

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 10, 2015
Time of Incident:	9:55 p.m.
Location of Incident:	5701 W. Madison St., Chicago, IL
Date of IPRA Notification:	March 11, 2015
Time of IPRA Notification:	12:00 p.m.

On March 10, 2015, CPD officer Juan Cifuentes was escorting juvenile [REDACTED] from the back of his unmarked police SUV, through the 15<sup>th</sup> District secure entrance loading area (“sallyport”). Mr. [REDACTED] was in custody for alleged possession of <30 grams of marijuana, and was removed from the squad vehicle already handcuffed.

Station surveillance video depicted Officer Cifuentes escort Mr. [REDACTED] towards the outer door of the secure interior vestibule, when he abruptly shoved him against the wall and/or doorway, striking his face and body. Immediately thereafter, Officer Cifuentes led Mr. [REDACTED] into the secure inner vestibule, whereupon the officer removed his own vest, threw it to the floor and began yelling at Mr. [REDACTED] -- all while gesticulating and towering over Mr. [REDACTED]

Mr. [REDACTED] subsequently received medical care for wounds to his lip and chin. No CPD in-car camera or body-worn camera footage depicting the incident was recovered by CPD. Mr. [REDACTED] subsequently provided a sworn statement to IPRA, as did Officer Cifuentes.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Juan Cifuentes, Star #20815, Employee ID # [REDACTED] Date of Appointment: July 9, 2007, Police Officer as Detective, Unit 630 Detective Area North, DOB: [REDACTED], 1979, M, Hispanic.
Involved Individual #1:	Victim [REDACTED] 17, M, Black, [REDACTED], Chicago, IL [REDACTED]
Involved Individual #2:	Complainant [REDACTED] [REDACTED] 38, F, Black, [REDACTED], Chicago, IL [REDACTED]

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Juan Cifuentes	<p>1. It is alleged that on or about March 10, 2015, at approximately 2055 hours, in the sallyport of the 15<sup>th</sup> District station, the accused officer pushed [REDACTED] face against the wall without justification, in violation of Rule 8.</p> <p>2. It is alleged that on or about March 10, 2015, at approximately 2055 hours, in the sallyport of the 15<sup>th</sup> District station, the accused officer pushed [REDACTED] face against a door without justification, in violation of Rule 8.</p> <p>3. It is further alleged that while in the 015<sup>th</sup> District station prior to processing Mr. [REDACTED] the accused officer made intimidating movements and gestures towards him, in violation of Rules 2 and 8.</p>	<p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p>

IV. APPLICABLE RULES AND LAWS

Rules

**Rule 1:** prohibits “Violation of any Law or Ordinance.”

**Rule 2:** prohibits “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”

**Rule 8:** prohibits “Disrespect to or maltreatment of any person while on or off duty.”

**Rule 9:** prohibits “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”

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General Orders

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1. **G03-02-01: Use of Force Model<sup>1</sup>**

“The Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The Use of Force Model employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. Such response may progress from the member’s actual presence at the scene to the application of deadly force.

“A. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances.

“B. Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force.

“C. When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject's resistance and to gain control.

1. Members are not required to start at the lowest levels of the Use of Force Model; they will select the appropriate level of force based on the subject's actions.
2. Members will modify their level of force in relation to the amount of resistance offered by the subject.
  - a. As the subject offers less resistance, the member will lower the amount or type of force used.
  - b. As the subject increases resistance, the member may increase the amount or type of force used[....]”

2. **G03-02-02: Force Options.<sup>2</sup>**

“II. POLICY

“A. Members will maintain a courteous and professional demeanor when dealing with the public.

“B. Before taking any police action, sworn members will identify themselves as police officers unless identification would jeopardize the safety of the member or others or compromise the integrity of an investigation.

“C. Members will select the appropriate level of force option based on a subject’s actions and modify their selection of options as the subject offers less or greater resistance[....]”

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<sup>1</sup> Attachment 32. (Effective May 16, 2012.)

<sup>2</sup> Attachment 36. (Effective May 16, 2012.)

## V. INVESTIGATION<sup>3</sup>

### a. Interviews

#### 1. Victim ██████████

In an interview with IPRA on March 16, 2015, **Victim ██████████** related that on March 10, 2015, at approximately 10:00 p.m., he was standing at Leamington Ave. and Madison St. waiting for his friend ██████████ to bring his car to him. Three officers in an unmarked vehicle drove up and the driver summoned Mr. ██████████ to step forward. An officer thereafter searched and arrested Mr. ██████████ claiming he possessed marijuana – which Mr. ██████████ denied. Mr. ██████████ was searched and handcuffed and driven to the 15<sup>th</sup> District station.

After arriving at the station, Mr. ██████████ related the arresting officer exited, threw his handgun to another officer still seated inside, and then removed Mr. ██████████ whose hands were cuffed behind his back, from the rear of the vehicle. Mr. ██████████ related the officer then ran him up a ramp leading to a doorway, and in the process “rammed” him into the adjacent wall, striking his face.<sup>4</sup> The officer then pushed Mr. ██████████ up against the door, and similarly “rammed” him against it. Mr. ██████████ related he did not resist the officer. Thereafter, the officer threw down his bulletproof vest onto the floor, and yelled at Mr. ██████████<sup>5</sup> Then, he took Mr. ██████████ into another interior room to be searched. At one point during the incident, the officer challenged Mr. ██████████ to fight him and stated: “C’mon, do something! Fight!”<sup>6</sup>

Mr. ██████████ did not fight the officer and was thereafter searched by another officer. He did not see the first officer again until he was released at or about 1 a.m. on March 11, 2015.

Mr. ██████████ related he was injured but the officers did not offer him medical care, and he denied threatening any officer.

#### 2. Police Statements

In a statement to IPRA on November 10, 2016,<sup>8</sup> **Officer Juan Cifuentes** confirmed the basic use of force described in the allegations, but denied that his use of force was improper.

Officer Cifuentes related that at the time of the incident, he was in plain clothes and driving on patrol with Officer Brian Berka, and Sergeant Roman.<sup>9</sup> They viewed Mr. ██████████ on the street

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<sup>3</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>4</sup> Attachment 7 at 5:14.

<sup>5</sup> *Id.* at 5:36.

<sup>6</sup> *Id.* at 5:44.

<sup>8</sup> See Attachment 25, transcript of IPRA audio statement.

<sup>9</sup> Sergeant Wilfredo Roman, #17397. IPRA did not interview PO Berka or Sergeant Roman; due to the passage of four years since the incident, COPA declined to obtain their statements.

and when Mr. ██████ saw the officers, he stopped and ran, discarding a small plastic bag.<sup>10</sup> The officers exited and ran after him, and located the bag which appeared to contain cannabis. Mr. ██████ was handcuffed, searched and arrested, and driven to the 15<sup>th</sup> District for processing.

Officer Cifuentes related that Mr. ██████ was “irate” during the ride to the station.<sup>11</sup> He told officers of his arrest: “This is bullshit [...] you didn’t find nothing. Fuck this, fuck that[...] I wish I could kick your ass.”<sup>12</sup>

When the vehicle arrived at the station, it entered the sallyport area and Officer Cifuentes exited and walked around the vehicle. He gave his weapon to the sergeant seated in the vehicle, and pulled Mr. ██████ out of the rear seat. Mr. ██████ threatened to kick the officers’ asses and demanded his handcuffs be removed. Officer Cifuentes then attempted to grab Mr. ██████ handcuffs, “And he kinda pulled away. As he’s pulling away, I kinda push, shoved him against the wall.”<sup>15</sup>

Officer Cifuentes then walked Mr. ██████ to the locked entry door, but had problems unlocking the door. While trying to open the door, Officer Cifuentes needed to “pin” Mr. ██████ against the door, to free a hand to extract the door keycard in his wallet.<sup>16</sup> Officer Cifuentes also related he was afraid Mr. ██████ would kick and injure Officer Cifuentes’ legs, at one point, so he additionally pushed him up against the wall.<sup>17</sup> Officer Cifuentes related at various points having pushed, “braced” or pinned Mr. ██████ up against various walls and/or doorway(s) during the incident.

Once past the door into the sallyport vestibule, Mr. ██████ complained his handcuffs were too tight so Officer Cifuentes attempted to loosen them. At that point, one of Mr. ██████ hands slipped from the handcuffs<sup>18</sup> and because he was still making verbal threats, Officer Cifuentes “reacted” by taking off his vest and throwing it onto the floor.<sup>19</sup> Officer Cifuentes then “Got in his face.”<sup>20</sup> Both individuals verbally confronted each other and once the scene de-escalated, Officer Cifuentes escorted Mr. ██████ into the processing room and completed paperwork.

Officer Cifuentes related that Mr. ██████ only verbally confronted the officer, and did not physically attack him.<sup>21</sup>

Mr. ██████ did not complain of any injury, but a wound was visibly bleeding on his lip.<sup>22</sup> Officer Cifuentes believed it resulted from the push against the wall.<sup>23</sup>

<sup>10</sup> Attachment 25, p. 6

<sup>11</sup> *Id.*, at pg. 7, ln., 22.

<sup>12</sup> *Id.*, at pg. 9, lns. 18-21.

<sup>15</sup> *Id.*, at pg. 11, lns. 11-12.

<sup>16</sup> *Id.*, at pg. 12, ln. 7.

<sup>17</sup> *Id.*, at pg. 13, ln. 15.

<sup>18</sup> The video footage instead documented that both of Mr. ██████ hands were secured in handcuffs during the incident.

<sup>19</sup> Attachment 25, pg. 14, ln. 19, et seq.

<sup>20</sup> *Id.*, at pg. 15, ln. 2.

<sup>21</sup> *Id.*, at pg. 21, ln. 6.

<sup>22</sup> *Id.*, at pg. 17, ln. 3.

<sup>23</sup> *Id.*, at pg. 17, ln. 7, and pg. 36, ln. 15.

### b. Digital Evidence

CPD produced three 15<sup>th</sup> District surveillance video copies to IPRA which depicted most of the actions alleged. ICC or BWC footage was not available for this incident.

The surveillance video clearly depicted Officer Cifuentes shove Mr. [REDACTED] into both the sallyport area wall and/or entry doorway,<sup>24</sup> as well as showed subsequent vestibule-area footage of Officer Cifuentes throwing down his vest and yelling in Mr. [REDACTED] face.<sup>25</sup> The videos also showed that both of Mr. [REDACTED] wrists were handcuffed together during the incident. The videos do not clearly depict Mr. [REDACTED] pulling away or clearly show any injuries to his person.<sup>26 27</sup>

**Digital photographs** taken on March 10, 2015 by CPD evidence technician Louis Boone, #14310, depicted apparent injuries to Mr. [REDACTED] face, including trauma to the lip and chin.<sup>28</sup> Mrs. [REDACTED] also provided IPRA with mobile phone digital photographs, purportedly depicting injured areas of [REDACTED] face and chin.<sup>29</sup>

### c. Physical Evidence

#### Medical Records

[REDACTED] **Hospital medical records**<sup>30</sup> documented that Mr. [REDACTED] presented to the emergency department on March 11, 2015, complaining of injury to the face and lower lip following an altercation with CPD officers at approximately 1 a.m. Superficial lacerations to the lip and face were noted, and no loss of consciousness, fracture(s) or dental injury was noted. The wounds appeared >15 hours old, were not actively bleeding and noted as healing well. No sutures or dressings were placed and Mr. [REDACTED] was discharged home, in the care of his mother, with prescriptions for ibuprophen for pain, a chlorhexidine oral antiseptic rinse, and instructions to follow up with the department of oral and maxillofacial surgery.

### d. Documentary Evidence

#### Department Reports and Records

The **Original Case Incident Report**<sup>31</sup> and **Arrest Report**<sup>32</sup> for RD # [REDACTED] documented, respectively, that at the time of the incident, Officer Cifuentes, his partner, Officer Berka, and Sergeant Roman were on patrol in a high narcotic zone, observed a group of unknown black males on a corner and approached them. [REDACTED]

<sup>24</sup> Attachment 20, video at 8:50:23, and 8:50:27.

<sup>25</sup> *Id.*, "Secure Vestibule" clip at 8:50:41.

<sup>26</sup> *Id.*

<sup>27</sup> The videos do not include audio.

<sup>28</sup> Attachment 7, ET Photos

<sup>29</sup> Attachment 19.

<sup>30</sup> Attachment 28.

<sup>31</sup> Attachment 13.

<sup>32</sup> Attachment 12.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] An evidence technician was ordered to photograph Mr. [REDACTED] injuries, and Mr. [REDACTED] mother, [REDACTED] [REDACTED] was notified of the arrest by telephone. The arrest report documented Mrs. [REDACTED] purportedly told Officer Cifuentes she would take [REDACTED] to the hospital herself, if needed.

The **Tactical Response Report (“TRR”)**<sup>34</sup> filed by Officer Cifuentes documented that member presence, verbal commands, escort holds, and bracing the offender’s body were used upon Mr. [REDACTED]. Mr. Adams was reported injured and having refused aid. He was also listed as unarmed and classified as a passive and active resister, and assailant (“verbal threats”).

The **Officer’s Battery Report (“OBR”)**<sup>35</sup> completed by Officer Cifuentes, documented that on the date and time of the incident, Officer Cifuentes was verbally assaulted while on-duty and in civilian attire. No weapons were documented and Officer Cifuentes did not sustain any apparent injuries.

The **Crime Scene Processing Report**<sup>36</sup>, documented that photographs were taken of the offender, [REDACTED] in the 15<sup>th</sup> District station on March 10, 2015, and depicted areas including Mr. [REDACTED] chin.

The **Inventory Sheet**<sup>37</sup>, documented that on March 10, 2015, a knotted plastic bag believed to be Mr. [REDACTED] and containing five zip-lock baggies containing suspected cannabis, <30 gms, was taken into custody by Sergeant Roman and scheduled for analysis by the Forensic Services Division.

## VI. 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.

<sup>34</sup> Attachment 14.

<sup>35</sup> Attachment 15.

<sup>36</sup> Attachment 18.

<sup>37</sup> Attachment 26.

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. *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). 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. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

## VII. ANALYSIS

### Accused Officer Juan Cifuentes

COPA finds that **Allegation #1** that **Officer Juan Cifuentes** on or about March 10, 2015, at approximately 2055 hours, in the sallyport of the 15<sup>th</sup> District station, pushed ██████ face against a wall without due justification, in violation of Rule 8, is SUSTAINED.

Station surveillance video clearly depicted Officer Cifuentes shove a handcuffed Mr. ██████ into a wall and/or doorway, striking his face and body. The preponderance of evidence presented, including Officer Cifuentes' admission he "braced" and "shoved" Mr. ██████ against a door, sufficiently corroborates the allegation.

Officer Cifuentes related that he pushed, shoved and/or "braced" ██████ against the wall and/or door to gain control because Mr. ██████ resisted and/or because one of his hands slipped from the handcuffs. The video, however, shows Officer Cifuentes maintained an almost continuous hold of Mr. ██████ arms, and that no significant indication of Mr. ██████ resisting or fleeing was visible before the shove(s) into the wall or door. Likewise, the video also depicted both of Mr. ██████ wrists were handcuffed behind his back in both the sallyport and vestibule areas -- including before the shoving and vest removal/throwing incidents. Officer Cifuentes' IPRA statement is thus directly contravened by the video evidence.

Officer Cifuentes' explanation he may have accidentally injured ██████ by merely "brac[ing]" him against a door while searching for his keycard, strains credulity at best. The surveillance video instead depicted Officer Cifuentes abruptly shove ██████ against the wall and/or entry door -- bouncing ██████ face and body off the fixed objects.

CPD's then-current policies, G03-02-01 "Use of Force Model" and G03-02-02 "Force Options," allowed for escalating uses of force by CPD personnel commensurate with the level of threat and resistance presented by a subject.<sup>38 39</sup>

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<sup>38</sup> Attachment 32.

<sup>39</sup> Attachment 36.

Even were Officer Cifuentes' explanation taken as true, that Mr. [REDACTED] actively or passively resisted and could have kicked Officer Cifuentes it would still not justify turning and shoving a handcuffed minor, face-first, into a wall or doorway under G03-02-01 or G03-02-02. Doing so was neither objectively reasonable under the circumstances, necessary or proportional. [REDACTED] age 17, 5'9" and 145 lbs., was handcuffed behind his back and did not have ready access to weapons. He posed little threat of inflicting serious or fatal physical injury upon the officers, and, as admitted by Officer Cifuentes, he at most posed a risk of verbal threats, kicking, or pulling away while being escorted. Such risks were not sufficient to warrant the level of physical response employed.

For each of the foregoing reasons, a finding of SUSTAINED is warranted.

COPA finds that, for each of the foregoing reasons as set forth above, that **Allegation #2** that **Officer Juan Cifuentes** on or about March 10, 2015, pushed [REDACTED] face against a door without justification, in violation of Rule 8, is SUSTAINED.

COPA finds for **Allegation #3**, that while in the 015<sup>th</sup> District station prior to processing Mr. [REDACTED] **Officer Juan Cifuentes** made intimidating movements and gestures towards him, in violation of Rules 2 and 8, is SUSTAINED.

Station surveillance video clearly depicted Officer Cifuentes enter the station's vacant, secured entry vestibule with [REDACTED] who appeared fully handcuffed. Almost immediately thereafter, Officer Cifuentes backed Mr. [REDACTED] against a wall, took off his police vest, threw it to the floor, and moved towards Mr. [REDACTED]. While there is no audio on the recording, it appears that Officer Cifuentes verbally berated Mr. [REDACTED] -- who appeared to slouch and cower against the wall in response. The manner in which Officer Cifuentes raised his arms, coupled with his admission during his IPRA statement that he "reacted" in the vestibule, lends greater credence to Mr. [REDACTED] description of events, including that Officer Cifuentes "got in his face" and challenged him to respond.

Officer Cifuentes' actions in the vestibule cannot reasonably be characterized as a de-escalation technique or a justifiable response to prior resistance or verbal threats by a minor. To the contrary, the evidence supports the contention the actions were retributory and/or intended to place [REDACTED] in imminent fear of receiving an extra-judicial battery – and one committed in a small, windowless room with no witnesses or ready means of escape. At minimum, the behavior was overtly intimidating. It is clear from the video evidence that Officer Cifuentes grossly over reacted in an unjustifiable manner against Mr. [REDACTED].

For the foregoing reasons, a finding of SUSTAINED is warranted.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS****a. Officer Cifuentes****i. Complimentary and Disciplinary History****Complimentary History:**

2, Attendance Recognition Award  
7, Emblem of Recognition – Physical Fitness  
1, Presidential Election Deployment Award, 2008  
6, Department Commendation  
103, Honorable Mention  
3, Complimentary Letter  
1, NATO Summit Service Award  
1, 2009 Crime Reduction Award  
1, Unit Meritorious Performance Award

**Disciplinary History:**

CR – None  
SPAR – 2017 Reprimand for Preventable Accident

**ii. Recommended Penalty, by Allegation**

Allegation No. 1: 10 Day Suspension

Officer Cifuentes used excessive force on a juvenile who was handcuffed at a police station.

Allegation No. 2: 10 Day Suspension

Officer Cifuentes used excessive force on a juvenile who was handcuffed at a police station.

Allegation No. 3: 10 Day Suspension

Officer Cifuentes physically intimidated a juvenile who was handcuffed at a police station.

**IX. CONCLUSION**

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

Officer	Allegation	Finding
<p><b>Officer Juan Cifuentes</b></p>	<p>1. It is alleged that on or about March 10, 2015, at approximately 2055 hours, in the sallyport of the 15<sup>th</sup> District station, the accused officer pushed [REDACTED] face against the wall without justification, in violation of Rule 8.</p> <p>2. It is alleged that on or about March 10, 2015, at approximately 2055 hours, in the sallyport of the 15<sup>th</sup> District station, the accused officer pushed [REDACTED] face against a door without justification, in violation of Rule 8.</p> <p>3. It is further alleged that while in the 015<sup>th</sup> District station prior to processing Mr. [REDACTED] the accused officer made intimidating movements and gestures towards him, in violation of Rules 2 and 8.</p>	<p>Sustained/ 10 Days</p> <p>Sustained/ 10 Days</p> <p>Sustained/ 10 Days</p>

Approved:

[REDACTED]

Angela Hearts-Glass  
Deputy Chief Administrator – Chief Investigator

Date

3-26-19

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	2
<b>Investigator:</b>	Paul Fine
<b>Supervising Investigator:</b>	Sherry Daun
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass