

**SUMMARY REPORT OF INVESTIGATION <sup>1</sup>**

**I. EXECUTIVE SUMMARY**

|                                 |  |
|---------------------------------|--|
| Date/Time/Location of Incident: | July 4, 2021 / 03:06 AM / 6900 S Stewart Ave |
| Date/Time of COPA Notification: | July 4, 2021 / 4:50 AM                       |

The complainant alleges that he was stopped and detained without justification while driving his vehicle. During the investigation, the complainant alleges that an officer engaged in a verbal altercation with him.

**II. INVOLVED PARTIES**

|                         |   |
|-------------------------|---|
| Involved Officer #1:    | Sergio Martinez, Star# 19512, Employee# [REDACTED], DOA: December 2, 2002, PO, Unit of Assignment: 716, DOB: [REDACTED] 1980, Male, Hispanic  |
| Involved Officer #2:    | Andrew Kats, Star# 17577, Employee# [REDACTED], DOA: July 27, 2018, PO, Unit of Assignment: 211, DOB: [REDACTED], 1991, Male, White           |
| Involved Officer #3:    | Dante Koeppen, Star# 18927, Employee# [REDACTED], DOA: February 20, 2018, PO, Unit of Assignment: 716, DOB: [REDACTED], 1991, Male, White     |
| Involved Officer #4:    | Janessa Hernandez, Star# 6717, Employee # [REDACTED], DOA: May 16, 2018, PO, Unit of Assignment: 211, DOB: [REDACTED], 1994, Female, Hispanic |
| Involved Individual #1: | [REDACTED], 1972, Male, Black   |

**III. ALLEGATIONS**

| Officer                 | Allegation  | Finding              |
|-------------------------|---|----------------------|
| Officer Sergio Martinez | 1. Detained [REDACTED] without justification                    | <b>Not Sustained</b> |
|                         | 2. Engaged in an unjustified verbal altercation with [REDACTED] | <b>Sustained</b>     |
| Officer Andrew Kats     | 1. Detained [REDACTED] without justification                    | <b>Not Sustained</b> |

<sup>1</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.

|                           |   |                      |
|---------------------------|---|----------------------|
|                           | 2. Searched the vehicle of [REDACTED] without justification.                          | <b>Not Sustained</b> |
| Officer Dante Koeppen     | 1. Detained [REDACTED] without justification.   | <b>Not Sustained</b> |
|                           | 2. Searched the vehicle of [REDACTED] without justification.                          | <b>Exonerated</b>    |
|                           | 3. Failed to properly return [REDACTED] phone or advise him of its location on scene. | <b>Exonerated</b>    |
| Officer Janessa Hernandez | 1. Detained [REDACTED] without justification.   | <b>Not Sustained</b> |
|                           | 2. Searched the vehicle of [REDACTED] without justification.                          | <b>Not Sustained</b> |

**IV. APPLICABLE RULES AND LAWS**

**Rules**

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

**General Orders**

1. G02-01
2. G03-02
3. G04-01

**Special Orders**

1. S04-13-09

**Federal Laws**

1. U.S. Const. 4<sup>th</sup> Amendment

**State Laws**

1. 720 ILCS 5/16
2. 725 ILCS 5/108
3. 625 ILCS 5/11

## V. INVESTIGATION

### a. Interviews

██████████ the complainant, gave a statement to COPA on July 13, 2021<sup>2</sup>. In his statement, ██████████ explains that he was travelling east bound on W 69<sup>th</sup> Street near Halsted Street when he was pulled over by police<sup>3</sup>. ██████████ explains that immediately after he was stopped, he rolled his windows down and officers ordered him to place his hands out of the window to which he complied while also keeping his cell phone in one of his hands. As officers approached, one officer immediately took his phone out of his hands and placed it on the roof of the vehicle. ██████████ asked the officers why he was pulled over and was told it was because he was “screeching” his tires. Officers then asked if he had a driver’s license to which ██████████ confirmed he did. ██████████ then stated that he was immediately asked to step out of his vehicle while officers opened his car door. Although ██████████ was admittedly confused by this request, he complied with the officers and was escorted to the rear of his vehicle by Officer Martinez.

██████████ was asked by a female officer, Officer Hernandez, where his driver’s license was. ██████████ told her it was on the passenger seat in his wallet. Officer Hernandez went inside ██████████ vehicle to retrieve his wallet. After ██████████ license was obtained, he observed two other male officers searching his vehicle. This prompted him to ask why they were searching for his vehicle if he provided his license. He claims that he was given no real explanation for the search and officers never told him that he was being recorded by their body-worn cameras. ██████████ vaguely describes having a verbal altercation with Officer Martinez. He stated that he “had words” and “verbals” with Officer Martinez and they “weren’t nice” because he had issues with the officers searching his vehicle. At the conclusion of the traffic stop ██████████ explains that he was provided a receipt for the stop.

██████████ explained an additional verbal altercation followed the conclusion of the traffic stop. ██████████ stated that Officer Martinez and his partner pulled their vehicle next to his at a traffic light and Officer Martinez began playing rap music loudly and making “Latin King” gang signs. After this happened, ██████████ wanted to record the event but could not find his phone. ██████████ believing that it was taken by one of the officers during the traffic stop, went to the 7<sup>th</sup> District to file a complaint.

**Officer Koeppen, an accused officer, gave a statement to COPA on October 13, 2021<sup>4</sup>.** In his statement, Officer Koeppen was asked to recall the incident from start to finish to the best of his ability. Officer Koeppen explained that he and his partner, Officer Hernandez, were assisting another unit on a traffic stop. As he and his partner were exiting their vehicle, he describes ██████████ as leaning across the seat and dipping his hands low and out of view near the officers. Officer Koeppen ordered ██████████ to show his hands to which he complied. ██████████ was asked by

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<sup>2</sup> Signed affidavit obtained by COPA (attachment# 31)

<sup>3</sup> ██████████ described seeing a “blue and white” vehicle and a “grey detective” vehicle. He also provided officer descriptions for all four officers. Kats/Martinez were in an unmarked unit and Hernandez/Koeppen were in a marked vehicle.

<sup>4</sup> All accused officers were provided a copy of the ISR and their individual BWC entries prior to giving their statements.

Officer Koeppen if he had a driver's license to which he said yes. [REDACTED] was then asked to exit the vehicle by Officer Koeppen. [REDACTED] information was then ran through their databases and he was released on scene.

When asked about specific details surrounding the traffic stop, Officer Koeppen explained that the reason for the traffic stop was for observing [REDACTED] overtake another vehicle from the far-right lane as well as screeching his tires. [REDACTED] movements were described in more detail such as leaning forward and moving his hands under the steering column area. Because this is a common area for suspects to have weapons, in his experience, Officer Koeppen was concerned that [REDACTED] could be attempting to conceal or remove a weapon in the vehicle. This was the reason for asking him to exit the vehicle while a search of the immediate area was conducted. Officer Koeppen stated that he did not search the vehicle because he was running [REDACTED] information in his patrol vehicle. According to Officer Koeppen, the search produced no weapons.

Officer Koeppen was asked about [REDACTED] cell phone because he was the only officer on scene to handle it according to his BWC. Officer Koeppen explained that Mr. Mile's stuck his hands out of the window when ordered to do so and his cell phone was still in his hands. Officer Koeppen removed [REDACTED] cell phone and placed it on the roof of [REDACTED] vehicle prior to escorting him out of the vehicle. Officer Koeppen explained that the phone was not left in [REDACTED] possession because he was detained at that time. Officer Koeppen stated that he never moved the phone again and was left on the roof of the vehicle for the duration of the traffic stop.

When asked about the verbal altercation between Officer Martinez and [REDACTED] Officer Koeppen stated that he couldn't recall the altercation without further review of his BWC footage. Officer Koeppen was then shown his BWC footage starting at the 2:42 minute mark. Although it is difficult to hear in the audio recorded statement, Officer Martinez can be heard arguing with [REDACTED] and using profanity multiple times<sup>5</sup>. Officer Koeppen was asked if, in his experience in working with Officer Martinez often, this type of interaction from Officer Martinez with civilians common. Officer Koeppen then described Officer Martinez as typically calm and professional toward civilians and these types of altercations are not common. Officer Koeppen was also asked if he saw any other interactions between Officer Martinez and [REDACTED] following the conclusion of the traffic stop. Officer Koeppen said that he was not in the vehicle with Officer Martinez and did not witness any other interactions after the traffic stop.

**Officer Hernandez, an accused officer, gave a statement to COPA on October 13, 2021.** In her statement, Officer Hernandez was asked to recall the incident from start to finish to the best of her ability. According to Officer Hernandez, she was assisting another unit on a traffic stop with her partner, Officer Koeppen, when she observed [REDACTED] begin moving his body making his hands less visible to officers. Officer Hernandez stated that she was able to retrieve [REDACTED] driver's license from his wallet since [REDACTED] was asked to exit the vehicle based on his movements while in the vehicle. Officer Hernandez conducted a brief search of the immediate area for weapons that yielded negative results then stood by while Officer Koeppen ran [REDACTED] information. During that time, Officer Hernandez recalls there being a verbal altercation between [REDACTED] and Officer Martinez.

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<sup>5</sup> "Shitload of tickets" and "bitching, 'Fuck the police'" are two examples of profanity heard being used by Officer Martinez.

When asked about specific details surrounding the traffic stop, Officer Hernandez explains that the reason for the traffic stop was due to [REDACTED] over taking a vehicle from the far-right lane and screeching his tires. Although he had a valid driver's license in his possession<sup>6</sup>, the movements [REDACTED] made prior to officers approaching his vehicle was the reason for him being asked to exit the vehicle according to Officer Hernandez.

Officer Hernandez was asked to describe [REDACTED] movements and her search in greater detail. She describes his movements as leaning over at the waist and reaching his hands near the floorboard of the vehicle. Officer Hernandez describes [REDACTED] as reaching under the steering column and near the passenger floorboard. Officer Hernandez stated that after [REDACTED] exited the vehicle, she searched the passenger floorboard underneath the seat, the glove box, and possibly the center console as well but she could not recall.

Officer Hernandez was asked what she remembered about the verbal altercation between Officer Martinez and [REDACTED]. Officer Hernandez could not remember specifics surrounding the argument, just that [REDACTED] was visibly and audibly upset for being detained. Officer Hernandez was asked if, in her experience in working with Officer Martinez, this type of interaction from Officer Martinez with civilians is common. Officer Hernandez explained that she had only worked with Officer Martinez a few times prior to this incident and did not believe this to be a common type of interaction for him. Officer Hernandez could not recall any other interactions between Officer Martinez and [REDACTED] following the conclusion of the traffic stop.

**Officer Kats, an accused officer, gave as statement to COPA on October 20, 2021.** In his statement, Officer Kats was asked to recall the incident from start to finish to the best of his ability. According to Officer Kats, he and his partner, Officer Martinez, were travelling east on W 69<sup>th</sup> street when he observed [REDACTED] overtake another vehicle from the far-right lane. Shortly after observing that, Officer Kats observed [REDACTED] accelerate aggressively from a stopped position when a traffic light turned green. This acceleration caused a screeching sound to come from the tires. Officer Kats explained that he and Officer Martinez pulled their vehicle alongside [REDACTED] at a stop sign near W 69<sup>th</sup>/ S Stewart to advise him to slow down. This was when Officer Kats says he observed [REDACTED] lean forward suddenly and move his hands where they were less visible. This was when Officer Kats and Officer Martinez decided to initiate their traffic stop.

When asked about specific details surrounding the traffic stop, Officer Kats reiterated that he observed two ordinance violations prior to initiating the stop, overtaking a vehicle from the right lane and screeching his tires. Officer Kats explained that although [REDACTED] was in possession of a valid driver's license, [REDACTED] hand movements were reason enough to ask him to exit the vehicle. Officer Kats stated that, in his experience, reaching hands low toward the floorboards or where they are less visible can indicate that a person is concealing or attempting to retrieve a firearm. According to Officer Kats, [REDACTED] was asked to step out of the vehicle as soon as possible to remove him from an area where he could potentially retrieve a weapon and harm the officers. After [REDACTED] was escorted from the vehicle, Officer Kats stated that he conducted a search of the immediate area of the vehicle that included the area near and under the

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<sup>6</sup> Officer Hernandez retrieved [REDACTED] driver's license from his wallet that was situated in the passenger seat of his vehicle. Upon retrieve his license, she placed the wallet back in the passenger seat where she found it.

front seats, and the center console. The backseat was not searched beyond what could be openly seen from the window. Officer Kats stated that the search did not produce any weapons.

Officer Kats was asked about the altercation between Officer Martinez and [REDACTED]. He did not recall this incident aside from what he could observe from his BWC entry. According to Officer Kats, he worked with Officer Martinez regularly during the time of this incident and this type of interaction from Officer Martinez toward civilians was not common. When asked, Officer Kats could not recall any other interactions between Officer Martinez and [REDACTED] after the traffic stop had concluded. Officer Kats could not recall a moment where Officer Martinez made any hand gestures or gang signs at [REDACTED]. Officer Kats stated that as the traffic stop concluded, [REDACTED] was advised on the ordinance violations and released on scene after being provided an Investigatory Stop Receipt.

**Officer Martinez, an accused officer, gave a statement to COPA on October 20, 2021.** In his statement, Officer Martinez was asked to recall the incident from start to finish to the best of his ability. According to Officer Martinez, he and his partner, Officer Kats, were travelling east on W 69<sup>th</sup> when they observed [REDACTED] overtake a vehicle from the right lane and then later screech his tires. Officer Martinez stated that after they initiated the traffic stop, he attempted to advise [REDACTED] on the reasons for the traffic stop, but [REDACTED] did not want to listen. Officer Martinez stated that he continued to try having a conversation with [REDACTED] about laws and the specific violations [REDACTED] committed, but [REDACTED] became increasingly non-compliant and unwilling to listen. According to Officer Martinez, [REDACTED] was released without being issued any tickets.

When asked about specific details surrounding the traffic stop, Officer Martinez listed several violations committed by [REDACTED] including overtaking from the right lane, speeding, failing to signal, screeching his tires, and reckless driving being the reason for initiating the traffic stop. According to Officer Martinez, it was when Officer Kats advised him of suspicious hand movements made by [REDACTED] that gave him concern for stopping the vehicle more expeditiously. These hand movements were also the reason Officer Martinez says [REDACTED] was asked to exit the vehicle. Officer Martinez believed, based on his experience, suspicious hand movements within a vehicle could potentially mean a weapon is being concealed. Officer Martinez stated that he did not conduct the search of [REDACTED] vehicle due to speaking with [REDACTED] and did not know what was specifically searched or by whom.

Officer Martinez was asked more focused questions regarding his demeanor and repeated uses of profanity toward [REDACTED]. According to Officer Martinez, much of his own demeanor was in response to [REDACTED] own demeanor. Officer Martinez did not provide excuses for using profanity, but rather described the interaction with [REDACTED] as more of a conversation rather than an altercation. When asked whether or not he believed he made appropriate efforts to de-escalate the altercation with [REDACTED] Officer Martinez believes that he did claiming that he tried telling [REDACTED] that they (officers) did not want to write him tickets or cause him extra stress. Officer Martinez believed that by telling [REDACTED] that he was not going to get tickets, it would calm him down, but [REDACTED] remained agitated. According to Officer Martinez, this is not a common type of response for him when speaking with civilians.

Officer Martinez was asked whether or not he had any other interactions with [REDACTED] after the conclusion of the traffic stop. Officer Martinez stated that [REDACTED] was issued an Investigatory Stop Receipt and advised on his violations but free to leave. Following that, Officer Martinez stated that approximately one block east from the traffic stop, [REDACTED] pulled next to them at a traffic light and began revving his engine again before the two parties went in separate directions. Officer Martinez said that there were no other interactions between himself and [REDACTED]

### **b. Digital Evidence**

COPA was able to obtain body-worn camera (BWC) footage from all four accused officers as well as POD footage<sup>7</sup>. All BWC footage was valuable<sup>8</sup> in COPA reaching findings while the POD footage did not yield any beneficial evidence. In-car camera footage was requested but was past its retention point and could not be obtained.

**COPA reviewed the body-worn camera footage of Officer Koeppen.** The footage begins with Officer Koeppen driving his patrol vehicle until about the 2:00 minute mark.<sup>9</sup> At the 2:00 minute mark, Officer Koeppen approaches [REDACTED] vehicle and orders him to show his hands. [REDACTED] complies and extends both of his hands out of the driver-side window with a cell phone in his right hand.<sup>10</sup> Officer Koeppen takes the cell phone and places it on the roof of Mr. Mile's vehicle<sup>11</sup> while advising Mr. Mile's that he is being audio and digitally recorded. [REDACTED] is asked if he has a driver's license then Officer Koeppen asks him to step out of the vehicle.

Officer Kats can be seen opening the driver door and also asking [REDACTED] to step out. [REDACTED] begins questioning why he should step out if he has a valid license. Officer Koeppen begins walking to the passenger side where his partner, Officer Hernandez, then hands him [REDACTED] license<sup>12</sup>. Officer Koeppen then walks back to his marked vehicle to run [REDACTED] information. While Officer Koeppen is in vehicle, [REDACTED] can be heard having a verbal argument with someone however it is difficult to understand what is being said. After Officer Koeppen exits his vehicle, [REDACTED] and Officer Martinez can be seen exchanging words where Officer Martinez can be heard using profanity multiple times. Officer Koeppen hands Officer Kats [REDACTED] license and an investigatory stop receipt. As Officer Koeppen and Officer Hernandez begin entering their vehicle, [REDACTED] begins questioning where his wallet is at. Officer Hernandez advises him that his wallet is in his passenger seat.

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<sup>7</sup> All four accused officers had just one BWC.

<sup>8</sup> All obtained BWC entries capture Officer Martinez using profanity toward [REDACTED]

<sup>9</sup> All Chicago Police Department BWC systems are set up with a two-minute buffer that will capture only video from two minutes prior to activation. Audio will begin at the two-minute mark where activation occurred. All four officers' interaction with [REDACTED] begin at or after the 2:00 minute mark of their BWC entries.

<sup>10</sup> Both Officer Koeppen and Officer Hernandez stated in their interviews having seen [REDACTED] making suspicious movements with his hands as they exited their vehicle. This is difficult to corroborate through BWC due to the tinting of the [REDACTED] windows but not necessarily inaccurate. The movements could have occurred prior to the vehicle being within BWC frame.

<sup>11</sup> Based on all officer BWC entries, the phone was never touched or moved again once placed on the roof.

<sup>12</sup> Officer Martinez is out of frame, but can be heard telling [REDACTED] that he was, "driving like an asshole".

**COPA reviewed the body-worn camera footage of Officer Hernandez.** According to her BWC, at the 2:00 minute mark, Officer Hernandez approaches [REDACTED] vehicle from the passenger side with her duty weapon at the “low-ready” position<sup>13</sup>. Officer Koeppen can be heard talking to [REDACTED] and asking him for his license. Officer Hernandez then opens the door and retrieves [REDACTED] license from his wallet as [REDACTED] is being escorted out of the vehicle. As Officer Hernandez places the wallet back in the passenger seat where she found it, Officer Martinez can be heard telling [REDACTED] he was, “driving like an asshole”. After handing Officer Koeppen [REDACTED] license, Officer Hernandez briefly looks through the rear window of the vehicle before conducting a search of the immediate area where [REDACTED] was sitting and moving within the vehicle<sup>14</sup>.

After briefly searching the vehicle, Officer Hernandez steps back to her vehicle with Officer Koeppen. During this time, [REDACTED] can be heard engaging in a verbal altercation with Officer Martinez. Officer Martinez does appear to speak calmly with [REDACTED] and explain laws on why officers can ask him to step out of the vehicle. [REDACTED] sounds agitated through out this interaction and Officer Martinez can later be heard engaging in a more aggressive tone and using profanity toward [REDACTED]. Officer Hernandez walks with Officer Koeppen to give Officer Kats [REDACTED] license and an Investigatory Stop Receipt. During this time, Officer Martinez can still be heard engaging in a verbal altercation with [REDACTED] and using profanity. As she walks back to her vehicle, [REDACTED] asks where his wallet is at that she took. She then advises him that his wallet is in his seat where she found it.

**COPA reviewed the body-worn camera footage of Officer Kats.** According to his BWC, at the 1:48 minute mark, Officer Kats steps out of his patrol vehicle<sup>16</sup> and approaches [REDACTED] on his driver’s side. On his approach, [REDACTED] can be seen with his hands up and then placing them out of his window. Officer Koeppen can be seen removing [REDACTED] cell phone from his right hand and placing it on the roof of [REDACTED] vehicle. Officer Koeppen advised [REDACTED] that he is being audio and digitally recorded and asks if [REDACTED] has his license to which he answers yes. Officer Koeppen asks [REDACTED] to exit the vehicle to which [REDACTED] responds with questions as to why he needs to exit. Officer Kats opens [REDACTED] door and escorts him out without any force.<sup>17</sup> As [REDACTED] begins to exit his vehicle, he is still questioning why he is being asked to exit his vehicle, this is when Officer Martinez can be heard saying that [REDACTED] was, “driving like an asshole” and “I don’t know what the fuck you’re trying to do”.

Officer Kats appears to give a quick visual inspection of [REDACTED] for weapons before he is escorted to the rear of his vehicle. Officer Kats then conducts a search of the immediate area of the vehicle that includes under the driver’s seat and the center console. After concluding the search, Officer Kats walks to the back of [REDACTED] vehicle where he and Officer Martinez are having a conversation about laws allowing officers to search his vehicle. [REDACTED] audibly disagrees with Officer Martinez and the two both exchange words at a louder volume. [REDACTED] makes a

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<sup>13</sup> Firearm in hand but with barrel pointed down, not at a suspect (D19-01).

<sup>14</sup> Based on her BWC, the immediate area searched includes under the passenger seat, glove box, and center console.

<sup>15</sup> “Chill the fuck out” is an example of profanity from Officer Martinez heard in Officer Hernandez’s BWC.

<sup>16</sup> Officer Kats was sitting passenger side in the patrol vehicle.

<sup>17</sup> [REDACTED] did not offer any physical resistance to the officers.



comment saying that that he's 49 years old, to which Officer Martinez responds, "You're only two years older than me. Do you want a fucking cookie now? Get the fuck out of here.". The two continue their argument and both exchange profanity several more times throughout the argument.

Officer Kats is given [REDACTED] license back by Officer Koeppen. Officer Kats then returns [REDACTED] license to him and provides him with an Investigatory Stop Receipt. Officer Martinez and [REDACTED] are still engaging each other and exchanging profanity at each other through out. [REDACTED] asks where his wallet is, and he is advised by Officer Hernandez it is in his passenger seat. Officer Kats retrieves the wallet and hands it to [REDACTED]. As Officer Kats begins to walk back to his patrol vehicle, [REDACTED] and Officer Martinez again hurl profanities at each other.

**COPA reviewed the body-worn camera footage of Officer Martinez.** According to his BWC, at the 2:00 minute mark, Officer Martinez is approaching [REDACTED] vehicle. Officer Kats, Officer Koeppen, and Officer Hernandez have already made contact with [REDACTED] who is now being asked by Officer Koeppen and Kats to exit the vehicle. As Officer Martinez reaches [REDACTED] vehicle, [REDACTED] begins questioning why he is being asked to exit to which Officer Martinez responds, "you're driving like an asshole".

Officer Martinez walks [REDACTED] to the back of his vehicle after Officer Kats appears to give [REDACTED] a visual check for possible weapons. As Officer Martinez is speaking with [REDACTED] he explains to him that he had screeched his tires and was driving recklessly, but again uses profanity and reiterates that [REDACTED] was, "driving like an asshole". Officer Martinez does try to reassure [REDACTED] that the officers do not want to write him any tickets and asks that he relaxes so they can finish their investigation. The two appear to be cordial briefly after this, but [REDACTED] again begins questioning the validity of the search of his vehicle. Officer Martinez does remain calm and tries explaining to [REDACTED] the laws that allow the officers to search, but [REDACTED] does not agree. [REDACTED] continues explaining that he believes the officers to be wrong in this situation and eventually says, "I'm not a kid. I'm 49.". This was the point where Officer Martinez begins speaking more aggressively toward [REDACTED] and makes the comment, "You're only two years older than me. Do you want a fucking cookie now? Do you want me to treat you differently because you're two years older than me? Get the fuck out of here.". From this point the two continue to argue with each other about the validity of the search and what officers are allowed to do. [REDACTED] and Officer Martinez both exchange profanities at each other throughout the rest of the traffic stop.<sup>18</sup>

Officer Kats provides [REDACTED] his license and an Investigatory Stop Receipt. [REDACTED] asks where his wallet is, and Officer Kats retrieves it from the passenger seat of [REDACTED] vehicle and hands it to him. As [REDACTED] is released, Officer Martinez continues engaging with him and using profanity as [REDACTED] is entering his vehicle. As [REDACTED] enters his vehicle, Officer Martinez tells [REDACTED] to "shut up" and then enters his patrol vehicle.

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<sup>18</sup> Examples of profanity clearly heard by Officer Martinez include, "I'll write you a shitload of tickets." "Your ass will be bitching all day saying fuck the police and shit."

### c. Documentary Evidence

COPA obtained the Investigatory Stop Report (ISR) from this incident authored by Officer Kats. According to the ISR, Officer Kats and Officer Martinez were on patrol<sup>19</sup> travelling east on 69<sup>th</sup> Street near Halsted Street when they observed a white Chevrolet Impala (██████████) overtake another vehicle from the far-right lane (FN ILCS). The officers then observed the same white Chevrolet Impala rapidly accelerate from a red light that changed to green near 500 W 69<sup>th</sup> Street. This rapid acceleration caused a screeching sound to be emitted from the tires (FN ILCS). The officers activated their emergency lights and initiated a traffic stop of the white Chevrolet Impala near 401 W 69<sup>th</sup> Street (FN about sudden stop).

The ISR notes that the driver, ██████████ was observed having dropped his arms below the steering column making them less visible to officers concerning them that a firearm could be in ██████████ possession. The officers requested ██████████ step out of his vehicle so a search of the immediate area of the vehicle was conducted. A pat down was not conducted because ██████████ waistband and clothing were tighter fitting and not producing bulges. The search conducted of the immediate area of the vehicle did not produce any weapons or narcotics. Following the search, ██████████ was released without being issued tickets and an Investigatory Stop Receipt was provided.

## 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.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with 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 conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

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<sup>19</sup> Both officers were assigned to Community Safety Team (Unit 716) working beat 7635c on the incident date.

**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

**Allegation 1 for Officer Martinez, Officer Kats, Officer Koeppen, and Officer Hernandez** stating that ██████████ was detained without justification, the allegation is **Exonerated**. The traffic investigation of ██████████ was documented through an ISR authored by Officer Kats. According to the ISR, after initiating the traffic stop, ██████████ made suspicious movements where his hands were less visible that gave officers concern that a weapon could be concealed or removed by ██████████. For officer safety, ██████████ was briefly detained while the vehicle was searched for weapons. BWC entries of all four officers do not capture any suspicious movements by ██████████ but rather show him keeping his hands visible and placing them out of his vehicle window. In their statements, Officer Koeppen and Officer Hernandez describe ██████████ movements happening as they exited their patrol vehicle. If this did happen, their BWCs did not capture it. In his statement, Officer Kats also described suspicious movements occurring but stated they happened prior to initiating the traffic stop. Officer Kats' BWC also did not capture these movements. Although it was not captured in BWC, multiple movements could still have occurred as Officer Kats, Officer Koeppen, and Officer Hernandez all described. These movements could have reasonably given officers fear, based on their experience, that a weapon could be in the vehicle. Because there was not clear and convincing evidence capturing these movements, the accused officers finding is exonerated.

**Allegation 2 for Officer Martinez** stating that Officer Martinez engaged in an unjustified verbal altercation with ██████████ is **Sustained**. Based on all accused officers' BWC entries, Officer Martinez clearly engages in a verbal altercation with ██████████. Officer Martinez used profanity numerous times and did not appear to make enough attempts to de-escalate the situation but rather feed into ██████████ agitated demeanor. When speaking with Officer Martinez, he believes that he was only matching ██████████ demeanor rather than trying to instigate more conflict and used the word "conversation" rather than argument when referring to their altercation. Officer Martinez stated that he believed his style of communication to be more informal than inflammatory or unprofessional for the situation. Officer Martinez stated that this is not his common style of communication toward civilians. Officer Kats, Officer Koeppen, and Officer Hernandez all gave similar sentiments stating that Officer Martinez does not commonly speak in this manner toward civilians and is a very professional officer.

Although Officer Martinez was described as calm and professional by his fellow officers, he is still in violation of Chicago Police Department rules and regulations. He was initially calm with ██████████ but once ██████████ began to speak angrily toward Officer Martinez, Officer Martinez did not continue making appropriate efforts to de-escalate the situation and continuously used profanity aimed at ██████████

**Allegation 2** for **Officer Kats** and **Officer Hernandez** stating that they searched the vehicle of [REDACTED] without justification is **Not Sustained**. **Allegation 2** for **Officer Koeppen** stating that he searched the vehicle of [REDACTED] without justification is **Exonerated**. Officer Koeppen did not conduct a search of [REDACTED] vehicle as previously believed by [REDACTED]. Much like allegation 1, the search of [REDACTED] vehicle is dependent on the accused officers having justification and probable cause for conducting a search. Based on the ISR and officer statements, [REDACTED] made suspicious movements where his hands were less visible. This concerned officers that [REDACTED] could be concealing or remove a weapon. Because officers feared that [REDACTED] could be in possession of a weapon, he was briefly detained so a search of the immediate area could be conducted. Officer Kats and Officer Hernandez were the only two officers to search the vehicle. Their search was limited to under the front seats, the center console, and the glove box. Once officers were satisfied that there was no weapon in the vehicle and [REDACTED] had no outstanding warrants, he was released with a warning.

**Allegation 3** for **Officer Koeppen** states that he failed to properly return [REDACTED] phone or advise him of its location on scene. Officer Koeppen is **Exonerated**. Based on his BWC entry and the BWC of Officer Kats, Officer Koeppen places the phone of [REDACTED] on the roof of his vehicle immediately after removing it from [REDACTED] right hand. The phone is never touched again by any officer on scene. When Officer Koeppen was asked about advising [REDACTED] about his phone's whereabouts, Officer Koeppen stated that he did not advise him because [REDACTED] could see him place the phone on the roof of the vehicle. The phone can be seen in Officer Kats' BWC remaining on the roof where it was originally placed. [REDACTED] closes his doors and appears to forget it was on the roof.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Sergio Martinez

#### i. Complimentary and Disciplinary History

1. 1 crime reduction ribbon, 2 crime reduction awards, 3 attendance recognition awards, 3 complimentary letters, 6 department commendations, 5 emblems of recognition – physical fitness awards, 248 honorable mentions, 1 NATO summit service award, 1 police blue star award, 2 police officer of the month awards, 1 presidential election deployment award, 2 special commendations, and 1-unit meritorious performance award.
2. No disciplinary history

ii. Recommended Penalty, by Allegation

1. Allegation No. 2

Officer Martinez engaged in a verbal altercation with [REDACTED] and did not make sufficient attempts to de-escalate the situation. Furthermore, Officer Martinez used profanity toward [REDACTED] that directly violates department rules and regulations. For **Allegation 2**, COPA recommends **5-Day Suspension**.

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Approved:

[REDACTED]

4/27/2023

Matthew Haynam  
*Deputy Chief Administrator*

Date