

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	04 May 2020 / 05:45 p.m. / 1402 N. California Ave.
Date/Time of COPA Notification:	10 January 2020 / 04:10 p.m.
Involved Officer #1:	Denis Vale, Jr., Star #9256, Employee # [REDACTED], Appointed 27 June 2016, Police Officer, Unit 014, Born 1990, Male, Hispanic
Involved Officer #2:	John Walsh, Star #6595, Employee # [REDACTED] Appointed 30 Apr. 2007, Police Officer, Unit 014, Born 1997, Male, White
Involved Officer #3:	Daniel Sammon, Star #1131, Employee # [REDACTED], Appointed 01 May 2006, Sergeant, Unit 014, Born 1982, Male, White
Involved Individual #1:	[REDACTED] Born 1983, Female, Hispanic
Involved Individual #2:	[REDACTED] Born 1990, Female, White
Case type:	Unnecessary display of weapon, abusive or unprofessional language

I. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Vale	It is alleged that, on or about 04 May 2020, at approximately 05:45 pm, at or near 1402 N. California Avenue, the accused officer committed misconduct in that: 1. he made an unnecessary display of his weapon in violation of Rule 38; 2. he used abusive, profane, or unprofessional language in violation of Rule 09.	Exonerated Unfounded
Officer Walsh	It is alleged that, on or about 04 May 2020, at approximately 05:45 pm, at or near 1402 N.	

Officer Walsh (continued)	California Avenue, the accused officer committed misconduct in that: 1. he used abusive, profane, or unprofessional language in violation of Rule 09.	Unfounded
Sgt. Sammon	It is alleged that, on or about 04 May 2020, at approximately 05:45 pm, at or near 1402 N. California Avenue, the accused officer committed misconduct in that: 1. he used abusive or unprofessional language while speaking to the complainant in violation of Rule 09.	Unfounded

II. SUMMARY OF EVIDENCE¹

At 05:40 p.m. on the date of the incident, an unknown person² contacted emergency services with a request for police assistance after she observed a person with a gun. The Office of Emergency Management and Communications (OEMC) recorded the following exchange:

UNKNOWN CALLER: Hi, sir I'm driving on Milwaukee Avenue . . . and there was a car full of women in . . . an old Lincoln—I do have the plate number—and they pulled up next to my car, and I don't know if they thought I was somebody else, but the girl literally pointed a gun at me.

911 OPERATOR: Okay. So where is this at? Milwaukee or what?

UNKNOWN CALLER: Well, they went the other way. They turned going back west-bound on North Avenue. And I do have the plate number—I was able to capture a picture of it when she got on the other side to turn away

911 OPERATOR: So what kind of vehicle is it? What's the license plate?

UNKNOWN CALLER: It's a Lincoln Town Car.

¹ COPA conducted a full and complete investigation of this matter. As part of its investigation, COPA interviewed civilian witnesses and collected and reviewed digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

² NB: The number of the device the caller used to contact emergency services is associated with three individuals. *See* att. . None are affiliated with the Chicago Police Department. *See* (23 Nov. 2020) (showing null results from search for individuals named in TRClear reports in CPD officer database).

911 OPERATOR: What color?
UNKNOWN CALLER: It's a beige, like a cream-beige kind of color. It's . . . an older version of a Lincoln Town Car. And I do have the plate number. It has like a brown . . . rag top, and it's got tints—not like really dark tints, but it has . . . the old tints that you can still see somewhat through the windows. And the plate number is [REDACTED], [REDACTED], [REDACTED]. And there's three women in their car.

911 OPERATOR: [REDACTED]. Right?
UNKNOWN CALLER: Yes, sir.
911 OPERATOR: And these women—black, white, Hispanic?
UNKNOWN CALLER: They were Latinas . . . They're still out here looking for trouble.
911 OPERATOR: We'll get somebody out there. Okay? Thank you.³

At approximately 05:44 p.m., OEMC alerted police units in District 14 to the unknown caller's report of a person with a gun. OEMC advised:

We're getting [a] report[] of a person with a gun. Milwaukee and North Avenue. North Avenue and Milwaukee. Caller says three female Hispanics in a cream, older Lincoln Town Car with tinted windows and a brown top. License plate [REDACTED]. Pointed a gun at the caller. Last seen heading west-bound. Nothing further.

* * *

And we just ran that plate. It's coming back to a [REDACTED] . . . on a '96 Lincoln four-door. . . . It's a regular plate: [REDACTED].⁴

Officer Vale and Officer Walsh received OEMC's advisory over their radios and began patrolling the relevant area. At approximately 06:05 p.m., the officers observed a beige Lincoln Town Car with tinted rear windows baring license plate [REDACTED]. The officers initiated a traffic stop and approached the suspect vehicle.⁵ As he approached, Officer Vale observed "movement" through

³ See att. 01, Audio recording of 911 call to Chicago OEMC (04 May 2020).

⁴ Att. 02, Audio recording of OEMC radio advisory (04 May 2020).

⁵ See att. 10, BWC footage of Officer Walsh (04 May 2020). NB: At the beginning of the stop, a civilian ([REDACTED]) crossed between the police vehicle and the Lincoln Town Car, and the officers gave her orders to move onto the sidewalk. [REDACTED] complied with the officers' orders and remained on scene to record the incident with her mobile phone. She later provided her footage to COPA. See att. 17(a)–(f), Video from the mobile phone of [REDACTED].

the vehicle's tinted rear windows (which were raised).⁶ He drew his weapon and held it with the gun barrel pointed to the ground.⁷ He gave orders to the vehicle's occupants to lower the rear windows, and they did.⁸ Officer Vale observed two children in the rear and immediately holstered his weapon.⁹ Officer Walsh gave orders to the vehicle's front occupants to extend their hands out their windows, and they complied.¹⁰ The vehicle's driver, complainant [REDACTED], became irate, accused the officers of pointing weapons at her children and demanded to know why she had been stopped.¹¹ At this point, the officers ordered the complainant and her front passenger (the complainant's seventeen-year-old daughter) to exit the vehicle, and they complied.¹² Outside, the officers directed the complainant and her daughter to rest their hands on the trunk of their vehicle, and they did so.¹³ The younger children in the rear of the vehicle began to cry, and the officers permitted the complainant's elder daughter to reach into the vehicle to comfort them.¹⁴

Sgt. Sammon and several additional officers arrived on scene. Officer Walsh briefed Sgt. Sammon the actions he and Officer Vale had taken.¹⁵ Sgt. Sammon attempted to communicate with [REDACTED], who remained irate, the sergeant explained that the officers had received a call that someone in [REDACTED]'s vehicle had flashed a gun at another driver.¹⁶ [REDACTED] was incredulous, and the sergeant asked OEMC to repeat its earlier advisory for [REDACTED] to hear.¹⁷ [REDACTED] and Sgt. Sammon continued to argue over the legitimacy of the stop.¹⁸ [REDACTED] gave the officers permission to search her vehicle, and they inspected its front compartment.¹⁹ [REDACTED] also gave a female officer permission to conduct a protective pat-down of her person, and the officer did so.²⁰ The officers provided a stop receipt, and left the scene.²¹

III. ANALYSIS AND CONCLUSION

⁶ Att. 07, Investigatory Stop Report, ISR005932297, Event No. 10031 (04 May 2020).

⁷ See att. 09, BWC footage of Officer Vale (04 May 2020).

⁸ See att. 09; att 10. NB: [REDACTED] alleged that both officers used unprofessional language when they gave orders to her and her children. She recalled that the officers complained a civilian witness ([REDACTED]) was "just fucking staring at them;" that they told her and her children to put their hands "through the fucking window;" and, that they laced their additional orders with similar profanity throughout the incident. See att. 04., Statement of [REDACTED] (04 May 2020). [REDACTED], who copied [REDACTED] on her correspondence with COPA, supported only part of [REDACTED]'s claims, saying in an email that the officers asked her why she was "'fucking staring'" at them. See att. 19, Email from [REDACTED] to COPA (07 May 2020). Video from the incident refutes these claims. While the initial seconds of the officers' commands to the [REDACTED] are not recorded due to the buffer of the officers' body-worn cameras, the relevant part of their statements is audible: Officer Walsh states that [REDACTED] is "just staring at us." to [REDACTED] complained only that [REDACTED] "was just staring." See att. 10. And, video from the rest of the incident clearly shows that, while the officers' did raise their voices, they did not use profanity in their orders to [REDACTED] or anyone else on scene. See att. 09; att. 10.

⁹ Att. 09.

¹⁰ See att. 10.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See att. 11, BWC footage of Sgt. Sammon (07 May 2020).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See att. 04.

²⁰ *Id.*

²¹ *Id.*

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 alleged conduct occurred and violated Department policy.²² 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 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.²³ Clear and convincing is 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."²⁴

A. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACTIONS OF OFFICER VALE WERE WITHIN POLICY.

█████ complained that Officer Vale violated "protocol" by "point[ing]" his weapon at her vehicle.²⁵ Under Departmental policy, officers "may only point a firearm at a person when it is objectively reasonable to do so under the totality of the circumstances faced by the member on the scene."²⁶ Determination what is "objectively reasonable under the totality of the circumstances" is a case-by-case questions that requires an examination of multiple factors, including "the nature of the incident" and "the risk of harm" to officers or members of the public.²⁷ Applying these factors to the incident here, there can be no doubt that Officer Vale's actions were objectively reasonable under the circumstances. The officer received information that a person had threatened a civilian with a firearm while traveling in a vehicle whose description and plate number exactly matched █████'s car. Therefore, at the beginning of the stop, the officer had a reasonable belief that someone in █████'s vehicle was armed and dangerous. Furthermore, video evidence makes clear that, when Officer Vale approached the vehicle with his weapon pointed toward the ground, the dark tints of the windows prevented a clear view into the rear compartment. The officer holstered his weapon

²² 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).

²³ See, e.g., *People v. Coan*, 2016 Ill. App 2d 151036 (2016).

²⁴ *Id.* at ¶ 28.

²⁵ Att. 04.

²⁶ Department Notice D19-01 §II(E) (01 Oct. 2019).

²⁷ *Id.*

as soon as the complainant lowered the windows and he discovered that the vehicle contained children. Altogether, Officer Vale’s weapon was drawn for less than thirty seconds. All this supports a firm and abiding belief that the officer acted reasonably. **For this reason, COPA finds Allegation #1 against Officer [REDACTED] is exonerated.**

B. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE OFFICERS DID NOT USE ABUSIVE OR UNPROFESSIONAL LANGUAGE WHEN COMMUNICATING WITH THE COMPLAINANT OR ANYONE ELSE ON THE SCENE.

[REDACTED] also claimed that officers acted unprofessionally. Specifically, she stated that officers used profanity throughout the encounter and laughed at her.²⁸ Video evidence clearly refutes this point: while the officers did occasionally raise their voices, they did not use demeaning or profane language. The officers struggled to communicate with [REDACTED] who remained irate throughout the incident and refused to believe the OEMC advisory was genuine. While the officers might have benefited from taking more sympathetic tone in speaking to [REDACTED], their conduct is a far cry from what anything that might be considered abusive, profane, or unprofessional. **For this reason, COPA, finds the remaining allegations are unfounded.**

Approved:

[REDACTED]

12-22-2020

Angela Hearts Glass
Deputy Chief Investigator

Date

²⁸ Att. 04.

Appendix A

Assigned Investigative Staff

Squad#:	06
Investigator:	Joshua Hock
Supervising Investigator:	James Murphy- Aguilu
Deputy Chief Administrator:	Angela Hearts Glass