

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	July 22, 2019/11:00 P.M. / 1160 N. Larrabee Street
Date/Time of COPA Notification:	July 30, 2019 / 1:26 P.M.
Involved Officer #1:	Mario Fuentes, Star No. 9793, Employee No. [REDACTED], Date of Appointment: June 16, 2017, Rank, Police Officer, Unit of Assignment: 018, DOB: [REDACTED], 1993, Male, White Hispanic
Involved Officer #2:	Cynthia Garcia, Star No. 9797, Employee No. [REDACTED], Date of Appointment: June 16, 2017, Rank: Police Officer, Unit of Assignment: 018, DOB: [REDACTED], 1996, Female, White Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 2001, Female, Black
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1982, Female, Black
Case Type:	Unlawful Detention / Operational Violations

I. ALLEGATIONS

Officer	Allegation	Finding	
Officer Mario Fuentes	It is alleged by [REDACTED] that on or about July 22, 2019, at approximately 11:00 P.M., at or near 1160 N. Larrabee Street, Officer Mario Fuentes, Star No. 9793, committed misconduct through the following acts or omissions, by:		
	1. Detaining [REDACTED] without justification.		Exonerated
	It is alleged by COPA that on or about July 22, 2019, at approximately 11:00 P.M., at or near 1160 N. Larrabee Street, Officer Mario Fuentes, Star No. 9793, committed misconduct through the following acts or omissions, by:		
Officer Cynthia Garcia	2. Failing to activate his Body Worn Camera in compliance with Special Order S03-14.	Sustained / 3-Day Suspension	
	3. Failing to issue [REDACTED] an Investigatory Stop Receipt.	Not Sustained	
Officer Cynthia Garcia	It is alleged by [REDACTED] that on or about July 22, 2019, at approximately 11:00 P.M., at or near 1160 N. Larrabee Street, Officer Cynthia Garcia, Star No. 9797,		

<p>committed misconduct through the following acts or omissions, by:</p>	
<p>1. Detaining ██████████ without justification.</p>	<p>Exonerated</p>
<p>It is alleged by COPA that on or about July 22, 2019, at approximately 11:00 P.M., at or near 1160 N. Larrabee Street, Officer Cynthia Garcia, Star No. 9797, committed misconduct through the following acts or omissions, by:</p>	
<p>2. Failing to activate her Body Worn Camera in compliance with Special Order S03-14.</p>	<p>Sustained / 3-Day Suspension</p>
<p>3. Failing to issue ██████████ an Investigatory Stop Receipt.</p>	<p>Not Sustained</p>

II. SUMMARY OF EVIDENCE

On July 31, 2019, Complainant ██████████ reported to the Civilian Office of Police Accountability (COPA) that officers of the Chicago Police Department wrongfully detained her inside the 018th District police station. She stated that, earlier in the evening, she was involved in an incident during which her mother, ██████████ was arrested by the involved officers. Ms. ██████████ alleged that Officer Garcia pushed her during the incident, causing Ms. ██████████ to push Officer Garcia back; she also said that Officer Fuentes drew his weapon and directed everyone to move back.¹ Later that night, when Ms. ██████████ brought personal items to her mother at the 018th District Station, she alleged that a sergeant directed Officers Garcia and Fuentes to arrest her after she refused to give her name.² The officers handcuffed Ms. ██████████ took her to a room containing a desk and two chairs, and searched her person. Ms. ██████████ stated that Officer Garcia did not want to arrest her because she was a juvenile, and Officer Garcia related she would let Ms. ██████████ leave through the back door to the station if she provided her information. The officers asked Ms. ██████████ for her name, date of birth, and address, as well as her aunt’s information, which she ultimately gave. The officers then released Ms. ██████████ without charges.

In addition to Ms. ██████████ allegations, COPA alleged that Officers Garcia and Fuentes failed to activate their body worn cameras (BWCs) when they detained Ms. ██████████ and they failed to issue Ms. ██████████ an Investigatory Stop Receipt. In reaching its factual findings, COPA reviewed Ms. ██████████ Complainant statement,³ an Investigatory Stop Report (ISR) documenting Ms. ██████████ detention,⁴ the statements of Officers Garcia and Fuentes,⁵ BWC videos from Ms.

¹ This claim is contradicted by body worn camera evidence.

² Neither Ms. ██████████ nor the accused officers were able to identify the sergeant alleged to have given the order to arrest Ms. ██████████ and the officers deny that any Department member gave them such an order.

³ Attachment 1.

⁴ Attachment 2.

⁵ Attachments 3-4, 27-28.

█████ arrest,⁶ Ms. █████ Arrest Report,⁷ an Original Case Incident Report,⁸ an Event Query Report,⁹ radio transmissions,¹⁰ 018th District Attendance and Assignment records,¹¹ and multiple other related documents.

COPA finds that at approximately 7:20 P.M. on July 22, 2019, Officers Garcia and Fuentes encountered Ms. █████ when they arrested her mother, Ms. █████ for aggravated battery to a police officer and resisting/obstructing a police officer. When the officers attempted to handcuff Ms. █████ Ms. █████ intervened in the arrest, pushing and/or pulling Officer Garcia from Ms. █████ As numerous individuals grew hostile, the officers requested backup and additional units arrived at the scene. Officers Garcia and Fuentes then transported Ms. █████ to the 018th District station for processing.

Several hours later, at approximately 11:00 P.M., Ms. █████ arrived at the 018th District station to drop off personal items for Ms. █████ Upon arrival, the officers recognized Ms. █████ as the same individual who attempted to physically intervene in Ms. █████ arrest, and they detained her inside the 018th District station. The officers asked Ms. █████ for her identifying information but ultimately released her without charges. The officers' ISR indicates they did not pat down or search Ms. █████ and Ms. █████ did not receive an Investigatory Stop Receipt. No BWC videos recording the detention are uploaded to Evidence.com.

III. ANALYSIS AND CONCLUSION

a. The Officers Had Justification to Detain Ms. █████

COPA finds that Officers Fuentes and Garcia had lawful justification to detain Ms. █████ BWC evidence from the incident earlier that evening shows Ms. █████ attempting to physically intervene in the officers' arrest of Ms. █████ and Ms. █████ admitted she pushed Officer Garcia during the incident.¹² It is also undisputed that when Ms. █████ arrived at the 018th District Station to deliver personal items to Ms. █████ the officers recognized her from the earlier incident and temporarily detained her in handcuffs. The officers' ISR states they ran Ms. █████ name through LEADS and then released her pending review of the BWC and POD camera footage from Ms. █████ arrest. Based on Ms. █████ physical interference with Ms. █████ arrest and the officers' positive identification of Ms. █████ at the station, COPA finds there is clear and convincing evidence the officers had probable cause to detain Ms. █████ for investigation into, at minimum, the crime of obstruction. That probable cause justified the officers' decision to detain Ms. █████ As such, Allegation #1 against both officers is **exonerated**.

⁶ Attachments 5 & 6.

⁷ Attachment 7.

⁸ Attachment 8.

⁹ Attachment 10.

¹⁰ Attachment 11.

¹¹ Attachment 12.

¹² See Attachment 5, BWC of PO Garcia at 00:45 – 00:55. The video shows Ms. █████ with long, reddish-orange hair, wearing a white, long-sleeve “Looney Toons” shirt and orange pants. Ms. █████ appears to push and/or pull Officer Garcia as she attempts to arrest Ms. █████ who is wearing an orange t-shirt and blue track pants. *See also* Attachment 13, BWC of PO Rodriguez at 02:05 – 02:10 (shows Ms. █████ again attempting to physically intervene in the officers' apprehension of Ms. █████

b. The Officers Failed to Activate Their Body Worn Cameras.

COPA finds that Officers Fuentes and Garcia failed to activate their BWCs in violation of Special Order S03-14. That order states that Department members will activate their cameras at the beginning of an incident and record the entire incident for all law-enforcement-related activities, including investigatory stops, statements made by individuals in the course of an investigation, and any other instances when enforcing the law.¹³ In this case, the officers detained Ms. ██████ inside the 018th District Station, and they subsequently completed an ISR documenting that detention. As such, the Special Order required the officers to record the encounter on their BWCs, which neither officer did. The officers' failure to activate their BWCs violated Special Order 03-14, as well as Rule 6 of CPD's Rules and Regulations. For these reasons, COPA finds Allegation #2 against both officers is **sustained**.

c. COPA Lacks Sufficient Evidence to Determine Whether the Officers Were Required to Issue Ms. ██████ an Investigatory Stop Receipt.

Department policy requires that, "Upon completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt."¹⁴ Officers Garcia and Fuentes acknowledged they did not issue Ms. ██████ an Investigatory Stop Receipt; however, they maintained no receipt was required because they did not pat down or search Ms. ██████ during her detention. Ms. ██████ on the other hand, told COPA that after she was handcuffed, Officer Garcia patted her down and removed items from her pocket. Both officers denied this, and Officer Garcia stated the only physical contact she had with Ms. ██████ was when she grabbed Ms. ██████ hands to handcuff her. No other evidence exists on the record to establish whether the officers searched Ms. ██████. For these reasons, COPA lacks sufficient evidence to prove or disprove the allegation by a preponderance of the evidence. Therefore, COPA finds Allegation #3 against both officers is **not sustained**.

IV. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**i. Complimentary and Disciplinary Histories**

In considering disciplinary recommendations for the sustained finding, COPA reviewed the disciplinary and complimentary histories of both officers.¹⁵ Officer Fuentes has no complaint history or sustained findings in the Department. He has received 120 total awards. Officer Garcia has one sustained finding for failure to inventory and/or return an arrestee's property. She received a reprimand in October 2020 as a result of that incident. Officer Garcia has received 86 total awards.

ii. Recommended Penalties

COPA has found that Officers Fuentes and Garcia violated Rule 6 when they failed to activate their BWCs during Ms. ██████ detention. The officers' failure to record the incident

¹³ See Special Order S03-14(III)(A)(2).

¹⁴ Special Order S04-13-09(VIII)(3).

¹⁵ Attachment 29.

violated Department regulations and prevented a complete record of Ms. [REDACTED] detention for later review. Considering the severity of the misconduct and the officers' records of service, COPA finds that a **3-day suspension** is the appropriate penalty for both officers.

Approved:

[REDACTED]

12/27/2021

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date