



Lori E. Lightfoot
Mayor

Department of Police · City of Chicago
3510 South Michigan Avenue · Chicago, Illinois 60653

Charlie Beck
Interim Superintendent of Police

13 February 2020

Sydney Roberts
Chief Administrator
Civilian Office of Police Accountability
1615 West Chicago Avenue, 4th Floor
Chicago, Illinois 60622

**Re: Log # 1077465
Non-Concurrence for findings and penalty recommendations for:
Police Officer Joseph Barrios #7700**

Dear Chief Administrator Roberts:

The Department concurs with COPA's Sustained findings for the following allegations:

Allegation #2: Searched the inside of [REDACTED] vehicle without a warrant or permission.

Allegation #3: Searched the trunk of [REDACTED] [REDACTED] vehicle without a warrant or permission.

The Department does not concur with COPA's Sustained findings for the following allegations:

Allegation #1: Grabbed [REDACTED] by the back of his neck and pulled him out of his vehicle without justification.

Allegation #4: Stated to [REDACTED] words to the effect of, "Your broke ass don't have a job."

Allegation #5: Stated to [REDACTED] words to the effect of, "You just like the rest of these black [racial slur] on the street, gang-banging and doing all that."

Allegation #6: Stated to [REDACTED] words to the effect of, "You're not shit, never going to be shit."

Allegation #7: Stated to [REDACTED] words to the effect of, "Now go ahead, go along with your broke down ass Hyundai."

Allegation #9: Called bystander, [REDACTED] a racial slur.



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The Department believes Allegations #1, 4, 5, 6, 7, and 9 should be as *Not Sustained* because the allegation is the only evidence that these actions and statements occurred.

The Department does not concur with the recommended penalty of a fifteen (15) day suspension for each officer. The Department believes a **Reprimand** is more appropriate for Allegations #2 and 3.

Pursuant to MCC 2-57-060(b), the undersigned provides comment when there is a disagreement to a finding and penalty.

Officer's History

Officer Barrios has received one hundred forty-three (143) awards in his 27 year career, including two (2) Complimentary Letters, ten (10) Department Commendations, one (1) Problem Solving Award, and one hundred six (106) honorable mentions.

Officer Barrios has had no sustained complaints in the last five years.

Case Summary

On 06 October 2015, Officer Joseph Barrios was working by himself and conducted a traffic stop at 6200 S. Western on [REDACTED] who using a cell phone while driving. Officer Barrios approached [REDACTED] and requested his license and insurance. [REDACTED] did not have his wallet. Officer Barrios told him to exit the car.

[REDACTED] stated that Officer Barrios grabbed him by the scruff of his neck and pulled him out. Officer Barrios stated [REDACTED] exited himself and Officer Barrios may have escorted him by placing his hand on his back. Both parties stated [REDACTED] was patted down and placed in the officer's patrol vehicle without handcuffs.

While putting [REDACTED] into the car, [REDACTED] stated Officer Barrios told [REDACTED] "Your broke ass don't have a job. You just like the rest of these black niggers on the street, gang-banging and doing all that." Officer Barrios denied making these statements.

At the same time, [REDACTED] cousin, [REDACTED] was nearby and observed the officer about to take [REDACTED] out of his car. [REDACTED] stated he saw Officer Barrios grab [REDACTED] by his neck and pull him out of the vehicle. [REDACTED] approached his cousin's car on foot and asked Officer Barrios why he was taking his cousin out of the car.

[REDACTED] stated that Officer Barrios told him, "Go to work homey. Before something happens," and then



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called [REDACTED] a racial slur. Officer Barrios stated he did not recall having any conversation with [REDACTED] and specifically denied using a racial slur. [REDACTED] stated he then went back to his vehicle and used his cell phone to record Officer Barrios searching [REDACTED] vehicle. [REDACTED] stated he could not hear any conversations while he was recording.¹ While recording, [REDACTED] mentioned to another person that Officer Barrios told him, "Go to work homie – you ain't got no motherfucking job, homie."

Officer Barrios told COPA that he called for backup. Officer Barrios initially stated he called for backup because he was by himself and later stated he called for backup because [REDACTED] had been aggressive from the start of the stop.

Officer Barrios searched [REDACTED] vehicle passenger compartment and trunk. Officer Barrios stated he believed he was authorized to search the vehicle because [REDACTED] was in custody for not having a license. Officer Barrios released [REDACTED] from custody. [REDACTED] stated that when he asked for his insurance information, Officer Barrios "balled up" the document and gave it to him.

Officer Barrios completed a Contact Card documenting this traffic stop.

On the same day, [REDACTED] and [REDACTED] went to COPA and were interviewed separately at 1805 and 1818 hours. Approximately 8 months after this incident on 08 June 2016, COPA interviewed Officer Barrios.

COPA also interviewed three officers who responded to Officer Barrios' call for assist. The officers all identified themselves and other officers from the cell phone video which recorded Officer Barrios' search of the vehicle. The officers recalled being on the scene, but did not recall any conversations on the scene.

COPA sustained the allegations because COPA found the [REDACTED] cousin's statements were more credible based on the following conclusions:

1. [REDACTED] and [REDACTED] came to COPA and reported this incident the day it occurred.
2. [REDACTED] and [REDACTED] gave consistent allegations of verbal abuse and racial slurs.
3. [REDACTED] "contemporaneous recitation of his observations" on his cell phone recording added further credibility.²
4. Officer Barrios had "less clear and less consistent recollections."
5. Officer Barrios admitted that he may have placed his hand on [REDACTED] back.³

¹ COPA Summary pg. 7

² COPA Summary pg. 12

³ COPA Summary pg. 13



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Superintendent's Professional Opinion

The Department will not tolerate officers physically or verbally abusing members of the public. The issue in this case is whether there is sufficient evidence to show that Officer Barrios physically grabbed [REDACTED] by the neck and whether Officer Barrios made offensive racial statements to [REDACTED] and [REDACTED].

First, the allegation that Officer Barrios grabbed [REDACTED] by the neck is not consistent with the other actions Officer Barrios took during this stop. [REDACTED] told COPA he was never placed into handcuffs during this traffic stop. The investigation also revealed that Officer Barrios took no enforcement action, and only documented this incident on a Contact Card. While these facts do not refute [REDACTED] allegations, a traffic stop where handcuffs are never used and no enforcement action is taken would not typically occur when a driver was forcibly extracted from his vehicle. The Department also does not believe that Officer Barrios' *admission* that he may have placed his hand on [REDACTED] back while escorting him between vehicles is evidence that Officer Barrios used excessive force.

Second, the Department believes there is insufficient evidence to show that Officer Barrios used racial slurs when speaking with either [REDACTED] or [REDACTED]. While the cousins were interviewed on the same day, Officer Barrios was not interviewed until 8 months after the incident. Officer Barrios' inability to recollect this incident with the specifics offered by [REDACTED] and [REDACTED] cannot be evidence against Officer Barrios since he was not given the opportunity to address the allegations until 8 months after the incident. It is important to note that Officer Barrios denied using any racial slurs during this stop.

Third, while [REDACTED] and [REDACTED] allege that Officer Barrios called each of them a racial slur, [REDACTED] did not hear Officer Barrios call [REDACTED] a racial slur and [REDACTED] did not hear Officer Barrios call [REDACTED] a racial slur. It is important to note that the cousins were directly near each other when these slurs allegedly occurred.⁴

Finally, both [REDACTED] and [REDACTED] were clearly offended by the actions Officer Barrios took during this stop. They both reported to COPA that they believed removing [REDACTED] from his car was improper. [REDACTED] told COPA that he believed that [REDACTED] had a license and, so, he told Officer Barrios that taking [REDACTED] out of his vehicle for a traffic stop was improper.⁵ [REDACTED] and [REDACTED] were correct

⁴ [REDACTED] only reported that Officer Barrios referred to [REDACTED] as "homey" when [REDACTED] approached and argued with Officer Barrios about the actions taken during this stop. [REDACTED] stated that he did not hear anything Officer Barrios said to [REDACTED] because when [REDACTED] approached, Officer Barrios started talking to him.

⁵ Attachment #9



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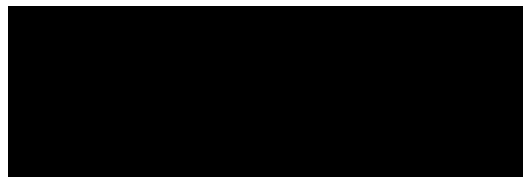
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that Officer Barrios did not have cause to search the vehicle, and the Department agrees that those allegations have been properly sustained. While the investigation indicates that some argument may have occurred between [REDACTED] and Officer Barrios, when [REDACTED] argued that [REDACTED] should not be placed into custody and Officer Barrios told [REDACTED] to leave, there is insufficient evidence to show that this argument included racial insults or that Officer Barrios made any of the statements alleged.

The Department believes that Allegations #2 and 3 have been sufficiently proven and the appropriate penalty is a **Reprimand**. The Department does not agree that there is sufficient evidence to sustain the other allegations and believes those allegations should be classified as *Not Sustained*.

The Department looks forward to discussing this non-concurrence with COPA.



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