup>8</sup> Officer Alcazar asks Mr. [REDACTED] “you got an ID on you man?”<sup>9</sup> Mr. [REDACTED] responds, “I don’t have to give you my ID.”<sup>10</sup> Officer Alcazar advises Mr. [REDACTED] that he did have to give him identification and that he was being detained for an investigation. There was continued conversation between the officers and Mr. [REDACTED] about if Mr. [REDACTED] had to provide identification, and if Officers had a right to stop him or not since he had not committed a crime.

Officer Alcazar, again explained to Mr. [REDACTED] the he was in a high narcotic area and, “We saw you in the alley walking with your wife, you had a one hitter in your hand, so we came back around and we stopped you.”<sup>11</sup> Mr. [REDACTED] informed the officers that he was going to give up his rights and provide his identification. He then requests a business card from the officers, which they advise that they do not have business cards, but that he had already obtained their names and badge numbers.

Officer Neita-Scott then states to Mr. [REDACTED] “Just give us your ID, then you can go about your business it’s not a big deal.”<sup>12</sup> Officer Alcazar then stated to Mr. [REDACTED] “I don’t know who you are, how many times do I have to explain why we stopped you?”<sup>13</sup>

Officer Alcazar then explains the law to Mr. [REDACTED] “when you’re being detained and an officer is investigating something, then requests your ID, you are legally required by law to give it, plain and simple. If we had no reason to stop, you then sure”.<sup>14</sup>

Officer Alcazar steps away and calls his Sergeant via his cell phone to find out if he was coming to the job. He explained to the Sergeant that they were doing an investigation and the subject did not want to provide the ID.

Mr. [REDACTED] hands his ID to Officer Neita-Scott and states, “here because I have to go.”<sup>15</sup> Officer Alcazar received the Id card and walks to the squad car to run Mr. [REDACTED] information via his PDT.<sup>16</sup>

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<sup>6</sup> Att. 8, Id at 2:20:54

<sup>7</sup> Att. 8, Id at 2:20:57

<sup>8</sup> Att. 8, Id at 2:21:03

<sup>9</sup> Att. 8, Id at 2:21:10

<sup>10</sup> Att. 8, Id at 2:21:12

<sup>11</sup> Att. 8, Id at 2:24:35

<sup>12</sup> Att. 8, Id at 2:25:50

<sup>13</sup> Att. 8, Id at 2:25:57

<sup>14</sup> Att. 8, Id at 2:27:15

<sup>15</sup> Att. 8, Id at 2:29:30

<sup>16</sup> Att. 5, PDT Report

Officer Alcazar returns to Mr. [REDACTED] and returns his ID and states “See, was that hard? You’re all good. Do you still want to wait for the supervisor? He’s on his way. You gonna wait or what?”<sup>17</sup> Mr. [REDACTED] begins to walk off and tells the officers to have a nice day.

### **The Body Worn Camera (BWC) footage of Accused Officer Neita-Scott’s camera<sup>18</sup>**

The BWC video shows Officer Neita-Scott as he and his partner, Officer Alcazar exits their patrol vehicle, approaches Mr. [REDACTED] who is outside on foot with a female. The remaining video from Officer Neita-Scott’s BWC is substantially similar to the BWC video of Officer Alcazar.

#### **c. Documentary Evidence**

An **Investigatory Stop Report #005039764 (“ISR”)**<sup>19</sup>, completed by Officer Alcazar, stated that [REDACTED] was observed holding what appeared to be a one hitter in his hand. Officers conducted a field interview, subject was sent on his way

The **Office of Emergency Management and Communication (OEMC) Event Query #2002409086**<sup>20</sup> documented a street stop in the vicinity of [REDACTED]. Officer Alcazar, logged into the PDT performed a search inquiry on a driver license number of [REDACTED], belonging to [REDACTED]

## **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*

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<sup>17</sup> Att. 8, Id at 2:30:17

<sup>18</sup> Attachment #7

<sup>19</sup> Attachment #4

<sup>20</sup> Attachment #3

*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 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 makes a finding of **EXONERATED** for Allegation 1 against Officers Alcazar and Neita-Scott.

Reasonable suspicion is the legal standard by which a police officer has the right to briefly detain a suspect (Mr. ██████████) for investigatory purposes. The BWC from Officers Alcazar and Neita-Scott chronicled the stop where Officer Alcazar and Officer Neita-Scott explained to Mr. ██████████ that he was being stopped because they believed that he had drug paraphernalia (a one-hitter) and possibly other illegal items in his possession, at the time they observed him in the alley. Ms. ██████████ corroborates that Mr. ██████████ had a cigarette in his hand and was “fixing” it, which she believed made the police think he had a one-hitter. Officers further explained to Mr. ██████████ that the area was a high narcotic area, and that, coupled with what they saw Mr. ██████████ doing with the cigarette, gave them reasonable suspicion to stop him and investigate. The reason the stop lasted as long as it did, resulted from Mr. ██████████ refusal to provide an ID to officers.

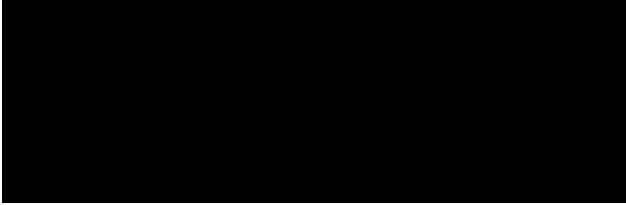
Based on the foregoing, Officers Alcazar and Netia-Scott were within CPD policy to stop ██████████ and investigate their suspicion. Therefore, this allegation should be **EXONERATED**.

**VII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer Alcazar, Victor	1. That on or about January 24, 2020, at approximately 2:20 pm, in the area of 7627 S. Paulina Street, you unlawfully stopped the ██████████ without justification.	Exonerated
Officer Neita-Scott, Brandon	1. That on or about January 24, 2020, at approximately 2:20 pm, in the area of 7627 S. Paulina Street, you unlawfully stopped the ██████████ without justification.	Exonerated

Approved:



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Angela Hearts-Glass  
Deputy Chief Administrator

6-26-2020

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Investigator:</b>	John Robinson
<b>Supervising Investigator:</b>	Andrew Dalkin
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass