

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	February 8, 2020
Time of Incident:	9:46 p.m.
Location of Incident:	3200 W. Jackson Street
Date of COPA Notification:	February 26, 2020
Time of COPA Notification:	10:27 a.m.

On February 8, 2020, at approximately 9:46 p.m., Officers Rodolfo Elizondo #6349<sup>1</sup> and Angel Escobedo #6208 were responding to a call for a mental disturbance when they observed a subject vehicle driving erratically at a high rate of speed eastbound on Jackson Boulevard overtaking vehicles on the left where it is not permitted. The officers did not activate their emergency equipment but increased their speed to approach the subject vehicle and obtain additional information. When the subject vehicle sped up, the officers activated their emergency equipment to conduct a traffic stop. The subject vehicle did not stop but instead increased its speed and the police vehicle also accelerated. At the intersection of Jackson and Kedzie, the subject vehicle ran a solid red light and caused a three-vehicle traffic crash. Two subjects, now known to be [REDACTED] and [REDACTED] fled the subject vehicle but were quickly apprehended by Officers Elizondo and Escobedo. The driver of one of the other vehicles, now known to be [REDACTED] was transported to Mt. Sinai Hospital, where she was pronounced deceased. Sergeant Thomas Herrick #914 initiated a Log Number, naming Officer Elizondo as the accused officer and alleging that he failed to notify OEMC when initiating a traffic pursuit. COPA added Officer Escobedo for the same allegation. The investigation revealed that contrary to their claims, the officers had engaged in a vehicle pursuit and had failed to notify OEMC; as a result, COPA finds the allegations against the two officers be Sustained.

**II. INVOLVED PARTIES**

Involved Officer #1:	ELIZONDO, Rodolfo; Star #6349; Employee ID# [REDACTED]; Date of Appointment: October 16, 2017; Police Officer; Unit of Assignment: 011; Date of Birth: [REDACTED], 1989; Male; Hispanic.
Involved Officer #2:	ESCOBEDO, Angel; Star #6208; Employee ID# [REDACTED]; Date of Appointment: October 16, 2017; Police Officer; Unit of Assignment: 011; <sup>2</sup> Date of Birth: [REDACTED] 1992; Male; Hispanic.

<sup>1</sup> Per CPD records, Officer Rodolfo Elizondo #6349 resigned from CPD, effective May 2, 2021. (Att. #71)

<sup>2</sup> Currently detailed to Unit 214 (Deputy Chief-Area 4)

Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1999; Male; Black.
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1997; Male; Black.
Involved Individual #3:	[REDACTED] DOB: [REDACTED], 1979; Female; Black; pronounced deceased at Mt. Sinai Hospital on February 9, 2020, at 3:56 a.m.

**III. ALLEGATIONS**

Pursuant to section 2-78-120(d) of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has the duty to investigate incidents, including those in which no allegation of misconduct is made, where a person dies as a result of police actions, such as during attempts to apprehend a suspect.

Officer	Allegation	Finding / Recommendation
Police Officer Rodolfo Elizondo #6349	1. It is alleged that on February 8, 2020, at approximately 9:46 p.m., in the vicinity of 3200 W. Jackson Street, Officer Elizondo #6349 failed to notify OEMC when initiating a traffic pursuit, in violation of General Order 03-03-01, V, A, 3 (Emergency Vehicle Operations-Pursuits).	Close Hold
Police Officer Angel Escobedo #6208	1. It is alleged that on February 8, 2020, at approximately 9:46 p.m., in the vicinity of 3200 W. Jackson Street, Officer Escobedo #6208 failed to notify OEMC when initiating a traffic pursuit, in violation of General Order 03-03-01, V, A, 3 (Emergency Vehicle Operations-Pursuits).	Sustained

**IV. APPLICABLE RULES AND LAWS**

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Rules<sup>3</sup>

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1. Rule 6: Disobedience of an order or directive, whether written or oral)

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General Orders<sup>4</sup>

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<sup>3</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

<sup>4</sup> Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.”

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1. G03-03-01: Emergency Vehicle Operations-Pursuits (effective April 9, 2019 to August 15, 2020)

## V. INVESTIGATION<sup>5</sup>

### a. Interviews

In his **statement to COPA**<sup>6</sup> on July 20, 2020, **Sergeant Thomas Herrick #914** stated that on February 8, 2020, he was assigned to Beat 1130 as a field supervisor. The sergeant did not recall where he was at the time but stated that he heard over the radio about a traffic accident in the vicinity of Jackson and Kedzie. Sgt. Herrick responded to the scene and spoke to Officers Elizondo and Escobedo, because they were assigned to Beat 1134, and he was their direct supervisor on the date of the incident. The two officers reported that they observed a vehicle traveling erratically eastbound on Jackson and the vehicle refused to stop, resulting in the traffic accident. Officer Elizondo informed Sgt. Herrick that he had been injured and the sergeant transported him to Rush Hospital.<sup>7</sup> After the officer was medically cleared, Sgt. Herrick returned to the 011<sup>th</sup> District Station. The sergeant met with the street deputy, now known to be Deputy Chief James O'Donnell #13,<sup>8</sup> and other supervisors, and gathered information about the incident. Sgt. Herrick stated that the supervisors reviewed video footage, the speed of the police vehicle from GPS reports and the offending vehicle's traffic violations and decided that Officers Elizondo and Escobedo had engaged in a traffic pursuit. Additional investigation revealed that the officers had failed to notify OEMC that they were engaged in a pursuit as required; consequently, the supervisors decided that they needed to initiate a Log Number. Sgt. Herrick named Officer Elizondo as the accused officer because he was the driver of the vehicle.<sup>9</sup>

In his **statement to COPA**<sup>10</sup> on July 1, 2020, Involved Officer #2, **Officer Angel Escobedo #6208**, stated that on February 8, 2020, he and his partner, Officer Rodolfo Elizondo, were patrolling their assigned beat, Beat 1134, and were located in the vicinity of Kostner and Jackson when they received a call on their PDT for a mental health disturbance on the 2900 block of West Harrison.<sup>11</sup> Officer Elizondo was driving their marked police vehicle while Officer Escobedo was the front seat passenger. The officers drove northbound, then eastbound on Jackson, because it was the quickest route from one side of the district to the other.<sup>12</sup> Officer Escobedo stated that the officers did not turn on their emergency lights to respond to the call.<sup>13</sup> On their way to the call, the officers observed a vehicle, approximately two cars length ahead, drive recklessly

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Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/#directive> (last accessed September 2, 2022).

<sup>5</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>6</sup> Atts. #41 and #49.

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

<sup>8</sup> Per CPD records, Deputy Chief O'Donnell retired from CPD, effective May 15, 2021.

<sup>9</sup> According to his statement to COPA, the sergeant could have also named Officer Escobedo as an accused, because both officers were equipped with radios (Att. #49, Page 23, Lines 10-13).

<sup>10</sup> Atts. #39, #40, and #48.

<sup>11</sup> Officer Escobedo stated that Kostner Avenue is located at "4400 west" (Att. #48, Page 14, Line 24 – Page 15, Lines 1-2).

<sup>12</sup> Att. #48, Page 8, Lines 16-19.

<sup>13</sup> The officer related that it was in the officers' discretion to turn on the emergency lights. (*Id.*, Page 24, Lines 5-12).

by swerving into oncoming traffic at approximately the 4300 block of West Jackson.<sup>14</sup> Officer Escobedo stated that westbound vehicles swerved to avoid hitting the subject vehicle.<sup>15</sup> Officers Escobedo and Elizondo increased their speed to catch up and give a description of the vehicle over the air, but the subject vehicle just increased its speed.<sup>16</sup>

When the officers were approximately one block away from the subject vehicle, they observed the subject vehicle again swerve into oncoming traffic in the vicinity of the 3900 block of West Jackson. The officers then activated their emergency equipment to conduct a traffic stop and gave the subject vehicle time to acknowledge that the police vehicle was coming behind it; however, the subject vehicle increased its speed and the officers also picked up their speed.<sup>17</sup> At the 3200 block of West Jackson, near the intersection of Kedzie and Jackson, the subject vehicle ran a red light and crashed into another vehicle.<sup>18</sup> Officer Escobedo estimated that approximately forty seconds elapsed from the time the officers turned on their emergency equipment until the crash occurred.<sup>19</sup> After the crash, two black males fled from the subject vehicle; Officer Escobedo pursued the driver<sup>20</sup> and placed him in custody after a foot pursuit. The officers then waited for an ambulance to arrive, because both subjects needed to get evaluated for their injuries.<sup>21</sup> Officer Escobedo remained on the scene and later learned that another driver in the crash, [REDACTED] had been pronounced deceased.<sup>22</sup> In response to the allegation that he failed to notify OEMC when initiating a traffic pursuit, Officer Escobedo denied that he and his partner had engaged in a vehicle pursuit. Specifically, the officer stated, “Just because once we activated our emergency equipment, the vehicle just increased [speed], and before we could pursue it, it crashed. It happened quickly.”<sup>23</sup>

In his **statement to COPA**<sup>24</sup> on July 1, 2020, Involved Officer #1, **Officer Rodolfo Elizondo #6349**, stated that he and his partner were conducting a patrol in the vicinity of Kostner and Jackson when they were dispatched by OEMC to a mental health disturbance in the vicinity of 2900 West Harrison.<sup>25</sup> As the officers headed eastbound on Jackson, Officer Elizondo observed a subject vehicle on the 4300 block of West Jackson driving recklessly, in excess of the speed limit, by swerving into oncoming traffic and causing other vehicles to swerve into parking spots to avoid crashing into the subject vehicle.<sup>26</sup> The driver, Officer Elizondo, sped up the police vehicle to catch an identifier on the subject vehicle.<sup>27</sup> The subject vehicle continued to drive recklessly, and in the vicinity of Springfield and Jackson, the officers activated their emergency equipment to

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<sup>14</sup> Att. #48, Page 16, Lines 2-4, 7-8, 11, 20-22.

<sup>15</sup> Att. #48, Page 15, Lines 19-21.

<sup>16</sup> Att. #48, Page 9, Lines 7-11; Page 23, Lines 6-14; and Page 27, Lines 16-19.

<sup>17</sup> Att. #48, Page 25, Lines 14-24; Page 26, Lines 1-2; Page 28, Lines 9-13.

<sup>18</sup> Att. #48, Page 26, Lines 9-13.

<sup>19</sup> Att. #48, Page 27, Line 20-24; Page 28, Lines 1-8.

<sup>20</sup> The officer could not recall the name of the arrestee (*Id.*, Page 11, Lines 1-2).

<sup>21</sup> The officer stated the offenders, “needed to go to the hospital to get evaluated for their injuries,” presumably the officers were waiting for an ambulance to arrive. Att. #48, Page 11, Lines 13-16.

<sup>22</sup> Att. #48, Page 12, Lines 6-12.

<sup>23</sup> *Id.*, Page 27, Lines 14-19.

<sup>24</sup> Atts. #38 and #47.

<sup>25</sup> Att. #47, Page 8, Lines 7-10.

<sup>26</sup> Att. #47, Pages 12-20.

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

conduct a traffic stop.<sup>28</sup> However, the subject vehicle did not stop and continued driving at a high rate of speed until it ran a red light at Kedzie and Jackson, causing a traffic crash.<sup>29</sup> Officer Elizondo estimated that approximately thirty seconds had elapsed from the time the officers had turned on their emergency equipment to the time of the crash.<sup>30</sup> The officers reported the traffic crash over the radio and observed two black males leave the subject vehicle. The officers exited their police vehicle, initiated a foot pursuit, and placed the two subjects in custody. Officer Elizondo pursued and apprehended the passenger of the subject vehicle but did not recall the subject's name. The two subjects were transported to a hospital and were medically cleared. Officer Elizondo sustained a strained left knee and a laceration to his left shin during the foot pursuit.<sup>31</sup> The officers' supervisor, Sergeant Herrick, transported Officer Elizondo to Rush Hospital where he received medical treatment; upon his release, Officer Elizondo went to the 011<sup>th</sup> District Station.<sup>32</sup> Later that night, Sergeant Herrick informed the officer that a Log Number had been initiated against him but did not tell him what the allegation was.<sup>33</sup> In response to the allegation that he failed to notify OEMC when initiating a traffic pursuit, Officer Elizondo responded that he never initiated a pursuit.<sup>34</sup> The officer explained that the incident would have risen to a pursuit if the subject vehicle had stopped and had then fled from the officers.<sup>35</sup> Officer Elizondo claimed that he did not believe that the subject vehicle was fleeing from the officers; however, the officer also admitted that the subject vehicle increased its speed after the officers activated their emergency equipment.<sup>36</sup>

## b. Digital Evidence

**OEMC Transmissions**<sup>37</sup> document that Beat 1134 reports over the radio an "on-view" auto accident.<sup>38</sup> The dispatcher asks whether the accident is on the 3500 block of Jackson or at Jackson and St. Louis. Beat 1134 then reports "two guys, male black" and is heard shouting "Stop right there!"<sup>39</sup> The dispatcher asks other units if they can respond to the scene. Beat 1134 then reports that the two subjects have been detained.<sup>40</sup> Beat 1125 requests an ambulance at Jackson and Troy for a child.<sup>41</sup> Beat 1135 then asks for a slowdown from responding units at Jackson and Kedzie.<sup>42</sup>

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

<sup>29</sup> *Id.*, Page 9, Lines 6-14.

<sup>30</sup> *Id.*, Page 20, Lines 12-16.

<sup>31</sup> Att. #47, Page 10, Lines 15-22.

<sup>32</sup> Att. #47, Pages 20-21.

<sup>33</sup> Att. #47, Pages 21-22.

<sup>34</sup> Officer Elizondo added that he completed a traffic pursuit report following Sergeant Herrick's order but informed the sergeant that he did not consider it a pursuit (Att. #47, Page 26, Lines 15-22).

<sup>35</sup> Att. #47, Pages 22, Lines 19-24.

<sup>36</sup> *Id.*, Page 23, Line 18 – Page 24, Line 9.

<sup>37</sup> Att. #43, Z10 2147-2247

<sup>38</sup> *Id.*, at 00:05 minutes.

<sup>39</sup> *Id.*, at 00:15-00:18 minutes.

<sup>40</sup> *Id.*, at 00:50-01:48 minutes.

<sup>41</sup> *Id.*, at 01:51-01:59 minutes.

<sup>42</sup> *Id.*, at 02:15-02:23 minutes.

The **In-Car Camera Video Recording**<sup>43</sup> from Beat 1134 depicts the police vehicle making a right turn on Jackson and beginning to pick up speed.<sup>44</sup> At approximately one minute into the recording, the officers activate their emergency lights. The audio recording is also activated, and the police sirens are audible. The police vehicle continues traveling at a high speed and passing civilian vehicles through a wooded area, now known as Douglass Park, where the recording ends at approximately one minute and thirty-five seconds. The in-car camera does not capture either the pursued vehicle or the vehicular crash.

**Officer Elizondo's BWC Video Recording**<sup>45</sup> depicts the officer driving the police vehicle. The police vehicle appears to pick up speed and turns on its emergency lights. When Officer Elizondo activates his BWC, he reports an on-view of an auto accident, exits his vehicle and begins a foot pursuit. The officer reports over the radio that he is pursuing two black males. Officer Elizondo orders a subject to stop or he will Taser him. The subject, now known as [REDACTED] eventually stops running and raises his arms. The officer handcuffs him and reports over the radio that both subjects are in custody. Officer Elizondo hands [REDACTED] to an unknown officer and then looks for the address of the arrest. The officer reports over the radio the address as 150 S. Albany and terminates his BWC.

**Officer Escobedo's BWC Video Recording**<sup>46</sup> depicts the officer as the front seat passenger in the police vehicle. At approximately 9:45:43 p.m., the police vehicle turns right on Jackson and accelerates. At approximately 9:46:00 p.m., the emergency lights appear to be activated. Officer Escobedo activates his BWC as the vehicle slows down, crosses an intersection, and comes to a stop. The officer exits the vehicle and pursues a subject, now known to be [REDACTED] on foot. [REDACTED] falls to the ground and Officer Escobedo handcuffs him. The officer approaches another officer and a second subject, now known as [REDACTED] and tells the officer that [REDACTED] was the driver. [REDACTED] denies he was the driver.

A **Video Recording**<sup>47</sup> from POD #7558, located at 300 S. Kostner Avenue, captures a light-colored sedan at approximately 9:45:41 p.m. The sedan begins to pass other vehicles on the left. At approximately 9:45:47 p.m., a marked police vehicle appears without its emergency lights on and begins to pick up speed and passes other vehicles on their left before it exits the view of the POD camera.

A **Video Recording**<sup>48</sup> from POD #7901, located at 4159 W. Jackson Boulevard, depicts the intersection of Keeler and Jackson. At approximately 9:45:57 p.m. a light-colored vehicle crosses the intersection at a high speed, followed by a marked police vehicle at approximately 9:46:01 p.m. The police vehicle does not have its emergency lights on.

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<sup>43</sup> Att. #35.

<sup>44</sup> Att. #35, at 0:47 seconds.

<sup>45</sup> Att. #16. Note: the video recording begins at approximately 9:44:59 p.m. The BWC time stamp corresponds to Greenwich Meridian Time, which is six hours ahead of Central Standard Time.

<sup>46</sup> Att. #17. Note: the video recording begins at approximately 9:44:59 p.m.

<sup>47</sup> Att. #70.

<sup>48</sup> Att. #66.

A **Video Recording**<sup>49</sup> from POD #7921, located at 258 S. Pulaski Road, captures a light-colored sedan, crossing an intersection at a high rate of speed at approximately 9:46:09 p.m., followed by a marked police vehicle, at approximately 9:46:12 p.m. The police vehicle has not activated its emergency lights.

A **Video Recording**<sup>50</sup> from POD #7800, located at 3859 W. Jackson Boulevard,<sup>51</sup> captures a vehicle crossing an intersection at a high speed at approximately 9:46:15 p.m. The vehicle is then followed by a marked vehicle, also traveling at a high speed and with its emergency lights on, at approximately 9:46:20 p.m.

A **Video Recording**<sup>52</sup> from POD #3028W, located at 3300 W. Jackson Boulevard, captures a light-colored sedan traveling at a high rate of speed at approximately 9:46:49 p.m. A marked police vehicle, with its emergency lights on, also speeds by at approximately 9:46:54 p.m.

A **Video Recording** from POD #7884, located at 3200 W. Jackson Boulevard, captures the vehicular crash.<sup>53</sup> At approximately 9:46:54 p.m., a light-colored vehicle appears to be heading northbound on Kedzie Avenue as a beige-colored sedan crashes into its left side, while a second beige vehicle also appears in the intersection. At approximately 9:47:05 p.m., a marked police vehicle with its emergency lights off enters the intersection and approaches the first beige vehicle which has stopped on what is now known to be the south side of Jackson Boulevard. Two subjects emerge from the vehicle and begin to flee, as two officers exit the police vehicle and pursue the subjects. Additional units arrive on the scene.

### c. Physical Evidence

The **Report of Postmortem Examination**<sup>54</sup> by the Cook County Office of the Medical Examiner indicates that [REDACTED] died as a result of multiple injuries due to a motor vehicle collision and describes the manner of death as accidental.

### d. Documentary Evidence

An **Initiation Report**<sup>55</sup> by Sergeant Thomas Herrick #914 documents that preliminary investigation revealed that the officers became involved in a pursuit of a vehicle and failed to properly notify OEMC. The report names Officer Elizondo as the accused officer. The report further adds that further investigation is needed to determine the balancing test.

The **Original Case Incident Report**, recorded under **RD# JD145331**, and the **Arrest Reports** of [REDACTED] and [REDACTED] document that Officers Elizondo and

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<sup>49</sup> Att. #68.

<sup>50</sup> Att. #65.

<sup>51</sup> A Google Maps search indicates that the distance between the location of this POD and the scene of the crash is approximately 1 mile.

<sup>52</sup> Att. #69.

<sup>53</sup> Att. #67. The POD camera is facing east, and the east-west traffic lanes have a red light.

<sup>54</sup> Att. #42.

<sup>55</sup> Att. #1.

<sup>56</sup> Att. #'s 2-3, 7.

Escobedo were dispatched to a mental health disturbance and were traveling eastbound on Jackson Boulevard when they observed a silver Toyota sedan that was driving erratically at a high rate of speed eastbound on Jackson. The Toyota was overtaking vehicles on the left where it was not permitted. The officers activated their emergency equipment to catch up to the Toyota to dispatch information on the vehicle. The Toyota continued to accelerate at a high rate of speed and the officers were not able to obtain the vehicle's information. At the intersection of Jackson and Kedzie, the Toyota disobeyed a solid red signal and was involved in a three-vehicle collision. The officers observed the accident from a distance and reported it through OEMC as an on-view traffic accident. The driver, now known to be [REDACTED] fled northbound through yards, and, after a brief foot pursuit, [REDACTED] was placed into custody by Officer Escobedo at 148 S. Albany Avenue. The front seat passenger, now known to be [REDACTED] was placed into custody by Officer Elizondo at 150 S. Albany. While apprehending [REDACTED] Officer Elizondo suffered an injury to his left knee and shin. Both arrestees were taken to Mt. Sinai Hospital, treated for minor injuries, and then transported to the 011<sup>th</sup> District Station for further processing. The arresting officers reviewed POD camera footage which revealed that [REDACTED] was seated on the front passenger side. [REDACTED] was charged for improper traffic lane usage, driving on a suspended license, disobeying a red circular steady signal stop, leaving the scene, and resisting/obstructing a peace officer.<sup>57</sup> [REDACTED] was charged with resisting/obstructing a peace officer.

A **GPS report**<sup>58</sup> indicates that the officers' vehicle, Vehicle #7592, was in the vicinity of Jackson and Kostner Avenue at approximately 9:45:41 p.m. The vehicle was traveling at 18 miles per hour. At approximately 9:46:12 p.m., the vehicle was located at Jackson and Pulaski Road, traveling at 67 miles per hour. At approximately 9:46:43 p.m., the vehicle was traveling at 87 miles per hour in the vicinity of Jackson and St. Louis Avenue. The police vehicle stopped traveling at approximately 9:47:14 p.m. in the vicinity of Jackson and Kedzie.

A **Unit Query**<sup>59</sup> for Unit 1134, assigned to Officers Elizondo and Escobedo, documents that at approximately 9:44:14 p.m., the officers acknowledged an assignment for a mental disturbance at 599 S. California Avenue. At approximately 9:47:21 p.m., an auto accident is reported on the 3500 block of Jackson.

## VI. 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

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<sup>57</sup> On December 3, 2020, the Cook County State's Attorney Office approved the felony charges of reckless homicide and aggravated fleeing or attempt to elude a peace officer for [REDACTED] (Att. #63, Page 5).

<sup>58</sup> Att. #'s 51-52. Times in the GPS reports correspond to military time.

<sup>59</sup> Att. #53. Times in the Unit Query correspond to military time.



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 proposition is proved.<sup>60</sup> For example, 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.<sup>61</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>62</sup>

## VII. ANALYSIS

### A. *The preponderance of the evidence shows Officers Elizondo and Escobedo engaged in a motor vehicle pursuit and failed to immediately notify OEMC of the facts concerning the pursuit*

Officer Elizondo and Officer Escobedo had a duty to “immediately notify” OEMC of a pursuit in progress. The officers engaged in a motor vehicle pursuit and failed to notify OEMC of the facts concerning the pursuit. Their failure to do so is in clear contravention of Department Policy. COPA finds the allegation is therefore Sustained against both officers.

General Order G03-03-01, titled Emergency Vehicle Operations-Pursuits, defines a motor vehicle pursuit, as “an active attempt by a sworn member operating an authorized emergency vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction, increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.”<sup>63</sup> Furthermore, the general order directs a Department member, “will only engage in a motor vehicle pursuit when: 1. A motor vehicle pursuit is authorized after applying the balancing test and other restrictions of this directive; 2. if in a marked vehicle, the emergency-roof lights and siren are activated . . .; and 3. notification has been made to the OEMC dispatcher regarding the facts concerning the pursuit.”<sup>64</sup>

Despite Officer Elizondo and Escobedo’s statements denying that they engaged in a pursuit, the totality of the circumstances shows that the officers engaged in a pursuit as defined by G03-03-01. According to the officers’ statements and POD video recordings, the officers activated their emergency equipment at the 3900 block of West Jackson. The officer’s act of activating

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<sup>60</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 has found to be more probably true than not).

<sup>61</sup> . See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>62</sup> *Id.* at ¶ 28.

<sup>63</sup> General Order G03-03-01, effective April 9, 2019, p. 10.

<sup>64</sup> *Id.*, p. 3-4.

emergency equipment gave a signal to the subject's vehicle's driver to bring his vehicle to a stop. The subject vehicle failed to obey the emergency signal and increased his speed. The officers admitted in their statements that the subject vehicle did not comply but instead continued to drive at high rates of speed and, in turn, the officers accelerated their speed to keep up with the subject vehicle.<sup>65</sup> The officers were objectively making an active attempt to apprehend the driver of the subject vehicle based on the following acts taken by the officer: (1) activating emergency equipment in response to the subject vehicle's driving conduct; (2) following the evasive subject vehicle for approximately one mile; and (3) speeding up when the subject vehicle sped up. Notably, per a GPS report, the police vehicle reached a speed of 87 miles per hour after the emergency equipment had been activated. The investigation shows that the subject vehicle did not stop until the subject vehicle crashed at the 3200 block of West Jackson, approximately one mile away from the area where the officers activated their emergency equipment.<sup>66</sup> According to G03-03-01, the officers' active attempt to apprehend the driver of the subject vehicle constitutes a motor vehicle pursuit, requiring officers to notify the OEMC dispatcher of the facts concerning the pursuit.

Contrary to Officer Escobedo's claim that the subject vehicle crashed before the officers had an opportunity to pursue it, the investigation shows the officers were presented with a window of thirty to forty seconds to notify OEMC, which was a reasonable amount of time for the officers to contact OEMC over their radios and to provide facts concerning the pursuit.<sup>67</sup>

Officer Elizondo explained that the incident would have risen to a pursuit if the subject vehicle had stopped and then fled, but that he did not believe the subject vehicle was fleeing.<sup>68</sup> However, by Officer Elizondo's own admission the subject vehicle increased its speed after the officers activated their vehicle's emergency equipment.<sup>69</sup> Officer Elizondo's belief that the subject vehicle was not fleeing is not objectively reasonable under the circumstances.

COPA finds that an officer with similar training and experience as Officers Elizondo and Escobedo would reasonably believe, based on the circumstances, a motor vehicle pursuit had been initiated requiring a notification to OEMC. Notably, Sergeant Herrick and other supervisors reviewed the facts of the incident such as the speed of the police vehicle and the severity of the traffic violations and concluded that a vehicle pursuit had occurred.<sup>70</sup>

Furthermore, the duty to notify OEMC of vehicle pursuits was not limited to Officer Elizondo as the driver of the police vehicle. Both officers had a duty to notify OEMC of the vehicle pursuit. Department rules do not allow passenger officers to passively sit by. Both officers had a duty to notify OEMC and both failed to do so.

For these reasons, COPA finds by a preponderance of the evidence that Officers Escobedo and Elizondo, despite having sufficient time, failed to notify OEMC of the vehicle pursuit. Thus, COPA finds the allegations as to both officers is Sustained.

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<sup>65</sup> Att. #47, Pages 12-20. Notably, Officer Escobedo stated that the subject vehicle "increased" its speed once officers activated their emergency equipment. Att. #48, Page 27, Lines 14-19.

<sup>66</sup> Att. #48, Page 26, Lines 9-13.

<sup>67</sup> Specifically, Officer Escobedo stated, "Just because once we activated our emergency equipment, the vehicle just increased [speed], and before we could pursue it, it crashed. It happened quickly." Att. #48, Page 27, Lines 14-19.

<sup>68</sup> Att. #47, Pages 22, Lines 19-24 – Page 23, Lines 1-3.

<sup>69</sup> Att. #47, Page 23, Line 18 – Page 24, Line 9.

<sup>70</sup> Atts. #41 and #49.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Angel Escobedo #6208**

**i. Complimentary and Disciplinary History**

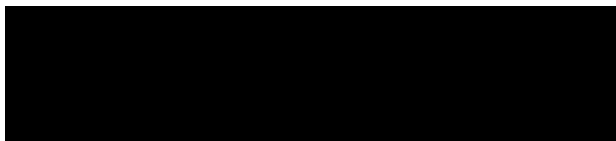
Officer Escobedo’s complimentary history includes 19 awards, including one Superintendent’s Award of Tactical Evidence. His disciplinary history includes one Sustained finding for Traffic/Improper Processing/Reporting/Procedures from an incident in January 2020, resulting in a Reprimand.

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 1**

COPA has found that Officer Escobedo violated Department policy by failing to notify OEMC when initiating a traffic pursuit. COPA acknowledges that Officer Escobedo has been with the Department since October 2017 and had limited experience with traffic pursuits at the time of this incident. However, Officer Escobedo was not entirely forthcoming in his statement to COPA, explaining that he and his partner did not engage in a pursuit. Yet, the evidence shows that their vehicle reached speeds upwards of 87 miles per hour, and by Officer Escobedo’s own admission, their vehicle followed the subject for at least 40 seconds. At best, this demonstrates that Officer Escobedo does not fully comprehend the Department’s traffic pursuit policy. For these reasons, COPA recommends a **20-day SUSPENSION** and training on the traffic pursuit policy.

Approved:



3-31-2023

\_\_\_\_\_  
Angela Hearts-Glass  
*Deputy Chief Administrator*

\_\_\_\_\_  
Date