

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	June 1, 2022 / 12:30 pm / 6235 S Kilpatrick Ave., Chicago IL 60629
Date/Time of COPA Notification:	June 1, 2022 / 1:05 pm
Involved Police Officer #1:	Victor Rivera / Star# 13011 / Employee ID# [REDACTED] / DOA: January 3, 2005 / Unit: 193 / Male / Hispanic
Involved Police Officer #2:	Irvinder Perez / Star# 7453 / Employee ID# [REDACTED] DOA: March 15, 2013 / Unit: 193 / Female / Hispanic
Involved Individual #1:	[REDACTED] / Male / Hispanic
Involved Individual #2:	[REDACTED] / Female / Hispanic
Case Type:	4 th Amendment; Verbal Abuse; Profanity

I. ALLEGATIONS

Officer	Allegation	Findings / Recommendations
Officer Victor Rivera	<p>It is alleged by [REDACTED] that on June 1, 2022 at or around 12:30 p.m., at or near 6239 South Kilpatrick Avenue, Chicago, Illinois 60610, Police Officer Victor Rivera, Star# 13011 committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Stopped his vehicle without justification. 2. Acted unprofessionally and/or mocked him, by using words to the effect of: "Who sended me? That's not a word." <p>It is alleged by [REDACTED] that on June 1, 2022 at or around 12:30 p.m., at or near 6239 South Kilpatrick Avenue, Chicago, Illinois 60610, Police Officer Victor Rivera, Star# 13011 committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 3. Directed abusive and/or profane language at her, using words to the effect of: "Get your fat ass back in the house." 	<p>Not Sustained</p> <p>Sustained / 1-Day Suspension</p> <p>Not Sustained</p>

II. SUMMARY OF EVIDENCE¹

On June 1, 2022, at approximately 12:30 pm, near 6235 S Kilpatrick Ave., Officer Victor Rivera and Officer Irvinder Perez conducted a traffic stop of complainant [REDACTED] vehicle after Officer Rivera reported observing that [REDACTED] was not wearing his seatbelt while operating the vehicle. The interaction was witnessed by [REDACTED] wife, [REDACTED] who exited their home upon observing that her husband had been stopped by the officers.

[REDACTED] alleges that his vehicle was stopped by Officer Rivera without justification. [REDACTED] further alleges that during his conversation with the officers, Officer Rivera mocked his speech, using words to the effect of, “Who sended me? That’s not a word.” It is also alleged by [REDACTED] and [REDACTED] that, towards the end of their interaction with the officers, Officer Rivera used profane and abusive language towards [REDACTED] by stating words to the effect of, “Get your fat ass back in the house.” Both [REDACTED] and [REDACTED] stated that they did not have any complaints against Officer Perez.

The incident described above is captured on the **Body Worn Camera (“BWC”) video recordings of Officer Rivera and Officer Perez.**² The incident is also documented by **Traffic Statistical Study, Traffic Stop Summary** which details a traffic stop and seatbelt violation.³

In their statements to COPA, Officer Rivera and Officer Perez explained that the traffic stop was conducted because Officer Rivera observed that [REDACTED] was not wearing his seatbelt as he drove out of an alley.⁴ However, [REDACTED] asserted that he was wearing his seatbelt and that he only removed his seatbelt after he was stopped.⁵ The BWC footage of this incident does not show whether [REDACTED] was wearing a seatbelt. The first view of [REDACTED] vehicle is captured on the BWC while the vehicle is parked.⁶ The footage did not capture the vehicle as it traveled from the alley and onto the street.

During his statement with COPA investigators, Officer Rivera confirmed that he stated words to the effect of, “Who sended me? That’s not a word,” to [REDACTED]⁷ Officer Rivera explained that he replied in this manner to [REDACTED] because he was “just letting him know that it wasn’t a word.”⁸ The officer further stated, “I apologize if it offended him, but my intent was not to make him feel like I was insulting him.”⁹ As it pertains to the allegation of abusive and profane language against [REDACTED] Officer Rivera asserted that he did not state words to the effect of, “Get your fat ass back in the house.” In response to this allegation, Officer Rivera stated, “I don’t remember saying anything like that. I don’t think I would say anything like that.”¹⁰ During her

¹ 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 are summarized more succinctly in a Modified Summary Report of Investigation.

² Att. 6 BWC of Officer Victor Rivera (Axon_Body_3_Video_2022-06-01_1216_X60A1159H); Att. 7 BWC of Officer Irvinder Perez (Axon_Body_3_Video_2022-06-01_1219_X60A1059F).

³ Att. 5 Traffic Stop Statistical Study, Traffic Stop Summary.

⁴ Att. 15, pg. 13, lns. 5 to 7 and Att. 14, pg. 9, lns. 7 to 9 and pg. 10, lns. 14 to 17.

⁵ Att. 12, pg. 14, lns. 23 to 24 and pg. 15, lns. 1 to 6.

⁶ Att. 6 at 2:18.

⁷ Att. 15, pg. 17, ln. 10.

⁸ Att. 15, pg. 17, lns. 13 to 14.

⁹ Att. 15, pg. 17, lns. 15 to 17.

¹⁰ Att. 15, pg. 18, lns. 7 to 10.

statement with COPA investigators, Officer Perez asserted that she did not hear Officer Rivera make the alleged profane and abusive statement towards Perez.¹¹

III. 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 did not comply with CPD policy.¹² If the evidence gathered in an investigation establishes that it is more likely that the conduct violated 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.¹³ 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."¹⁴

IV. ANALYSIS AND CONCLUSION

a. Allegations Made by [REDACTED]

COPA finds that **Allegation No. 1** against Officer Rivera, that he stopped the vehicle of [REDACTED] without justification, is **Not Sustained**. Under the Fourth Amendment, traffic stops are considered seizures, and thus they are subject to the Fourth Amendment reasonableness requirement.¹⁵ A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law."¹⁶ In this case, Officer Rivera told [REDACTED] he was being stopped because he was not wearing his seatbelt.

¹¹ Att. 14, pg. 15, Ins. 23to 24 and pg. 16, Ins. 1 to 3.

¹² See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) ("A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.").

¹³ See, e.g., *People v. Coan*, 2016 IL App (2d) 151036.

¹⁴ *Id.* ¶ 28.

¹⁵ *Whren v. United States*, 517 U.S. 806, 809-10 (1996).

¹⁶ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

In their statements to COPA, both officers asserted they had justification to conduct the traffic stop. However, while Officer Rivera alleges that he saw the infraction, it was not captured on the available BWC recordings. Also, there are no independent witnesses to confirm whether the infraction occurred, nor is there any known video footage, aside from the inconclusive BWC recordings, to confirm or refute whether [REDACTED] was wearing his seatbelt. [REDACTED] asserts that he was, in fact, wearing his seatbelt and that he only removed it after he was stopped. Without objective, independent evidence to determine if the infraction occurred, this allegation must be **Not Sustained**.

COPA finds that **Allegation No. 2** against Officer Rivera is **Sustained**. In his statement to COPA, Officer Rivera admitted that he said words to the effect of, “Who sended me? That’s not a word,” to [REDACTED] and the statement was also captured on Officer Rivera’s BWC recording.¹⁷ Officer Rivera made this statement after [REDACTED] asked him, “Who sended you?” Finally, while Officer Rivera explained that his intent was not to be offensive towards [REDACTED] COPA finds that Officer Rivera was, more likely than not, mocking [REDACTED] manner of speaking. A reasonable police officer would not speak to a citizen in this manner, regardless of the citizen’s improper grammar. General Order G02-01 makes it clear that a police officer must be respectful in their contact with the public:

Department members will treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.¹⁸

After considering the context of the statement made by Officer Rivera and the officer’s explanation, COPA finds that Officer Rivera’s behavior was unwarranted and impeded CPD’s goal to promote respect between law enforcement and the community, in violation of Rule 2 (bringing discredit upon the Department), Rule 3 (failing to promote the Department’s efforts to implement its policy or accomplish its goals), Rule 6 (violating General Order G02-01), Rule 8 (engaging in disrespect to or maltreatment of [REDACTED] and Rule 9 (engaging in an unjustified verbal altercation with [REDACTED]

b. Allegation Made by [REDACTED]

COPA finds that **Allegation No. 3** against Officer Rivera is **Not Sustained**. Both [REDACTED] and [REDACTED] allege that Officer Rivera directed words to the effect of, “Get your fat ass back in the house,” to [REDACTED] at the end of their interaction. However, Officer Rivera denied making the alleged statement and Officer Perez stated that she did not hear Officer Rivera say it. The alleged statement was not captured on BWC recordings and there are no independent witnesses to confirm or dispute whether the statement was made. While the traffic stop appears to have been recorded from beginning to end, COPA recognizes the possibility that Officer [REDACTED] may have made the alleged statement from his police vehicle while he began to drive away, after he turned off his BWC. However, there is no objective, verifiable evidence that he did so. Thus, there is

¹⁷ Att. 6 at 6:40 to 6:44.

¹⁸ Att. 25, General Order G02-01(III)(B), Human Rights and Human Resources (effective October 5, 2017, to June 30, 2022).

insufficient evidence to prove by a preponderance of the evidence that Officer Rivera made this statement.

V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Victor Rivera

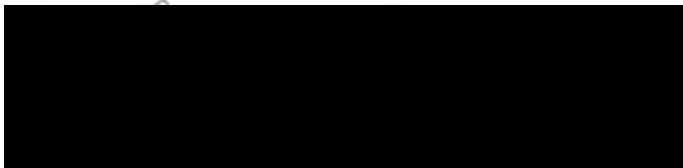
i. Complimentary and Disciplinary History¹⁹

Officer Rivera has received ten Department Commendations, 144 Honorable Mentions, the Police Officer of the Month Award, the Top Gun Arrest Award, two complimentary letters, and 19 other awards and commendations. Officer Rivera has no sustained complaint registers within the past five years, but he was reprimanded through the summary punishment system in February 2023 for failing to perform assigned tasks.

ii. Recommended Penalty

Here, COPA has found that Officer Rivera violated Rules 2, 3, 6, 8, and 9 when he mocked the complainant’s manner of speaking. Officer Rivera’s words were unnecessary and had the tendency to impede CPD’s goal of promoting respect between law enforcement and the community and were also personally offensive to the complainant. For these reasons, and after considering Officer Rivera’s complimentary and disciplinary history, COPA recommends that Officer Rivera be **suspended for 1 day**.

Approved:



11-30-2023

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date

¹⁹ Att. 26.