

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	June 5, 2019/ 3:15 P.M./ 4748 West Jackson Blvd., Chicago, IL 60644
Date/Time of COPA Notification:	June 12, 2019/ 10:02 A.M.
Involved Officer #1:	Fernando Ruiz, Star #12936, Emp. # [REDACTED], Date of Appointment: March 16, 2017, Police Officer, Unit 011/214, DOB: [REDACTED], 1994, Male, White Hispanic
Involved Sergeant #1:	Mark Foster, Star #1186, Emp. # [REDACTED], Date of Appointment: September 27, 2004, Police Sergeant, Unit 012, DOB: N [REDACTED], 1975, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1985, Female, Black
Case Type:	Excessive Force

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer Fernando Ruiz	1. On June 5, 2019, at approximately 3:15 P.M., at or near 4748 West Jackson Blvd, Chicago, Illinois 60644, Police Officer Fernando Ruiz, Star #12936, committed misconduct through the following acts or omissions: pulled [REDACTED] by her wrist without justification.	Unfounded
Sergeant (Sgt.) Mark Foster	On June 5, 2019, at approximately 3:15 P.M., at or near 3151 West Harrison Street, Chicago, Illinois 60612, Sergeant Mark Foster, Star #1186, committed misconduct through the following acts or omissions:  1. Called [REDACTED] a “fat bitch” without justification.  2. Pulled [REDACTED] into the police station without justification.  3. Refused to allow [REDACTED] to use the phone.	Not Sustained  Not Sustained  Not Sustained

## II. SUMMARY OF EVIDENCE<sup>1</sup>

On June 28, 2019, ██████ filed a complaint with the Civilian Office of Police Accountability (COPA) alleging that members of the Chicago Police Department (CPD) used excessive force during her arrest on June 5, 2019. Specifically, Ms. ██████ alleged that Officer Fernando Ruiz pulled her out of her vehicle by her wrists during a traffic stop and arrested her for driving on a suspended license. Ms. ██████ further stated that, while she was in custody, Sgt. Mark Foster called her a “fat bitch,” refused to let her use the phone, and forcefully pulled her from a police vehicle into the station. In reaching its factual findings, COPA reviewed all relevant body-worn camera (BWC),<sup>2</sup> the statement of Ms. ██████<sup>3</sup> the statements of both accused members,<sup>4</sup> Ms. ██████ arrest report,<sup>5</sup> Ms. ██████ medical records from ██████,<sup>6</sup> Evidence Technician (ET) photos,<sup>7</sup> and various other relevant documents.

COPA finds that on June 5, 2019, at approximately 3:08 P.M., Officers Fernando Ruiz and Eric Kimbrough initiated a traffic stop of Ms. ██████ near 4748 W. Jackson Avenue. Officer Ruiz approached the driver’s side of Ms. ██████ vehicle and informed her that her license plates were improperly mounted.<sup>8</sup> Ms. ██████ argued with Officer Ruiz about the validity of the traffic stop for several minutes, then provided the officers with her driver’s license. Officer Ruiz ran Ms. ██████ information through his PDT, walked back to Ms. ██████ vehicle, and asked her to step outside. Ms. ██████ opened the driver’s door and exited the vehicle of her own volition.<sup>9</sup> Officer Ruiz handcuffed Ms. ██████ and informed her she was under arrest for driving on a suspended license. The BWC videos show Officer Ruiz did not pull Ms. ██████ from her vehicle or make physical contact with her until the handcuffing. Once Ms. ██████ was handcuffed, Officer Ruiz escorted her to the back of the squad car, but she stiffened her body and refused to enter the vehicle.<sup>10</sup> Ms. ██████ repeatedly demanded an ambulance, telling the officers she was bleeding because they “just handled me rough.”<sup>11</sup> Officer Kimbrough instead called for a transport wagon. When it arrived, three officers had to carry Ms. ██████ into the wagon because she again stiffened her body and refused to walk.<sup>12</sup>

At the 11<sup>th</sup> District police station, Ms. ██████ was yelling and irate as Sgt. Foster and several officers escorted her into lockup. At one point, Ms. ██████ refused to walk in the direction Sgt. Foster instructed, causing him to briefly grab her by the handcuffs and arms to redirect her.<sup>13</sup> There

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in COPA’s analysis.

<sup>2</sup> Atts. 16 – 19.

<sup>3</sup> Att. 13.

<sup>4</sup> Atts. 24 – 25, 27 – 28.

<sup>5</sup> Att. 5.

<sup>6</sup> Att. 20.

<sup>7</sup> Att. 14.

<sup>8</sup> Att. 19 at 00:08.

<sup>9</sup> Att. 19 at 05:08.

<sup>10</sup> Att. 19 at 08:20 – 11:45; Att. 18 at 09:16 – 12:30.

<sup>11</sup> Att. 18 at 10:35.

<sup>12</sup> Att. 19 at 11:50 – 12:45; Att. 18 at 12:45 – 13:30.

<sup>13</sup> Att. 30 at 00:56. This contact does not appear to be the subject of Ms. ██████ complaint. Ms. ██████ alleged that, after officers brought her back from the hospital, Sgt. Foster forcefully pulled her out of a police vehicle and dragged her into the station. COPA has not identified any BWC videos that captured this portion of the incident.

is no video of the remainder of Ms. ██████ encounter with Sgt. Foster, as the video from the station was not retained and Sgt. Foster was not wearing a BWC at the time of the incident.<sup>14</sup> Sgt. Foster told COPA he did not recall Ms. ██████ or his interaction with her, but he denied he has ever called an arrestee a fat bitch, refused arrestee phone calls, or pulled anyone into the station without justification.<sup>15</sup>

While in custody, Ms. ██████ told officers she was pregnant, diabetic, and asthmatic.<sup>16</sup> Ms. ██████ was transported to ██████ for medical clearance, but she refused to be examined and insisted there was “nothing medically wrong with her.”<sup>17</sup> She was discharged into CPD custody and returned to lockup. The following morning, officers brought Ms. ██████ back to the hospital, and she reported pain and swelling in her wrists and ankles.

### III. 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 occurred and violated Department policy.<sup>18</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 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. 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>19</sup>

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<sup>14</sup> Atts. 29, 32-33; see Att. 30 at 00:55.

<sup>15</sup> Att. 27, pgs. 10-11.

<sup>16</sup> Att. 5, pg. 4. However, Ms. ██████ told COPA she did not have any medical conditions. Att. 13 at 36:10.

<sup>17</sup> Att. 20, pg. 5.

<sup>18</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>19</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

#### IV. ANALYSIS AND CONCLUSION

##### a. Officer Ruiz

COPA finds that Officer Ruiz did not pull Ms. [REDACTED] by her wrists during the traffic stop. As seen on the BWC video, Officer Ruiz was extremely patient with Ms. [REDACTED] and repeatedly informed her of the reasons for the traffic stop. The video evidence shows Ms. [REDACTED] pushed open her own vehicle door and stepped outside without any assistance from Officer Ruiz, who did not make physical contact with Ms. [REDACTED] until he placed her in handcuffs. The handcuffing itself occurred without incident; it was not until Officer Ruiz walked Ms. [REDACTED] to the squad car that she demanded an ambulance, alleging she was “handled rough.” Officer Ruiz denied the allegation against him, and the BWC video corroborates the officer’s account. For these reasons, COPA finds there is clear and convincing evidence that Officer Ruiz did not pull Ms. [REDACTED] by her wrists or use excessive force against her, and the allegation against him is **unfounded**.

##### b. Sgt. Foster

COPA lacks sufficient evidence to prove or disprove the allegations against Sgt. Foster by a preponderance of the evidence. Ms. [REDACTED] alleged that Sgt. Foster called her a “fat bitch,” refused to let her use the phone, and forcefully pulled her out of a police vehicle and into the station. Sgt. Foster told COPA he did not recall Ms. [REDACTED] or his interaction with her, but he denied engaging in the conduct she alleged. There is limited and incomplete video of Ms. [REDACTED] encounter with Sgt. Foster, as he was not wearing a BWC and the video from the 11<sup>th</sup> District was not retained. Similarly, COPA has not identified any independent witnesses to the incident.

COPA finds Ms. [REDACTED] credibility is reduced by numerous inconsistencies between the account she provided and other available evidence. As discussed above, the BWC videos refute Ms. [REDACTED] claim that Officer Ruiz pulled her out of the vehicle by her wrists. Ms. [REDACTED] also provided conflicting information about her medical condition(s) to COPA, CPD, and hospital staff. Finally, although Ms. [REDACTED] medical records and photos show minor bruising and/or red marks to her wrists and ankles, there is no indication of how or when she sustained these injuries. Ms. [REDACTED] resisted the officers at multiple points during her arrest, stiffening her body and requiring officers to carry her into the transport wagon. Therefore, COPA cannot determine whether Ms. [REDACTED] sustained the handcuffing/shackling injuries due to force used by Department members or Ms. [REDACTED] own resistance during the incident. Given Ms. [REDACTED] reduced credibility, COPA finds there is insufficient evidence to prove or disprove her allegations against Sgt. Foster. Therefore, the allegations are **not sustained**.

Approved:



2/18/2022

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date