

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date / Time of Incident:	May 6, 2018, approximately 11:00 a.m.
Location of Incident:	[REDACTED]
Date / Time of COPA Notification:	May 9, 2018, 5:03 p.m.

Two off-duty CPD officers engaged in a verbal altercation with a civilian on sidewalk near the officers' respective homes. During the altercation, one of the officers called the civilian a "pedophile." The same officer called 911 and falsely reported that the civilian had assaulted him. During that call, the other officer encouraged the caller to falsely report that the civilian was armed with a gun.

**II. INVOLVED PARTIES**

Involved Member #1:	Michael J. Modzelewski Star #17801, Employee ID# [REDACTED]; Date of Appointment: November 29, 2004; Rank: Police Officer; Unit of Assignment: 009; Date of Birth: [REDACTED] 1972; M/W
Involved Member #2:	Randall R. Fiore Star #11884, Employee ID# [REDACTED]; Date of Appointment: August 14, 2000; Rank: Police Officer; Unit of Assignment: 050; Date of Birth: [REDACTED] 1977; M/W
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1963; F/B
Involved Individual #2:	[REDACTED] Date of Birth: [REDACTED], 1993; M/B

**III. ALLEGATIONS**

Member	Allegation	Finding / Recommendation
Officer Modzelewski	1. On May 6, 2018, at or near [REDACTED], the accused maltreated the Complainant [REDACTED] in that he falsely accused him of being a child sex offender, without having reasonable grounds for believing that such an accusation was true, in violation of Rule 8 of the CPD Rules of Conduct.	SUSTAINED 7 Days

Member	Allegation	Finding / Recommendation
Officer Modzelewski (continued)	2. At the above time and place, the accused made a report to a public official via 911 to the effect that the offense of assault had been committed, knowing at the time that there was no reasonable ground for believing that such an offense had in fact been committed, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	SUSTAINED 7 Days
Officer Fiore	<p>1. On May 6, 2018, at or near [REDACTED], the accused encouraged or requested another person to report to a public official via 911 that the Complainant [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, in violation of Rules 1 and 8 of the CPD Rules of Conduct.</p> <p>2. At the above date, time, and place, the accused encouraged or requested another person to report to a public official via 911 that the Complainant [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, and further knowing that such a report, if made, could have resulted in the emergency response of the Chicago Police Department, in violation of Rules 1 and 8 of the CPD Rules of Conduct.</p> <p>3. At the above date, time, and place, the accused encouraged or requested another person to report to a public official via 911 that the Complainant [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, and further knowing that that such a report, if made, could have unjustifiably endangered the safety of [REDACTED] in violation of Rules 1 and 8 of the CPD Rules of Conduct.</p>	<p>SUSTAINED 7 Days</p> <p>SUSTAINED 7 Days</p> <p>SUSTAINED 7 Days</p>

#### IV. APPLICABLE RULES AND LAWS

---

##### Rules

1. CPD Rules of Conduct No. 1 (prohibiting the violation of any law or ordinance).
2. CPD Rules of Conduct No. 2 (prohibiting maltreatment of any person, on or off duty).

---

##### State Laws

1. 720 ILCS 5/8-1 (soliciting a person to commit an offense).
2. 720 ILCS 5/12-1(a) (defining assault).
3. 720 ILCS 5/26-1(a)(4) (prohibiting false reports that a person has committed an offense).
4. 720 ILCS 5/26-1(a)(6) (prohibiting false 911 calls that could result in the emergency response of a public safety agency).

#### V. INVESTIGATION<sup>1</sup>

##### A. Interviews

1. The Complainant, ██████████ gave an **Audio Recorded Interview** on May 15, 2018.<sup>2</sup> ██████████ is an ██████████ nurse employed at ██████████. The following is a summary of ██████████ statement.

██████████ described a verbal altercation that she witnessed involving her ██████████, Complainant ██████████<sup>3</sup> and two off-duty CPD members now known to be Officers Modzelewski and Fiore. The altercation took place on a sidewalk on May 6, 2018, at approximately 11:00 a.m., near ██████████ residence at ██████████ in Chicago. According to ██████████ she was alerted to the altercation when ██████████ rang her doorbell and asked her to come outside. ██████████ stated that a female acquaintance of ██████████ was seated in his car, which was parked in front of the residence. According to ██████████ then told her that persons down the street were staring at him and taking pictures of him. ██████████ stated that ██████████ then loudly stated to those persons, "I'm visiting my mother."

---

<sup>1</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>2</sup> Attachment #13 is an audio recording of that interview.

<sup>3</sup> The Complainant ██████████ also gave an Audio Recorded Interview during which he provided COPA with his account of the incident. Attachments ## 20 and 21 are audio recordings of Parts 1 and 2 (of 2) of that interview, respectively. ██████████ account of the parts of the incident that ██████████ witnessed are largely consistent with ██████████ account. Like ██████████ attributes race as an underlying and motivating factor contributing to the incident, though ██████████ was unable to point to any direct evidence of racial animus on the part of either officer. During his interview, ██████████ essentially denied any committing any act that contributed to causing the incident, a denial that COPA finds to be incredible. Accordingly, COPA is not relying on any part of ██████████ interview in any part of our analysis.

██████████ female acquaintance also gave an audio recorded interview. Attachment #27 is an audio recording of that interview in which she largely confirmed ██████████ and ██████████ accounts. However, because the acquaintance's ability to observe the incident from her vantage point was limited, COPA is not relying on any part of her interview in any part of our analysis.

According to ██████ a person now known to be Officer Modzelewski then left the porch of a house several doors to the north and came down the street, remaining on the City sidewalk. Officer Modzelewski then stated to ██████ words to the effect of “if you have something to say to me, say it to my face.” ██████ then asked Officer Modzelewski why he was taking pictures of ██████ to which Officer Modzelewski replied by asking ██████ why he was taking pictures of children. ██████ stated that ██████ then denied that he was taking pictures of children, to which Officer Modzelewski replied, “you must be a pedophile.” According to ██████ ██████ then tried to show his phone to Officer Modzelewski to demonstrate that he had not been taking pictures of children. ██████ stated that she tried to de-escalate matters by telling ██████ to lower his voice, which apparently angered ██████ further, as ██████ then accused ██████ of “kissing their ass.” According to ██████ ██████ then accused Officer Modzelewski of racial animus, which Officer Modzelewski denied. ██████ stated that a person now known to be Officer Fiore approached and suggested to ██████ that he should leave. ██████ got in his car and drove away. ██████ stated that Officer Fiore then told Officer Modzelewski that he “should call it in,” and, “tell them he has a gun.” ██████ stated that both officers identified themselves as CPD members during the incident. ██████ attributed the incident to racial bias on the part of both officers, though she conceded that neither of them used racially-charged language during the incident.<sup>5</sup>

2. **Officer Michael J. Modzelewski** gave an **Audio Recorded Statement** on September 18, 2018.<sup>6</sup> Prior to the commencement of that statement, COPA provided Officer Modzelewski with an opportunity to view BWC footage captured by CPD members who responded to a 911 call placed by Officer Modzelewski in connection with the incident.<sup>7</sup> COPA also provided Officer Modzelewski with an opportunity to listen to an audio recording of that 911 call.<sup>8</sup> The following is a summary of his statement.

Officer Modzelewski confirmed that the interview summary prepared by the detective assigned to investigate the incident<sup>9</sup> was substantially correct, except that (1) the summary did not reflect that Officer Modzelewski informed the detective, during the interview, that the individual now known as ██████ drove slowly past Officer Modzelewski’s house looking at him and a group of neighbors, went to the end of the street, and made a U-turn prior to parking;<sup>10</sup> and (2) the summary stated that “Modzelewski, believing the offender was going to retrieve a weapon, approached the Honda Sedan at which time the offender drove off,” when, in fact Officer Modzelewski told the detective, “I don’t know if he was going to the vehicle to get a weapon, a gun, what, I don’t know.”<sup>11</sup>

---

██████ and ██████ are both Black. Officers Modzelewski and Fiore are both White. Because COPA is empowered by its governing ordinance to investigate allegations of “verbal abuse” by CPD members, and because that ordinance’s definition of “verbal abuse” includes remarks directed at persons that are based upon that person’s race, ██████ contention that race was a motivating factor behind Officer Modzelewski’s statements, provides COPA with jurisdiction here. Notwithstanding ██████ stated belief that race was a motivating factor, COPA’s investigation has not confirmed that fact. See Section VI below.

<sup>6</sup>Attachments ## 48 and 49 are audio recordings of Parts 1 and 2 (of 2) of that statement, respectively. Attachment #53 is a transcript of that statement.

<sup>7</sup>Attachment #31 comprises that footage. COPA is not relying on any part of that footage in our analysis.

<sup>8</sup>The audio recording is Attachment #34, which is described at Section V.B.1 below.

<sup>9</sup>Attachment #22 contains that interview summary, which is described at Section V.B.3 below.

<sup>10</sup>Attachment #53, 8:12–9:4.

<sup>11</sup>*Id.*, 9:5–20.

Officer Modzelewski stated that at the time in question he was on the porch or lawn in front of a home on the [REDACTED] of South Drake Avenue with Ms. [REDACTED] her two four-year-old [REDACTED], and his own four-year old [REDACTED], when the individual now known as [REDACTED] drove up and parked. According to Officer Modzelewski, [REDACTED] exited his vehicle and waved to him. Officer Modzelewski further stated that he did not return [REDACTED] waves, that [REDACTED] then went to the front stairs of a residence four doors to the south and that [REDACTED] then said, "Fuck him."<sup>12</sup> Officer Modzelewski stated that he believed that [REDACTED] was upset because he had not waved back at him. According to Officer Modzelewski, he did not know if [REDACTED] was talking to him to or to someone who had answered the doorbell when he said those words. According to Officer Modzelewski, [REDACTED] said the word, "fuck" again and a woman now known as [REDACTED] came out of the [REDACTED] house and tried to calm [REDACTED]

Officer Modzelewski stated that [REDACTED] then entered his vehicle, emerged after fifteen seconds with a camera, and then started taking pictures of Officer Modzelewski, Ms. [REDACTED] and the three boys. Officer Modzelewski stated that he then approached [REDACTED] asking him, "What are you doing, we're playing with our kids here." According to Officer Modzelewski, he and [REDACTED] were standing on or near the sidewalk approximately three feet from each other. Officer Modzelewski stated that [REDACTED] tried to calm [REDACTED] and that Officer Modzelewski stepped back. [REDACTED] then said to [REDACTED] words to the effect that she didn't need to "bow down." Officer Modzelewski stated that he then re-approached and re-asserted himself into the conversation, stating, "That's not what's going on here. I just want to know what are you doing. Why are you taking pictures of people and their children?" According to Officer Modzelewski, [REDACTED] then walked to his vehicle and stated, in front of Officer Fiore (who had just then appeared), "That's all right, I've got something for you." Officer Modzelewski stated that he then took a picture of [REDACTED] vehicle and license plate. According to Officer Modzelewski, [REDACTED] then drove away at about the same time that Officer Modzelewski called 911.

During the statement, Officer Modzelewski answered certain questions, among others, as follows:

Q. Did you ever use the word pedophile ... during the incident?

A. Yes.

Q. Why? ...

A. I said, 'He was taking pictures of a bunch of small children.' I've already explained to you, these children are four years of age. I've never seen Mr. [REDACTED] a day in my life. I don't know if he's a pedophile. And, that's precisely the way that I prefaced it. I said, 'I don't know who this guy is.' I go, 'How do I know he's not a pedophile?' ...

Q. Was the woman who we call Mr. [REDACTED] mother present?

A. She may have been. ...<sup>13</sup>

Officer Modzelewski was also asked the following questions, and he gave the following answers:

---

<sup>12</sup>Id., 11:5 - 12:18.

<sup>13</sup>Id., 29:5 - 30:4.

- Q. You used the word assault earlier in your statement today. Tell me how you were assaulted during the incident.
- A. Mr. ██████ said that he had something for me. That's how I was assaulted.
- Q. All right. Is that the entirety of your answer?
- A. Yes.<sup>14</sup>

A break of approximately two minutes was then taken at the request of Officer Modzelewski's attorney.<sup>15</sup> Upon resuming the statement, Officer Modzelewski answered the following questions:

- Q. Officer, is there anything that you'd like to add to or subtract to or change about anything you said up until now.
- A. Yes.
- Q. Feel free.
- A. In relation to the -- the assault. That came in addition to the language, the tone, and the pitch that was used by Mr. ██████ his unwillingness to be reasonable. His irrational state.
- Q. Okay. Have you now completed your answer?
- A. All those things, okay, on the heels of then hearing I got something for you.
- Q. All right. Have you now completed your answer?
- A. Yes, I have.<sup>16</sup>

Officer Modzelewski denied that race played any part in the incident.<sup>17</sup>

3. **Officer Randall R. Fiore** gave an **Audio Recorded Statement** on September 19, 2018.<sup>18</sup> Prior to the commencement of that statement, COPA provided him with an opportunity to view BWC footage captured by CPD members who responded to a 911 call placed by Officer Modzelewski in connection with the incident.<sup>19</sup> COPA also provided Officer Fiore with an opportunity to listen to an audio recording of that 911 call.<sup>20</sup> The following is a summary of his statement.

Officer Fiore stated that the verbal altercation that led to Officer Modzelewski's 911 call occurred across the street from Officer Fiore's residence.<sup>21</sup> According to Officer Fiore, ██████ stated in his presence, "Fuck it. I've got something for y'all. I'll be back."<sup>22</sup> In response to questions concerning whether Officer Fiore was the person whose voice can be heard in the audio recording of Officer Modzelewski's 911 call, Officer Fiore stated:

---

<sup>14</sup>Id. at 30:5- 10.

<sup>15</sup>Id. at 30:12-31:3.

<sup>16</sup>Id. at 31:5-17.

<sup>17</sup>Id. at 47:14-18.

<sup>18</sup>Attachments ## 50 and 51 are audio recordings of Parts 1 and 2 (of 2) of that statement, respectively. Attachment #52 is a transcript.

<sup>19</sup>Attachment #31 comprises that footage. COPA is not relying on any part of that footage in our analysis.

<sup>20</sup>The audio recording is Attachment #34, which is described at Section V.B.1 below.

<sup>21</sup>Attachment #52 at 12:15-14:4.

<sup>22</sup>Id. at 8:18, 28:22 - 23, and 30:6-7.

I'm not a hundred percent sure, it could be. I'm not saying that it can't be. And, I, and I don't remember saying that, if it is me."<sup>23</sup> Officer Fiore also said, 'I don't know if that was me, in the recording, I'm not a hundred percent sure if that was me. It could've been, I'm no- -- I'm not sure."<sup>24</sup>

Officer Fiore further stated,

No, I didn't encourage him to call about a gun. If that was me in the recording, I didn't mean for it to be heard over OEMC, I may have been, if that was me, I may have been talking to Mike, and not saying, hey, tell them he has a gun. I was just talking to Mike, man to man, he, that he may have, he may be getting a gun."<sup>25</sup>

COPA then asked Officer Fiore the following questions, and Officer Fiore gave the following answers:

- Q. Staying with that allegation, can you tell me, what, if any, reason you had at the time of the incident, to believe that Mr. [REDACTED] did, or did not have a gun?"
- A. As I stated earlier, uh, the way he was acting, the threat that he made. Uh, there's two of us out there, there's one of him. Unless he's gonna come back with a gang of guys, usually, in my experience and training, it means that they're gonna come back with a gun. ...
- Q. [W]hat it is about ... your experience or training that would make you conclude that, "I got something for you," means a firearm, or a gun?
- A. "I can't tell you exactly how many reports I've done over the years, but I've done numerous, numerous reports that, that have stated something like that."<sup>26</sup>

Officer Fiore denied that race played any part in the incident."<sup>27</sup>

## B. Digital Evidence

1. In an **Audio Recording of a 911 Call**<sup>28</sup> placed by Officer Modzelewski at the time of the incident, Officer Modzelewski can be heard twice stating that he had been the victim of an assault. An adult male voice can be heard in the background stating, "Tell him he has a gun." COPA notes here that there is no indication that OEMC heard the statement about the gun or transmitted that information to CPD. However, the statement was audible to COPA investigators and is consistent with [REDACTED] Web Complaint (summarized below).

---

<sup>23</sup>Id. at 9:4-6.

<sup>24</sup>Id. at 35:2-4.

<sup>25</sup>Id. at 37:7-13.

<sup>26</sup>Id. at 37:17-38:10.

<sup>27</sup>Id. at 49:10-14.

<sup>28</sup>Attachment #34.

### C. Documentary Evidence

1. █████ submitted a **Web Complaint** relating to the incident on May 9, 2018.<sup>29</sup> The following is a summary of that Complaint.

At the time and place in question █████ observed a man now known to be Officer Modzelewski “confront” █████ stating that if █████ had something to say, then he should “say it to my face.” Officer Modzelewski identified himself as a police officer and stated that █████ “needed to get his attitude in check or there was going to be a problem.” Officer Modzelewski implied that █████ was taking pictures of his children. █████ informed Officer Modzelewski that she lived there and that her partner was a police officer too.<sup>30</sup> Officer Modzelewski stated that “I better get him out here now.” A man now known to be Officer Fiore then came from across the street and told █████ to shut up. █████ then attempted multiple times to show Officer Modzelewski that he was not taking pictures of his children. Officer Modzelewski stated in response, “I don’t want to see your phone,” and he continued to approach █████ as █████ attempted to keep them separated. █████ then walked to his car, stated: “forget it, I’m leaving, I have nothing to say,” and left the scene. Officers Modzelewski and Fiore then stated that █████ had threatened them. Officer Fiore instructed Officer Modzelewski to call 911 and to report that █████ was armed with a gun. █████ accused Modzelewski and Fiore of “racially profiling” █████<sup>31</sup>

2. A **Case Supplementary Report** relating to the incident shows that an assigned detective interviewed Officers Modzelewski and Fiore.<sup>32</sup> The reporting detective summarized those interviews, in part, as follows:

MODELEWSKI related that a Honda four door sedan ... pulled up in front of the friend’s house. A black male (now known as the offender) exited the vehicle and waved at MODELEWSKI numerous times. ... MODELEWSKI related that he did not respond to the offender’s waves, which agitated the offender. The offender then began yelling profanities towards MODELEWSKI and children playing in the area. MODELEWSKI concerned for the language around the children, approached the offender and asked him to stop using profanity. The offender then began to take photographs with his mobile cell phone of MODELEWSKI and the children playing. MODELEWSKI concerned to why the offender was taking pictures of children, requested the offender stop. During this time Randy FIORE heard the disturbance and walked over to see if MODELEWSKI needed assistance. At this point during the incident a female black, possibly the offender’s mother, exited the house located at approximately █████ and attempted to calm the offender down. ... The offender again used profanity, stating ‘you don’t have to fucking bow

<sup>29</sup>Attachment #4.

<sup>30</sup>CPD Lt. Michael Daugherty, who resides with █████ also gave a statement to COPA. Attachments ## 32 and 33 are audio recordings of that interview. Lt. Daugherty did not witness the disturbance. COPA is not relying on any part of his statement in its analysis.

<sup>31</sup>Notwithstanding █████ stated belief that race was a factor in the incident, COPA’s investigation has not confirmed that fact. See Section VI below.

<sup>32</sup>Attachment #22.



down to them', at which time MODELEWSKI attempted to defuse the situation. The offender then stated 'I got something for you' and began to enter the Honda sedan. MODELEWSKI believing the offender was going to retrieve a weapon approached the Honda sedan, at which time the offender drove off. MODELEWSKI then contacted 911. MODELEWSKI related ... that he did not wish to pursue the incident at this time and only wanted the incident documented. . .

FIORE related that he walked to the front of his house and observed his neighbor, Michael MODZELEWSKI, in an argument with a black male (now known as the offender). ... FIORE related that he attempted to deescalate the incident, at which time the offender stated 'fuck it, I got something for you all, I'll be back.' The offender then entered a green Honda four door, drove south bound on [REDACTED], and then east bound on [REDACTED].

## VI. ANALYSIS

Though [REDACTED] contends that racial animus contributed to the incident, COPA has not confirmed that fact. COPA is not aware of any evidence indicating or suggesting that the officers' behavior was motivated by race. Neither [REDACTED] nor [REDACTED] has contended that either of Officers Modzelewski or Fiore used any racial slur or any racially-charged language at any time during the incident. Both officers have denied that race had anything to do with the incident.

### A. Allegations against Officer Modzelewski

There is substantial evidence to support Allegation 1 against Officer Modzelewski, which is that he maltreated [REDACTED] in violation of Rule 8 of the CPD Rules of Conduct by falsely accusing [REDACTED] of being a child sex offender without having reasonable grounds for believing that such an accusation was true.

In her interview, [REDACTED] said that Officer Modzelewski stated to [REDACTED] in her presence, "You must be a pedophile." COPA finds that part of [REDACTED] statement to be credible, considering Officer Modzelewski's admission during his statement that he said, "How do I know [REDACTED] not a pedophile?" to persons present during the incident. Taking Officer Modzelewski's description of [REDACTED] behavior during the event as true for purposes of our analysis, COPA further finds that Officer Modzelewski did not have reasonable grounds for making such a statement. Officer Modzelewski's account describes [REDACTED] driving up with a woman in his car, followed by [REDACTED] purposely drawing attention to himself by waving at an adult who was caring for children. Next, [REDACTED] drew further attention to himself by expressing profanity loud enough to be heard several houses away, and, finally, Officer Modzelewski approached him. Only then did [REDACTED] allegedly take pictures in the presence of Officer Modzelewski. That conduct, as described by Officer Modzelewski, though bizarre, simply could not have led to a good-faith conclusion that [REDACTED] was or might be a child sex offender. Officer Modzelewski's failure to voice any concern that [REDACTED] might be a child sex offender during his 911 call further suggests that he made the accusation without a sincere belief in its truth. That Officer

Modzelewski similarly informed the assigned detective that “he didn’t want to pursue the incident” is further evidence demonstrating Officer Modzelewski’s lack of true concern.

It should go without saying that disingenuously suggesting that a person is or might be a pedophile in the presence of that person’s mother is maltreatment prohibited by Rule 8 of the CPD Rules of Conduct, which prohibits maltreatment of any person whether on or off duty, even if that insincere suggestion is made in the form of the rhetorical question admittedly posed by Officer Modzelewski.<sup>33</sup> Allegation #1 against Officer Modzelewski is therefore **SUSTAINED**.

There is also substantial evidence to support Allegation # 2 against Officer Modzelewski -- that he reported via 911 that he had been the victim of an assault while knowing that there was no reasonable ground for believing that such an offense had in fact been committed, thereby violating Rules 1 and 8 of the CPD Rules of Conduct.

Illinois law defines assault as “conduct which places another in reasonable apprehension of receiving a battery.”<sup>34</sup> Taking Officer Modzelewski’s description of [REDACTED] actions as true, and further assuming that Officer Modzelewski truly took [REDACTED] alleged “I’ll be back” statement as threatening, COPA nevertheless finds that nothing in [REDACTED] behavior and words, as described by Officer Modzelewski, could have placed Officer Modzelewski in reasonable apprehension of receiving a battery, thereby constituting an assault. As Officer Modzelewski described the incident, [REDACTED] made no attempt to strike Officer Modzelewski or anyone else, he made no threatening gestures, and he gave no appearance of being armed. Accordingly, when Officer Modzelewski reported that he had been the victim of an assault, he violated Rule 1 of the CPD Rules of Conduct, which prohibits the violation of any law or ordinance, as making a false report that an offense has been committed is proscribed by law.<sup>35</sup> Officer Modzelewski’s actions in making such a report also violated Rule 8 of the CPD Rules of Conduct, which prohibits maltreatment of any person, whether on or off duty.

### **B. Allegations against Officer Fiore**

There is substantial evidence to support Allegations 1, 2, and 3 against Officer Fiore, which are that Officer Fiore violated Rules 1 and 8 of the CPD Rules of Conduct by encouraging Officer Modzelewski to report to a public official via 911 that [REDACTED] was armed with a gun, knowing that (1) there was no reasonable ground for believing that such a report would be true, (2) such a report, if made, could have resulted in the emergency response of the CPD, and (3) such a report, if made, could have unjustifiably endangered [REDACTED] safety.

In her Web Complaint initiating this investigation, [REDACTED] reported that Officer Fiore instructed Officer Modzelewski to call 911 and to report that the Complainant was armed with a gun. The

---

<sup>33</sup>The law recognizes that the act of accusing a person of child sex offenses is such patently harmful behavior that the victim of such a slander need not offer evidence of damages in order to prevail in a defamation suit. See Hadley v. Doe, 2015 IL 118000, ¶¶ 30 - 39 (2015) (an alleged reference to the plaintiff as “a Sandusky” qualified as defamation *per se*).

<sup>34</sup>720 ILCS 5/12-1(a).

<sup>35</sup>Among other things, 720 ILCS 5/26-1(a)(4) prohibits the knowing transmission to any peace officer, public officer or public employee “a report to the effect that an offense ... has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense ... has been committed.”

audio recording of that 911 call supports [REDACTED] report, as it reveals an adult male voice in the background stating, "Tell them he has a gun." The evidence shows that no person other than Officer Fiore was near Officer Modzelewski at the time that he made the 911 call. Officer Fiore has not denied that he made such a statement or that the background voice was his. Instead, Officer Fiore said, "[I]t could be. I'm not saying that it can't be. And, I, and I don't remember saying that, if it is me." COPA therefore finds that Officer Fiore did in fact encourage or request Officer Modzelewski to report to OEMC via 911 that the Complainant was armed with a gun.

COPA further finds that Officer Fiore had no reasonable ground for believing that such a 911 report would be true. Officer Fiore observed no gun, nor did he observe anything about [REDACTED] behavior that would have led a reasonable person to believe that [REDACTED] was armed. COPA rejects as implausible Officer Fiore's explanation that [REDACTED] alleged "I've got something for you" statement, if made, would have, under the circumstances, been evidence that [REDACTED] was armed with a gun. Officer Fiore's claim that his experience from writing reports led him to draw such a conclusion is similarly incredible and fantastic.

COPA further finds that Officer Fiore knew at the time that he encouraged Officer Modzelewski to report to a 911 operator that [REDACTED] was armed that such a report would have resulted in the emergency response of the CPD, a point that Officer Fire essentially admitted. It necessarily follows as self-evident that Officer Fiore also knew at the time that such a report, if made, could have unjustifiably endangered [REDACTED] safety.

Accordingly, Officer Fiore's actions violated Rule 1 of the CPD Rules of Conduct, which prohibits the violation of any law or ordinance, in that Officer Fiore's behavior constituted solicitation of a false 911 call.<sup>36</sup> Officer Fiore's actions also violated Rule 8 of the CPD Rules of Conduct, which prohibits maltreatment of any person, whether on or off duty. Allegations ## 1 – 3 against Officer Fiore are therefore **SUSTAINED**.

## VII. RECOMMENDATIONS

### a. Officer Michael Modzelewski

#### i. Complimentary and Disciplinary History

Officer Modzelewski has no history of discipline. His complimentary history includes numerous Honorable Mentions (128) and Complimentary Letters (12).

#### ii. Recommended Penalty, by Allegation

COPA recommends discipline of 7 days for Allegation 1 and 7 days for Allegation 2, to run concurrently. As to Allegation 1, Officer Modzelewski baselessly accused [REDACTED] of being

---

<sup>36</sup>720 ILCS 5/8-1 provides, in part, that "[a] person commits the offense of solicitation when, with intent that an offense be committed, ... he or she commands, encourages, or requests another to commit that offense." Among other things, 720 ILCS 5/26-1(a)(6) prohibits 911 calls where the caller knows there is no reasonable ground for making the call and further knows that the call could result in the emergency response of any public safety agency.

a “pedophile” in the presence of [REDACTED] mother. This is a blatantly disrespectful and offensive manner of addressing a member of the public by someone who had no knowledge of wrongdoing. As to Allegation 2, Officer Modzelewski acted improperly by reporting an assault to OEMC via 911 when he had no reasonable basis for doing so.

**b. Officer Randall Fiore**

**i. Complimentary and Disciplinary History**

Officer Fiore’s discipline history consists of a sustained finding for a court appearance violation. His complimentary history includes numerous Honorable Mentions (76) and Complimentary Letters (6).

**ii. Recommended Penalty, by Allegation**

COPA recommends discipline of 7 days each for Allegations 1, 2, and 3, to run concurrently. Officer Fiore acted recklessly by encouraging Officer Modzelewski to falsely report to OEMC via 911 that [REDACTED] had a gun. Such an act was reckless -- had Officer Modzelewski done as he was encouraged, [REDACTED] life could have been needlessly endangered as responding officers would have thought they were dealing with an armed individual. As a police officer, Officer Fiore no doubt knew the likely effect of alerting OEMC that an individual was armed with a gun.

**VIII. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

Member	Allegation	Finding / Recommendation
Officer Modzelewski	1. On May 6, 2018, at or near [REDACTED] Chicago, Illinois, the accused maltreated the Complainant [REDACTED] in that he falsely accused him of being a child sex offender, without having reasonable grounds for believing that such an accusation was true, in violation of Rule 8 of the CPD Rules of Conduct.	SUSTAINED 7 Days
	2. At the above time and place, the accused made a report to a public official via 911 to the effect that the offense of assault had been committed, knowing at the time that there was no reasonable ground for believing that such an offense had in fact been committed, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	SUSTAINED 7 Days
Officer Fiore	1. On May 6, 2018, at or near [REDACTED] Chicago, Illinois, the accused encouraged	SUSTAINED 7 Days

or requested another person to report to a public official via 911 that the Complainant [REDACTED] [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, in violation of Rules 1 and 8 of the CPD Rules of Conduct.

2. At the above date, time, and place, the accused encouraged or requested another person to report to a public official via 911 that the Complainant [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, and further knowing that such a report, if made, could have resulted in the emergency response of the Chicago Police Department, in violation of Rules 1 and 8 of the CPD Rules of Conduct.

3. At the above date, time, and place, the accused encouraged or requested another person to report to a public official via 911 that the Complainant [REDACTED] was armed with a gun, knowing at the time that there was no reasonable ground for believing that such a report would be true, and further knowing that that such a report, if made, could have unjustifiably endangered the safety of [REDACTED] in violation of Rules 1 and 8 of the CPD Rules of Conduct.

SUSTAINED  
7 Days

SUSTAINED  
7 Days

Approved:

[REDACTED]

Angela Hearts-Glass  
Deputy Chief Administrator – Chief Investigator

11-2-18  
Date

Appendix A

Assigned Investigative Staff

---

<b>Squad#:</b>	Squad #11
<b>Investigator:</b>	Francis Tighe
<b>Supervising Investigator:</b>	Brian Dollar
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass