

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	November 9, 2021 / 12:17 a.m. / 5500 S. Ashland Avenue
Date/Time of COPA Notification:	November 10, 2021/ 2:37 p.m.
Involved Officer #1:	Ryan Trujillo / Star #16453 / Employee # [REDACTED] / Date of Appointment: 10/26/15 / Rank: Patrol Officer / Unit: 007 / DOB: [REDACTED]/85 / M / H
Involved Officer #2	Roger Farias / Star #9942 / Employee # [REDACTED] / Date of Appointment: 12/16/09 / Rank: Patrol Officer / Unit 007; DOB: [REDACTED]/85 / M / H
Subject #1:	[REDACTED] / DOB: [REDACTED]/1988 / M / B

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer Ryan Trujillo	1. Unprofessionalism while interacting with [REDACTED]	Sustained
	2. Retaliating against [REDACTED] by ticketing him after he accused officers of lying about the reason for the traffic stop, without justification.	Unfounded
	3. Failing to complete an Investigatory Stop Report for [REDACTED]	Sustained
Officer Roger Farias	1. Searching [REDACTED] without justification.	Sustained
	2. Searching [REDACTED] vehicle without justification.	Not Sustained
	3. Failing to complete an Investigatory Stop Report for [REDACTED]	Sustained Sustained Sustained
	4. Unprofessionalism while interacting with [REDACTED]	
	5. Retaliating against [REDACTED] by ticketing him after he asked for officers' name and star numbers.	

## II. SUMMARY OF EVIDENCE<sup>1</sup>

On November 9, 2021, at approximately 12:17 a.m. Officers Ryan Trujillo and Roger Farias performed a traffic stop on ██████ near 5500 S. Ashland Avenue. ██████ was driving northbound on Ashland Avenue. Officer Farias was driving a marked patrol car southbound, with Officer Trujillo in the passenger seat. The officers passed ██████ going the opposite direction, then made a U-turn at the next intersection and stopped ██████

Officer Farias approached the driver's side window while Officer Trujillo approached the passenger's side. ██████ was smoking a cigarette and rolled down his driver-side window. Officer Farias told ██████ they stopped him for obstruction of view because of his air freshener. Officer Farias asked ██████ to step out of his car, and ██████ complied. Officer Farias asked ██████ if he had any weapons on him and conducted a pat down of ██████<sup>2</sup> ██████ said that he did not have a weapon and that he was driving to work. Officer Farias told ██████ that he was detaining ██████ to verify something quickly. Officer Farias handcuffed ██████ who was compliant.

Officer Farias asked if ██████ had cannabis in his car, and ██████ said no. Officer Farias said words to the effect of "I'm going to verify that, alright," but ██████ did not answer. Officer Trujillo asked ██████ when he last had marijuana in the car, and ██████ said that he never has contraband in the car. Officer Trujillo asked when ██████ last smoked marijuana in his car, and ██████ said he only smokes cigarettes. Officer Trujillo asked words to the effect of "You don't smoke any weed in there?" ██████ repeated that he only smokes cigarettes. Officer Farias searched ██████ car but did not find contraband, then removed ██████ handcuffs.

Officer Trujillo asked if ██████ wanted a receipt for the stop and ██████ said he wanted both officers' badge numbers and names. Officer Farias replied to the effect of, "That way you won't get in trouble at work." ██████ replied with words to the effect of, "I won't get in trouble regardless. I'm the manager." ██████ repeated that he wanted the officers' badge numbers and names, saying words to the effect of "It's for y'all." Officer Farias asked, "For me?" ██████ responded, "Yeah," and Officer Farias said, "So that means you need a ticket?"<sup>3</sup> ██████ told the officers that he wanted, "Whatever has your name and badge numbers on it." Officer Farias said, "I can give you a ticket."<sup>4</sup>

█████ accused the officers of lying to him about the reason for the stop after Officer Trujillo said they stopped him for a broken taillight. Officer Trujillo and ██████ argued about whether the officers lied to ██████ and ██████ said that the officers gave him different explanations. Officer Trujillo explained that there might be multiple reasons why the officers could have stopped him. ██████ says something to the extent of, "I'll settle this beyond you." Officer Trujillo said, "So there needs to be two citations written, right?"<sup>5</sup>

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<sup>1</sup> COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases summarized more succinctly in a Modified Summary Report of Investigation.

<sup>2</sup> Att. 7 – BWC of PO Roger Farias, at 3:513-3:23.

<sup>3</sup> Att. 7 at 8:09-8:12.

<sup>4</sup> Att. 7 at 8:18.

<sup>5</sup> Att. 6 – BWC of PO Ryan Trujillo, at 8:58.

Officer Farias gave ██████ a ticket for obstruction of view,<sup>6</sup> saying he was giving him a citation. Officer Farias then said, “I was expecting cooperation, but since you want to give me a hard time . . .” and gestured towards the ticket.<sup>7</sup>

██████ and the officers argued, and ██████ asked again for the officers’ names and badge numbers. Officer Farias gave ██████ the ticket to sign, ██████ asked if the ticket lists the officers’ names and badge numbers. Officer Farias said that their star numbers were listed on the ticket. ██████ said that he needed the officers’ names and badge numbers and signed the ticket. ██████ continued to ask the officers for their names and badge numbers. Officer Farias eventually said his name and star number once, while Officer Trujillo gave his information slowly enough for ██████ to write in his phone. Officers Farias and Trujillo got in their patrol car and drove away.

In his statement to COPA, Officer Trujillo explained the officers were driving southbound on S. Ashland Ave on the night of November 8 and morning of November 9, 2021. They observed ██████ driving the opposite direction with an air freshener hanging from his rearview mirror. They noticed ██████ was missing a brake light when he activated his brakes. Officer Farias searched ██████ vehicle while Officer Trujillo stayed with ██████. Officer Trujillo could not remember but believed based on his BWC that he smelled cannabis but could not recall whether this was burnt or fresh.

Officer Trujillo explained Officer Farias became annoyed because ██████ was argumentative, and said the officers were only issuing one ticket but could issue another. The officers issued ██████ a citation for obstruction of view for his air-freshener. The officers did not write an Investigatory Stop Report (ISR) or issue an investigatory stop receipt due to miscommunication about who would write them. The officers gave their names and star numbers when asked, and the ticket detailed the reason for the stop.

Officer Farias explained that he approached the driver’s side of ██████ vehicle during the traffic stop and questioned ██████. He noticed the strong smell of cannabis once ██████ opened the window. Officer Farias could not remember whether he smelled fresh or burnt cannabis. Officer Farias conducted a protective pat down because he believed he saw a bulge in ██████ pocket, which he could not identify. Officer Farias handcuffed ██████ and conducted a “narcotics search” of ██████ car based on the smell of cannabis. Officer Farias handcuffed ██████ for his safety because he “did not know who [██████ was]” and “did not know what the circumstances [were],” or words to that effect.

Officer Farias wrote ██████ a citation for obstruction of view. He checked to make sure ██████ was cooperative but found that ██████ was hostile towards Officer Trujillo. When ██████ asked for the officers’ names and star numbers Officer Farias said words to the effect of, “So that means you need a ticket?” Officer Farias told ██████ that he was giving him a citation and that he had expected ██████ cooperation. Officer Farias explained that he had discretion as to whether he would issue a citation. ██████ was uncooperative because he disagreed with officers regarding the reasons for the stop; however, Officer Farias decided to issue ██████ a citation before the

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<sup>6</sup> Att. 8 Ticket Printout.

<sup>7</sup> Att. 7, 14:52; Att. 6, 14:55.

traffic stop. Officer Farias did not write or issue an ISR or an investigatory stop receipt. He was unsure if Officer Trujillo wrote or issued an ISR or an investigatory stop receipt.<sup>8</sup>

### III. LEGAL STANDARDS

For each Allegation COPA must make one of the following findings:

1. Sustained - where COPA determines the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where COPA determines there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where COPA determines by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where COPA determines by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

An allegation is supported by a preponderance of the evidence when “it is more likely than not” that the facts alleged occurred.<sup>9</sup> COPA must sustain such an allegation. Conversely, COPA cannot sustain an allegation when it is more likely than not that the facts alleged did not occur.<sup>10</sup> The clear and convincing evidence standard is a higher burden of proof than a preponderance of the evidence.<sup>11</sup> However, clear and convincing evidence is a lower burden of proof than the “proof beyond a reasonable doubt” required for a criminal conviction.<sup>12</sup>

### IV. ANALYSIS

#### a. Search and Seizure Allegations

##### 1. Officer Farias’ Search of ██████ was Unlawful

Officers may conduct an investigatory stop if they have reasonable articulable suspicion that a suspect is about to commit or has committed a criminal offense.<sup>13</sup> Officers conduct an investigatory stop—also known as a *Terry* stop—by temporarily detaining and questioning a suspect.<sup>14</sup> Officers may conduct such an investigatory stop for the time needed to confirm or deny reasonable articulable suspicion of criminal activity.<sup>15</sup>

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<sup>8</sup> COPA did not serve allegations relating to failing to submit an investigatory stop receipt. COPA notes that Officer Trujillo asked ██████ if he wanted an investigatory stop receipt, but that ██████ did not request one, instead asking for both officers’ names and badge numbers.

<sup>9</sup> See, e.g., *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”).

<sup>10</sup> See *id.*

<sup>11</sup> See, e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>12</sup> See *id.*; for further analysis of burdens of proof see also, *Sawyer v. Whitley*, 505 U.S. 333 (1992).

<sup>13</sup> S04-13-09 II(C)(1); see also, *Terry v. Ohio*, 392 U.S. 1 (1968).

<sup>14</sup> S04-13-09 II(A).

<sup>15</sup> *Id.*

Reasonable articulable suspicion consists of specific facts and observations about a suspect, taken in context of specific factual circumstances known to the officers.<sup>16</sup> Reasonable articulable suspicion “is an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion.”<sup>17</sup>

An officer conducting an investigatory stop may conduct a protective pat down for the purpose of finding weapons or threats to officer safety.<sup>18</sup> To do so, an officer must have reasonable suspicion that the suspect is armed and dangerous.<sup>19</sup> An officer must limit such pat downs to a suspect’s outer clothing.<sup>20</sup> An officer cannot reach into article of clothing to retrieve an object unless he feels the object during the frisk of the suspect’s outer clothing.<sup>21</sup>

Here, Officers Farias and Trujillo had probable cause to stop ██████ because of the air freshener hanging from his rearview mirror. Officer Farias then frisked ██████ by feeling the outer layer of ██████ clothing. Nothing about ██████ or his conduct suggested he had a weapon or that Officer Farias needed to be concerned for his safety. Although ██████ appeared unhappy at being stopped, he obeyed Officer Farias’ commands. Both officers asked ██████ if he had cannabis in the car and said that they smelled cannabis in their interviews; however, reasonable suspicion that ██████ possessed cannabis would not justify a search for weapons. Officer Farias said that he conducted a protective pat down because he did not know ██████ or his situation, which is not *reasonable articulable* suspicion.

Officer Farias lacked reasonable articulable suspicion to believe that ██████ had a weapon, and the protective pat down was unlawful, and it violated rules 2, 3, and 6 of the Rules and Regulations of the Chicago Police Department. Thus, COPA finds that **Allegation 1 against Officer Roger Farias is sustained.**

## **2. There is Insufficient Evidence to Prove Officer Farias’ Search of ██████ Vehicle was Unlawful**

The Automobile Exception to 4<sup>th</sup> Amendment search and seizure restrictions allows officers to conduct vehicle searches absent a warrant. To do so, officers must have probable cause that a vehicle contains evidence of criminal activity. Under the doctrine, officers can search a vehicle without a warrant if “probable cause exists to believe it contains contraband.”<sup>22</sup>

Use and possession of certain quantities of cannabis is no longer illegal under Illinois state law.<sup>23</sup> However, the State of Illinois and City of Chicago prohibit consuming cannabis in motor vehicles.<sup>24</sup> Additionally, drivers and passengers must satisfy state city and vehicle storage requirements, including by keeping cannabis in inaccessible, secured, sealed, odor-proof, and

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<sup>16</sup> S04-13-09 II(C)(1); *Terry*.

<sup>17</sup> S04-13-09 II(C); *Terry*.

<sup>18</sup> *Id* (B); *Terry*.

<sup>19</sup> *Id* (C)(2).

<sup>20</sup> *Id*.

<sup>21</sup> *Id*.

<sup>22</sup> *Pennsylvania v. Labron*, 518 U.S. 938, 940 (citing *California v. Carney*, 471 U.S. 386, 393 (1985)).

<sup>23</sup> 410 ILCS § 705/10-10.

<sup>24</sup> 625 ILCS § 5/11-502.15(a); MCC 7-24-099 (c)(4).

child-resistant containers.<sup>25</sup> Therefore, the smell of cannabis in a vehicle establishes probable cause to justify searching that vehicle under the automobile exception.

Here, Officer Farias searched [REDACTED] car based on the claim that he smelled cannabis in the vehicle. This claim is dubious: (1) neither officer could identify in their statements whether the cannabis they smelled was fresh or burnt, (2) Officer Farias did not find fresh or burnt cannabis in his search, and (3) [REDACTED] was smoking a cigarette at the stop, which would have made the odor of cannabis more difficult to perceive. However, both officers claimed they smelled cannabis, and COPA ultimately lacks evidence to dispute this claim. Lacking evidence to prove the issue by a preponderance, the allegation can be neither sustained nor exonerated. As a result, COPA finds that **Allegation 2 against Officer Roger Farias is not sustained.**

#### b. Professionalism Allegations<sup>26</sup>

CPD Department members must (1) “act with a high degree of ethics, professionalism, and respect for the public”.<sup>27</sup> Officers must (2) “treat all persons with courtesy and dignity” and (3) “act, speak, and conduct themselves in a professional manner and maintain a courteous attitude in all contacts with the public.”<sup>28</sup>

##### 1. Officer Trujillo was Unprofessional towards [REDACTED]

Throughout most of his interaction with [REDACTED] Officer Trujillo remained generally professional. However—though he did not issue a second citation to [REDACTED] upon his objections to the stop—the officer did implicitly threaten to do so, stating, “So there needs to be two citations written, right?” That threat itself constituted a patently unprofessional course of conduct, violating rules 2, 3, 5, and 8 of the Rules and Regulations of the Chicago Police Department. Thus, COPA finds that **Allegation 1 against Officer Ryan Trujillo is sustained.**

##### 2. Officer Farias was Unprofessional towards [REDACTED]

Officer Farias repeatedly used profanity in his interactions with [REDACTED] and was impolite to him without justification. Although [REDACTED] was clearly unhappy with being stopped and subsequently ticketed, he remained compliant. Officer Farias tried to intimidate [REDACTED] into agreeing with the officers and into not asking for their names and star numbers (addressed further in the allegations below). Officer Farias said in his statement that [REDACTED] was uncooperative because he disagreed with the officers’ reasons for the stop. Although [REDACTED] disposition toward the officers may have been frustrating at times, it did not justify Officer Farias’ unprofessional conduct towards [REDACTED] which violated rules 2, 3, 5, and 8 of the Rules and Regulations of the Chicago Police Department. As a result, COPA finds that **Allegation 4 against Officer Roger Farias is sustained.**

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<sup>25</sup> 625 ILCS § 5/11-502.15 (c); MCC 7-24-099 (b)(4).

<sup>26</sup> COPA initially submitted allegations to Officers Trujillo and Farias alleging Verbal Abuse and not Unprofessionalism. During Officer Trujillo’s statement (Att. 4) at 31:10 – 31:27 and Officer Farias’ statement (Att. 5) at 3:10-3:36, COPA verbally amended the allegations to Unprofessionalism.

<sup>27</sup> G08-05 III(A)(1).

<sup>28</sup> *Id.*, (2), (3).

### c. Retaliation Allegations

Officers are strictly prohibited from “engaging in any form of retaliation against . . . members of the public”.<sup>29</sup> Under G08-05(F):

retaliation is defined as any conduct, action, or inaction of a damaging, intimidating, or threatening nature, or any interference, intimidation, coercion, or other adverse action taken against any individual designed to serve as retribution that is intended to punish, cause harm or emotional stress, or improperly influence the individual's actions.

Retaliation includes “direct or indirect actions, including arrests, *issuance of citations*, surveillance, and vehicle or street stops.”<sup>30</sup> CPD specifically prohibits retaliation for “engaging in protected lawful exercise of First Amendment rights.”<sup>31</sup>

#### 1. Officer Farias Retaliated against ██████████

Officer Farias repeatedly implied that he would ticket ██████████ if ██████████ continued asking for their names and star numbers (e.g., “so that means you need a ticket?” after ██████████ asked for the officers’ names and star numbers).<sup>32</sup> Officer Farias also tells ██████████ “I was expecting cooperation, but since you want to give me a hard time [. . .]”<sup>33</sup> before handing him the traffic ticket for obstruction of view.

Officer Farias explained he had discretion to decide whether to issue ██████████ a citation, before clarifying that he planned to do so all along. COPA finds that clarification unconvincing, as Officer Farias said the opposite when on scene. Officer Farias threatened ██████████ with a ticket after ██████████ asked for his name and star number. Officer Farias also said he was ticketing ██████████ because he was expecting ██████████ “cooperation,” but ██████████ gave him “a hard time.”<sup>34</sup>

COPA cannot definitively say that Officer Farias would not have ticketed ██████████ if ██████████ had not asked for his name and star number; however, Officer Farias’ statements and actions clearly demonstrate he intended to make ██████████ think he would receive a ticket if he continued to request the officers’ names and star numbers. In short, COPA finds Officer Farias’ statements at the scene more convincing than his explanation after the fact. The officer’s conduct violated rules 2, 3, 4, 6, and 8 of the Rules and Regulations of the Chicago Police Department. Therefore, COPA finds that **Allegation 5 against Officer Roger Farias is sustained.**

#### 2. Officer Trujillo did not retaliate against ██████████

Officer Trujillo asked ██████████ if the officers should give him two tickets when ██████████ accused them of lying about the reason for stopping him. He did not, however, issue another ticket

<sup>29</sup> *Id* (E)(1).

<sup>30</sup> *Id* (G)(1) (emphasis added).

<sup>31</sup> *Id* (H)(1)(a).

<sup>32</sup> Att. 7, 8:09-8:12.

<sup>33</sup> Att. 7, 14:50.

<sup>34</sup> *Id*.

to [REDACTED] As no second ticket was, in fact, issued, COPA finds that **Allegation 1 against Officer Ryan Trujillo is unfounded.**

#### d. Reporting Allegations

##### 1. Neither Officer Farias nor Officer Trujillo Submitted an ISR

Officers Farias and Trujillo conducted an investigatory stop of [REDACTED] when they conducted a traffic stop; that stop involved a pat down of [REDACTED] person and resulted in a citation. Special Order S04-13-09 explains investigatory stops and lists when CPD officers must submit ISRs. Section VIII (A) (2) states that “Investigatory Stop Reports will be submitted for all Investigatory Stops and Protective Pat Downs that lead to an arrest, Personal Service Citation, Administrative Notice of Violation [ . . . ] or other enforcement action.”<sup>35</sup> Neither officer submitted an Investigatory Stop Report (ISR)—no report is present for the stop in the CPD CLEARNet database and neither officer reported generating an ISR in their statements. A preponderance of the evidence shows that neither Officer Farias nor Officer Trujillo submitted an ISR, in violation of S04-13-09 and rules 2, 3, and 6 of the Rules and Regulations of the Chicago Police Department. As a result, COPA finds that both **Allegation 3 against Officer Roger Farias and Allegation 3 against Officer Ryan Trujillo are sustained.**

## V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Roger Farias

#### i. Complimentary and Disciplinary History

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Farias’ disciplinary and complimentary histories.<sup>36</sup> Officer Farias has two 2019 sustained findings for Operation/Personnel violations. In 2022, he received two reprimands for leaving his duty assignment and a court appearance violation, and in 2023, one reprimand for a preventable accident. He has received 206 total awards, including three Department Commendations and four Complimentary Letters.

#### ii. Recommended Penalty

COPA has found that Officer Roger Farias committed misconduct in violation of Rules 2, 3, 4, 5, 6, and 8 when he patted down [REDACTED] without justification, retaliated against [REDACTED] and was unprofessional toward him, and when he failed to complete an Investigatory Stop Report. Officer Farias’ conduct brings discredit upon the Department and violated [REDACTED] right to be free from police intimidation, overreach, and disrespectful treatment. Considering the severity of the misconduct and the officer’s record of service, COPA finds that a 30-day suspension is the appropriate penalty for these violations.

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<sup>35</sup> S04-13-09(VIII)(A)(2).

<sup>36</sup> Att. 24.

