

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 10, 2021, at approximately 8:11 pm, at or near [REDACTED]
Date/Time of COPA Notification:	November 12, 2021 / 16:30
Involved Officer #1:	Demetrio Muro; Star #9180; Employee ID # [REDACTED]; Date of Appointment: June 27, 2016; Police Officer; Unit of Assignment: 009; DOB: [REDACTED], 1989; Male; White Hispanic
Involved Officer #2:	Jonathan Martinez; Star #17514; Employee ID # [REDACTED]; Date of Appointment: April 25, 2016; Police Officer; Unit of Assignment: 009; DOB: [REDACTED], 1990; Male; White Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1993; Male; White Hispanic
Case Type:	Allegation of Improper Arrest

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Demetrio Muro	1. It is alleged by [REDACTED] that on or about September 10, 2021, at approximately 8:11 pm, at or near [REDACTED] Officer Demetrio Muro, Star 9180, committed misconduct by arresting [REDACTED] without justification.	Exonerated
Officer Jonathan Martinez	1. It is alleged by [REDACTED] that on or about September 10, 2021, at approximately 8:11 pm, at or near [REDACTED] Officer Jonathan Martinez, Star 17514, committed misconduct by arresting [REDACTED] without justification.	Exonerated

II. SUMMARY OF EVIDENCE¹

Complainant ██████████ (██████████) alleges that Officer Demetrio Muro (“Officer Muro”) and Officer Jonathan Martinez (“Officer Martinez”) arrested him without justification for possessing weapons after his FOID card was revoked. ██████████ believes that the officers arrested him unlawfully because he did not have notice of the Order of Protection (“OOP”) filed against him, which triggered the revocation of his FOID card. ██████████ maintains that upon being served with the OOP, he had 48 hours to surrender his firearms.

In an **interview with COPA**² on November 17, 2021, ██████████ stated that he was attempting to pick up his child from the child’s mother on the evening of September 10, 2021, at ██████████ after she refused to release the child to ██████████ mother. Due to numerous previous instances of her obtaining orders of protection, ██████████ stated that he stayed at a distance from her and called police to assist him. Two uniformed officers arrived and discussed the matter with ██████████. The officers informed ██████████ that he would be served with an active OOP.

Sergeant Casale #896 arrived and served ██████████ with the OOP. Officer Muro and Officer Martinez then asked ██████████ if he had firearms, and they followed him home when he responded in the affirmative. ██████████ voluntarily gave the officers his firearms and the officers then left his residence. Shortly thereafter, the officers returned and informed ██████████ that he would be arrested because he was in possession of firearms with a revoked FOID card. ██████████ was arrested and transported to the 9th District. ██████████ stated that another sergeant at the District told him that he should not have been arrested.

The **Body Worn Camera (“BWC”) Videos**³ of Officer Muro and Officer Martinez captured the incident on September 10, 2021. The officers responded to a domestic disturbance call at ██████████. The BWC recordings first show the interaction between Ms. ██████████ (██████████) and the officers, who encountered ██████████ in a backyard. ██████████ showed the officers a court order indicating that she had been granted an emergency OOP from ██████████. ██████████ stated that ██████████ was in the vicinity. The officers realized that ██████████ had not yet been served and indicated that they were required to call for a sergeant to serve the order. The officers returned to ██████████ and discussed the circumstances surrounding the OOP and explained that a sergeant would be arriving to serve him with the OOP.

Sergeant Casale #896 arrived, served ██████████ and explained the OOP documentation to ██████████. Officer Martinez then told ██████████ that they would go to his residence to take possession of his firearms.

At the apartment, ██████████ unlocked his door and allowed the officers into his home to take possession of his firearms. ██████████, Officer Muro, and Officer Martinez entered ██████████ bedroom

¹COPA conducted a full and complete investigation of this matter, including the interview of the complainant, and the collection and review of digital and documentary 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.

² Att. 1.

³ Att. 14–19.

and ██████ indicated his firearms were in a closet, on the top shelf, and in a large case on the closet floor. ██████ was seated on a bed and did not touch the firearms. ██████ requested that the officers leave his transport cases so he could utilize them later to retrieve his weapons. The officers cleared the weapons, and ██████ gave them a trash bag to load his firearms and magazines for transportation.

Officer Muro stated that there would be no criminal report of the incident and the firearms were just being surrendered because ██████ could not possess them. Officer Martinez photographed ██████ identification and his FOID card. Officer Martinez then spoke with ██████ mother via ██████ cellular phone and told her that ██████ was not in any trouble and that they were taking possession of his firearms. Officer Martinez stated that ██████ was not being arrested and was not going to jail. After this conversation, the officers returned to their squad car and deactivated their BWCs.

Later, the officers reactivated their BWCs and returned to ██████ apartment, where they told ██████ that they needed to take him to the District because he was in possession of firearms with a revoked FOID. Visibly upset, ██████ disputed the arrest: “Yeah, it’s revoked because I just got the email from [...] Yeah, it’s revoked because of this though, so how am I supposed to know?”⁴ ██████ mother then called, and Officer Martinez spoke to her in Spanish to describe the circumstances surrounding the arrest.

An **Original Case Incident Report**⁵ completed by Officer Martinez details the firearms, magazines, and ammunition recovered from ██████ bedroom, with ██████ present and complying, on September 10, 2021. An associated **Arrest Report**⁶ completed by Officer Martinez documented that after ██████ surrendered his FOID card, the officers discovered that it was already in a revoked status. The officers then placed ██████ in custody. Probable cause was approved by Lt. Sepulveda #243, and Lt. Wiczorek #268 later gave final approval for criminal charges. ██████ was charged with possessing firearms without a valid FOID.⁷

Cook County Clerk of Court records⁸ document that an emergency OOP was entered against ██████ on September 3, 2021, in a domestic relations case involving ██████ and ██████. **Court records**⁹ also document that the criminal charge against ██████ for possessing firearms without a valid FOID was stricken off with leave to reinstate on November 9, 2021.¹⁰

A **Police Data Terminal (“PDT”) Messages Report**¹¹ indicates that upon running ██████ information in LEADS, the officers learned that his FOID card was revoked:

⁴ Att. 16, Officer Muro BWC at 3:15.

⁵ Att. 5.

⁶ Att. 6.

⁷ See 430 ILCS 65/2(a)(1).

⁸ Att. 12.

⁹ Att. 13.

¹⁰ The case disposition of “stricken off with leave to reinstate” indicates that a criminal charge against the accused continues to exist and may still be placed on the docket and brought to trial if there is a later motion to reinstate. This disposition does not terminate the proceedings against the accused. See *Ferguson v. City of Chicago*, 820 N.E.2d 455, 459–60 (Ill. 2004).

¹¹ Att. 11.

e M/965D CW RESPONSE FOID RESPONSE FID [REDACTED]
ISS/2020-10-28 EXP/2024-03-01 STATUS REVOKED FOID
CARD STATE PROHIBITOR - OP FDR SUBMITTED: Y NAME
[REDACTED] SEX MALE DOB [REDACTED]/1993 STREET
ADDRESS [REDACTED] CITY CHICAGO COUNTY
COOK ZIP 60629 HEIGHT 508 WEIGHT 182 HAIR BLK EYES
BRO SPONSOR [REDACTED]

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III. ANALYSIS AND CONCLUSION

Probable cause is the standard for making an arrest. “Probable cause to arrest exists when the facts known to the officer at the time of the arrest are sufficient to lead a reasonably cautious person to believe that the arrestee has committed a crime.”¹³ The police are not required to rule out all possible innocent explanations for a person’s conduct before making an arrest based on probable cause.¹⁴

Prior to [REDACTED] arrest, Officer Muro and Officer Martinez had just removed multiple firearms from [REDACTED] possession, and they had seized his FOID card. Upon running his information in LEADS, the officers learned that [REDACTED] FOID card was in a revoked status. These facts alone were sufficient probable cause to arrest [REDACTED]. “The observation of a Firearm Owner’s Identification Card in the possession of a person whose Firearm Owner’s Identification Card has been revoked constitutes a sufficient basis for the arrest of that person.”¹⁵ Neither the BWC footage nor [REDACTED] interview provides any basis to support a claim of unlawful arrest, and the fact that the officers arrested [REDACTED] shortly after he was served with the OOP had no bearing on the fact that his FOID card was revoked. The revocation of the FOID card took place independently of the service of process related to the OOP. In fact, [REDACTED] acknowledged to the officers that he had previously received an email message regarding the status of his FOID.¹⁶ Once he received that message, [REDACTED] was obligated to surrender his FOID and dispose of his firearms. It was the receipt of the email, and not the service of the OOP, that triggered these obligations. While the issuance of the OOP by the court likely triggered the revocation of [REDACTED] FOID, the revocation was effective as soon as the Illinois State Police notified [REDACTED] and was not dependent on service of the OOP.

COPA finds there is clear and convincing evidence that [REDACTED] was knowingly in possession of weapons after his FOID card was revoked. Accordingly, [REDACTED] arrest by Officer Muro and Officer Martinez was justified, and [REDACTED] allegation that he was unlawfully arrested because he was entitled to a 48-hour grace period to surrender his firearms after being served the OOP is unsupported by the facts. Accordingly, COPA finds that **Allegation 1 against Officer Muro and Allegation 1 against Officer Martinez are EXONERATED.**

¹² *Id.*, p. 10.

¹³ *People v. Grant*, 2013 IL 112734, ¶ 11 (citing *People v. Wear*, 229 Ill. 2d 545, 563 (2008)).

¹⁴ *See People v. Neal*, 2011 IL App (1st) 092814, ¶ 13.

¹⁵ 430 ILCS 65/9.5(e).

¹⁶ *See supra* note 4 and accompanying text; *See also* 430 ILCS 65/7.5 (“A person subject to [the FOID Act] may notify the Illinois State Police . . . that he or she would like to receive correspondence from the Illinois State Police via email . . . Such correspondence may include notification of the status of a person’s . . . revocation . . . and other notifications concerning his or her [FOID].”).

Approved:



2/4/2022

Matthew Haynam
Deputy Chief Administrator

Date