



Log # 2022-0000779

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 5, 2022, the Civilian Office of Police Accountability (COPA) received an initiation report of a complaint from ██████████ (██████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ████████ alleged that on February 26, 2022, Officer Nicholas Verta and Officer Jesus Macedo stopped and detained him without justification, illegally searched his vehicle without justification, and failed to call for a supervisor at his request.² Following its investigation, COPA reached Exonerated, Not Sustained, and Unfounded findings for all the allegations.

II. SUMMARY OF EVIDENCE³

On February 26, 2022, at approximately 7:04 pm, Officers Nicholas Verta and Jesus Macedo curbed a Chevrolet after observing its front head light to be inoperable. The officers approached the vehicle and asked the driver, ████████ to roll down the windows. The windows were only a couple of inches lowered and the officers could not hear ████████ or see inside the vehicle. ████████ did not comply, and only Officer Verta's side of the conversation could be heard on his Body Worn Camera (BWC).⁴

Officer Verta asked for a driver's license and insurance.⁵ Officer Verta then stated, "When's the last time you smoked in here?"⁶ and "Why am I smelling weed."⁷ Officer Macedo, on the passenger's side of the vehicle, also asked ████████ to lower the passenger side windows, but ████████ lowered it only a very small degree. Officer Verta then asked ████████ to step out of the vehicle. Initially, ████████ was reluctant to get out of the vehicle but after a couple of minutes, he got out.⁸

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including *[identify the most material and outcome-determinative evidence relied upon, such as BWC footage, ICC footage, third-party video, police reports, civilian interviews, officer interviews, etc.]*.

⁴ Att. 14 at 18:50:17

⁵ Att. 14 at 18:50:38

⁶ Att. 14 at 18:50:53

⁷ Att. 14 at 18:51:00

⁸ Att. 14 18:51:49 to 18:54:03

█████ walked to the front of the squad vehicle and Officer Macedo conducted a protective pat down on █████⁹ Officer Verta went back to the squad vehicle and conducted a name search. Officer Verta asked █████ for consent to search his vehicle, which █████ denied.¹⁰ Officer Verta proceeded to search the driver's side area, and the back passenger area behind the driver. After the search, █████ was issued a traffic citation and an Investigatory Stop Report (ISR) receipt.¹¹

During █████ recorded interview with COPA, he stated that he requested a sergeant during the interaction with the Officers.¹² █████ denied that his vehicle smelled like weed because he does not smoke.¹³

During the officers' interviews with COPA, they both stated that they were on patrol when they noticed █████ vehicle's front head light was not working properly.¹⁴ The officers stated they were unable to see inside of the vehicle due the dark tints and █████ failure to roll down his windows. Officer Verta stated that he asked █████ to step out of the vehicle due to the smell of burnt cannabis and being unable to see directly in the vehicle. Both officers asked for consent to search the vehicle, and even though █████ did not consent, Officer Verta searched the vehicle because of the smell of burnt cannabis.¹⁵ The officers stated that █████ received a citation and an ISR receipt.¹⁶

III. ALLEGATIONS

Officer Nicholas Verta:

It is alleged that on or around February 26, 2022, at approximately 7:04 PM, at or near 6900 S. Western, Chicago, IL you:

1. Stopped █████ without justification.
 - Exonerated
2. Detained █████ without justification.
 - Exonerated
3. Searched the vehicle of █████ without justification.
 - Not Sustained
4. Failed to call for a supervisor to the location as requested by █████ without justification.
 - Not Sustained

⁹ Att. 13 at 18:54:08 to 18:54:37

¹⁰ Att. 14 at 18:56:12

¹¹ Att. 14 at 19:12:24

¹² Att. 11, pg. 8

¹³ Att. 11, pg. 9, Ins. 6 to 12

¹⁴ Att. 19 and 21

¹⁵ Att. 20, pgs. 13-14

¹⁶ Att. 20 and 22

Officer Jesus Macedo:

It is alleged that on or around February 26, 2022, at approximately 7:04 PM, at or near 6900 S. Western, Chicago, IL you:

1. Stopped ██████████ without justification.
 - Exonerated
2. Detained ██████████ without justification.
 - Exonerated
3. Searched the vehicle of ██████████ without justification.
 - Unfounded
4. Failed to call for a supervisor to the location as requested by ██████████ without justification.
 - Not Sustained

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

V. ANALYSIS¹⁷

Allegations #1 and #2 – Stopped and Detained ██████████ without justification

COPA finds that allegations #1 and #2 against Officer Verta and Officer Macedo – stopping and detaining ██████████ without justification – is **Exonerated**. The Fourth Amendment guarantees “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”¹⁸ “Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of ‘persons’ within the meaning of this provision.” *Id.* “An automobile stop is thus subject to the constitutional imperative that it not be ‘unreasonable’ under the circumstances. As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” *Id.*

A violation of traffic laws provides probable cause for a vehicle stop.¹⁹ ██████████ vehicle was stopped due to an inoperable headlight in violation of City of Chicago Municipal Code 9-76-050(b).²⁰ During ██████████ interview with COPA, he acknowledged that he only had one headlight.²¹

¹⁷ For a definition of COPA’s findings and standards of proof, see Appendix B.

¹⁸ *Whren v. United States*, 517 U.S. 806, 809-810 (1996).

¹⁹ *People v. Gonzalez*, 204 Ill. 2d 220, 227-28 (2003)

²⁰ Att. 25

²¹ Att. 11, pg. 12, lns. 4 to 8

Officer Verta's BWC also captures the inoperable headlight.²² Therefore, COPA finds by clear and convincing evidence, that the officers' stopping and detaining of [REDACTED] was justified.

Allegation #3 – Searched the vehicle of [REDACTED] without justification

COPA finds that allegation #3 – searching the vehicle of [REDACTED] without justification – is **Not Sustained** as to Officer Verta, and **Unfounded** as to Officer Macedo. During both officers' interview with COPA, they stated that [REDACTED] vehicle smelled like burnt cannabis. In Illinois, the smell of cannabis by a trained officer supports probable cause to search a vehicle.²³

As such, COPA finds that allegation #3 against Officer Verta is **Not Sustained** because the preponderance of the evidence establishes that his search of [REDACTED] car was justified. Additionally, COPA finds by clear and convincing evidence that Officer Macedo did not search [REDACTED] vehicle, so allegation #3 against Officer Macedo is **Unfounded**.

Allegation #4 – Failed to call for a supervisor to the location as requested by [REDACTED] without justification.

COPA found that allegation #4 against Officer Verta and Officer Macedo –failing to call for a supervisor to the location as requested by [REDACTED] without justification – is **Not Sustained**. During [REDACTED] interview with COPA, [REDACTED] stated that he requested a sergeant. In the officers' interviews, neither recalled [REDACTED] asking for a sergeant.²⁴ Because [REDACTED] refused to lower his window during the stop, his words could not be heard on the officers' BWC. As such, there is no objective verifiable evidence to support this allegation. As such, allegation 4 against both officers is **Not Sustained**.

Approved:

[REDACTED]

8/30/2023

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

²² Att. 14 at 18:53:00

²³ People v. Stout, 106 Ill. 2d 77, 88 (1985).

²⁴ Att. 20 and Att. 22

Appendix A

Case Details

Date/Time/Location of Incident:	February 26, 2022/ 7:04 pm/ 6900 S. Western Ave, Chicago, IL 60629
Date/Time of COPA Notification:	March 5, 2022/ Approximately 8:55 pm
Involved Member #1:	Nicholas Verta / Star #15977 / Employee ID # [REDACTED] / Date of Appointment: April 16, 2019 / Unit of Assignment: 008 / Male / White
Involved Member #2:	Jesus Macedo / Star #18918 / Employee ID # [REDACTED] / Date of Appointment: April 16, 2019 / Unit of Assignment: 008 / Male / White
Involved Individual #1:	[REDACTED] Male, Black

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- 4th Amendment to the United States Constitution

Appendix B

Definition of COPA’s Findings and Standards of Proof

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 a proposition is proved.²⁵ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, 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. 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.”²⁶

²⁵ 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 is found to be more probably true than not).

²⁶ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation