



Log # 2021-0000013

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On January 3, 2021, the Civilian Office of Police Accountability (COPA) received a CPD initiated complaint from Lt. Joseph Schuler (430), on behalf of Mr. ██████████ (██████████) reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ (██████████) alleged that on January 3, 2021, Officers Mario Fuentes and Ray Winkler stopped and searched his vehicle without justification. Furthermore, ██████████ (██████████) alleged that the accused officers arrested the driver of his vehicle, Mr. ██████████ (██████████) and impounded his vehicle as retaliation for looking at the patrol vehicle information of the accused officers after they initially released ██████████ (██████████) and ██████████ (██████████).² Upon review of the evidence, COPA served an additional allegation that Fuentes and Winkler failed to complete and investigatory stop report (ISR) after detaining ██████████ (██████████). Following its investigation, COPA reached sustained findings regarding all allegations.

II. SUMMARY OF EVIDENCE³

On January 3, 2021, at approximately 4:00 PM, Officers Mario Fuentes (Fuentes) and Ray Winkler (Winkler) conducted a traffic stop on ██████████ (██████████) and ██████████ (██████████) at or near 100 E Chicago Ave. According to the Traffic Stop Statistical study (TSS), the reason for the traffic stop was due to ██████████ (██████████) failing to wear his seatbelt.⁴ Fuentes and Winkler approach the vehicle and speak with ██████████ (██████████) and ██████████ (██████████).

Fuentes, who approached the driver side of the vehicle, spoke with ██████████ (██████████) and discovered that ██████████ (██████████) did not have a valid driver's license. ██████████ (██████████) is ordered to step out of the vehicle and was immediately handcuffed then placed in the back of the patrol vehicle.⁵ ██████████ (██████████) was also ordered to exit the vehicle and asked if he had a valid license or FOID card to which he provided both. Fuentes then asks ██████████ (██████████) if he had any weapons or his firearm in the vehicle to which ██████████ (██████████) denied. Fuentes then tells ██████████ (██████████) that Winkler would search the vehicle for firearms, but ██████████ (██████████) refused to give his consent.⁶ Fuentes then handcuffs ██████████ (██████████) and places him in the

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 BWC footage, police reports, civilian interviews, and officer interviews.

⁴ Att. 11

⁵ Att. 5 (2:25 – 3:47)

⁶ Att. 5 (4:05 – 4:40)

back of the patrol car as well while telling ██████ that he will just impound the vehicle and search the vehicle anyway.⁷

Once Fuentes and Winkler have both men in the back of the patrol vehicle, the officers can be seen conducting a minimal search⁸ of ██████ vehicle consisting of opening the doors and around the seats.⁹ Following this search, Fuentes and Winkler go back to their patrol vehicle and run both ██████ and ██████ information through their computer systems. As Fuentes is running this information, he tells both men that ██████ would be going to jail, and the vehicle would be impounded. ██████ can be heard asking if the vehicle had to be impounded because he has a valid license, to which Fuentes states that he is impounding the vehicle because he was not the one operating the vehicle. ██████ continues to ask questions when Fuentes interrupts by saying that ██████ and ██████ are ignorant as fuck.¹⁰ Both ██████ and ██████ then begin asking how they are being ignorant because they are just asking questions. Fuentes then responds by telling them that maybe after ██████ goes to jail and the vehicle gets impounded, they will learn how to talk to police officers.¹¹

Fuentes goes on to say inform both men that when they stop a driver who has a suspended license, the driver goes to jail, and they pay \$3,000 to get their vehicle out of impound.¹² After hearing this, both ██████ and ██████ can be heard apologizing profusely and asking Fuentes for a break.¹³ Fuentes goes on telling both men eventually informs both men that he is going to give them a break, but ██████ has to be the one to drive the vehicle.¹⁴ Both ██████ and ██████ are then released with ██████ making it back to the passenger seat of ██████ vehicle. However, after Fuentes takes the handcuffs off of ██████ can be seen turning to look at what appears to be the identifying information of both Fuentes and the patrol vehicle.¹⁵

Fuentes appears to take offense to this, then following ██████ back to his car and saying, “you are not going to size me up like that, looking at my star number, my vehicle number”, also ordering ██████ to exit the vehicle once more so he can be arrested, and the vehicle can be

⁷ Att. 5 (4:40 – 5:00) “that’s how easy it gets.”

⁸ Att. 15 - Officer Fuentes did not consider looking in the vehicle on scene as a search. Stated an inventory search was conducted at the district prior to impound.

⁹ Att. 5 (5:09 – 5:42) and Att. 4 (5:00 – 5:55)

¹⁰ Att. 5 (6:28 – 6:31)

¹¹ Att. 5 (6:40 – 6:46)

¹² Att. 5 (8:10 – 8:32) Fuentes makes another comment about the way ██████ and ██████ have been treating him and asking, “what is wrong with guys?” multiple times.

¹³ Att. 5 (8:35 – 8:50) Fuentes and Winkler can both make comments about how ██████ and ██████ treated them poorly. Fuentes says “oh, but we are harassing you right?”

¹⁴ Att. 5 (9:05 – 9:31) ██████ responds with “that is fine”, but both Fuentes and Winkler appear offended by this with Fuentes commenting that he is “at a loss for words”.

¹⁵ Att. 5 (10:05-10:10) ██████ was not blading his body and continued moving toward his vehicle while looking at this information.

impounded.¹⁶ From here, Fuentes transports ██████ back to the 18th district while Winkler transports ██████ vehicle¹⁷ back to the 18th district as well.¹⁸

III. ALLEGATIONS

Officer Mario Fuentes:

1. Searched the vehicle of ██████ without justification.
 - Sustained, Violation of rules 2 and 3.
2. Impounded the vehicle of ██████ without justification.
 - Sustained
3. Making insulting, mocking, and belittling statements directed at ██████
 - Sustained, Violation of rules 2, 3, 8, and 9.
4. Arresting ██████ and impounding the vehicle of ██████ as a form of retaliation for ██████ looking at Officer Fuentes' identifying information.
 - Sustained, Violation of rules 2 and 3.
5. Failing to complete an Investigatory Stop Report after detaining ██████
 - Sustained, Violation of rules 2, 3, 5, and 10.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

V. ANALYSIS^{19, 20}

COPA finds that Allegation #1 against Officer Fuentes, that he searched the vehicle of ██████ without justification is **Sustained**. According to Fuentes' BWC footage, the probable cause and type of search conducted on ██████ vehicle is unclear. A search is not mentioned by Fuentes until he asks ██████ about his FOID and whether he has a firearm in the vehicle. When Fuentes mentions that the vehicle is going to be searched, ██████ verbally refuses to give Fuentes and Winkler consent to search.²¹ It was at this point that Fuentes then handcuffs ██████ and tells him that the vehicle can just be impounded and searched anyways.

¹⁶ Att. 5 (10:13 – 11:08) Fuentes comments on ██████ "sizing him up" at least three times.

¹⁷ Att. 4 (11:48) Winkler BWC shuts down prior to him driving vehicle, there is no evidence of him driving vehicle recklessly.

¹⁸ Att. 5 (11:50 – 12:05) Fuentes again makes a comment to ██████ that he wanted to give them a break, but because ██████ was being ignorant, they "could not let this one go". (TS)

¹⁹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²⁰ Att. 9 Winkler resigned from the department prior to beginning investigation, therefore, received no allegations.

²¹ 725 ILCS 5/108-1: Search and Seizure

COPA finds that Allegation #2, that Officer Fuentes impounded the vehicle of [REDACTED] without justification is **exonerated**. Although COPA finds that the act of impounding [REDACTED] vehicle was done in retaliation, there was still valid legal reason to impound the vehicle with [REDACTED] driving on a suspended license and [REDACTED] allowing him to operate it.

COPA finds that Allegation #3 against Officer Fuentes, that he made insulting, mocking, and belittling statements directed at [REDACTED] is **Sustained**. At several points in his BWC footage, Fuentes can be heard telling both [REDACTED] and [REDACTED] that they were “ignorant as fuck”. Fuentes can be heard also commenting to Winkler that [REDACTED] was being a “Jag”.²² When asked about this in his interview, Fuentes admitted that he when was referring to [REDACTED] as a “Jag”, it was a shorthand for “Jagoff”. Fuentes also admitted in his interview that he was aware of the language he used toward [REDACTED] and [REDACTED] is unprofessional and against department regulations.²³ G02-01 requires, “Department members to treat all persons with the courtesy and dignity” and to “act, speak and conduct themselves in a professional manner in all contacts with the public,”²⁴ which Officer Fuentes violated.

COPA finds that Allegation #4 against Officer Fuentes, that he arrested [REDACTED] and impounding the vehicle of [REDACTED] as a form of retaliation for [REDACTED] looking at Officer Fuentes’ identifying information is **Sustained**. When asked in his interview, Fuentes stated that the police action taken during this incident was not retaliatory. Rather, Fuentes chose to rescind the discretion previously shown to [REDACTED] and [REDACTED] which is his right as an officer. When asked the reason for choosing to rescind this discretion, Fuentes believed that [REDACTED] was disrespectful and unappreciative of the discretion Fuentes offered.

Fuentes was asked to explain in greater detail how [REDACTED] was disrespectful during this incident, to which he explained that [REDACTED] had a “fuck you” type of attitude, but clarified that at no point did [REDACTED] ever actually say “fuck you” to either officer. Fuentes was also asked to explain what he meant in his BWC footage when he told [REDACTED] he would not “size me up”. Fuentes explained that he specifically was referring to [REDACTED] attitude and looking at Fuentes’ vehicle number and star number. Fuentes was asked if [REDACTED] asked for this information or was not allowed to locate that information, to which Fuentes agreed that citizens are allowed to obtain that information.

For the reasons listed above, COPA finds that the decision to rescind officer discretion and arrest [REDACTED] while impounding [REDACTED] vehicle was retaliatory. Fuentes was captured being unprofessional and insulting toward both [REDACTED] and [REDACTED] despite both men appearing to comply with orders given to them.²⁵ Both [REDACTED] and [REDACTED] did not appear disrespectful and chose to ask clarifying questions without using profanity toward the officers. When [REDACTED] casually looked at Fuentes and his patrol vehicle, Fuentes became defensive and chose to take

²² Att. 5 (5:19)

²³ Fuentes offered an apology in his interview, citing that he meant no offense and police are entitled to bad days too because they are human and deal with many difficult things in their job.

²⁴ Att. 17 G02-01: Human Rights and Human Resources (III) (B)

²⁵ Despite Fuentes claiming in his interview that he felt [REDACTED] was disrespectful and did not respect their authority, only Fuentes is captured acting in a disrespectful manner.

further action. The actions conducted by Officer Fuentes, violates G08-05, which prohibits retaliation by “deliberate actions, that involves an improper motive, including, physical conduct and direct or indirect actions, including arrests, issuance of citations” and “direct or indirect verbal communications, including threats, intimidation, or meant to offend, ridicule, or embarrass.”²⁶ All of which were captured on BWC.

COPA finds that Allegation #5 against Officer Fuentes, that he failed to complete an Investigatory Stop Report after detaining ██████████ is **Sustained**. COPA was able to obtain a Traffic Stop Statistical Study²⁷ for ██████████ showing he was pulled over for failing to wear a seatbelt. However, there is no evidence that an Investigatory Stop Report (ISR) was ever created for ██████████ despite being handcuffed and having his vehicle searched and impounded. S04-13-09 requires that, “Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report to document the facts and circumstances; establishing Reasonable Articulable Suspicion to stop an individual and Probable Cause when no other document captures the reason for the detention.”²⁸

VI. DISCIPLINARY RECOMMENDATION

a. Officer Mario Fuentes

i. Complimentary and Disciplinary History²⁹

Officer Fuentes has received 167 various awards; four reprimands in the last five years: one in 2019 for operation/personnel violations neglect of duty, two in 2021: operation/personnel violations neglect of duty and arrest/lockup incidents prisoner’s property property failed to inventory, one in 2022 verbal abuse profanity; and two SPARs in 2023: reprimand/court appearance violation and no disciplinary action/non-compliance with motor vehicle pursuit requirements.

ii. Recommended Discipline

COPA has found that Officer Fuentes violated Rules 2, 3, 5, 8, 9, and 10 when he searched ██████████ vehicle without justification; made insulting, mocking, and belittling statements directed at ██████████ arrested ██████████ and impounding ██████████ vehicle as a form of retaliation; and failing to complete an ISR to document his encounter with ██████████. Although Officer Fuentes provided his perspective and justification regarding the allegations, his actions were quantifiably inadequate and damaging to the relationship expected of an officer when interacting with constituents. It is for these reasons, combined with the officer’s complimentary history and disciplinary history, that COPA recommends a **10-day suspension**.

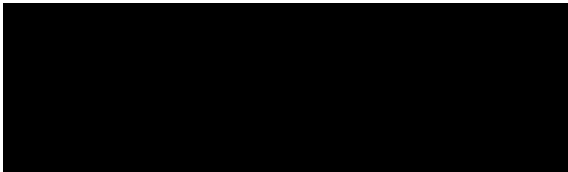
²⁶ Att. 18 G08-05: Prohibition of Retaliation (II) (G) (1) (3)

²⁷ Att. 11

²⁸ Att. 19 S04-13-09: Investigatory Stop System (III) (C) (D) (1) (a) (b)

²⁹ Att. 16

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

January 16, 2024

Date

Appendix ACase Details

Date/Time/Location of Incident:	January 3, 2021 / 4:00 PM / 100 E Chicago Ave.
Date/Time of COPA Notification:	January 3, 2021 / 5:45 PM
Involved Officer #1:	Mario Fuentes, Star# 9793, Employee# 120930, Date of Appointment: June 16, 2017, Unit of Assignment: 018, Male, Hispanic
Involved Officer #2:	Ray Winkler, Star# 19163, Employee# 119949, Date of Appointment: February 16, 2017, Unit of Assignment: 018, Male, White
Involved Individual #1:	██████████ Male, Black
Involved Individual #2:	██████████ 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

- G08-05: Prohibition of Retaliation (December 30, 2020 – Present)
- G02-01: Human Rights and Human Resources (October 5, 2017 – June 30, 2022)
- S04-13-09: Investigatory Stop System (July 10, 2017 – Present)
- 725 ILCS 5/108-1: Search and Seizure
- 725 ILCS 5/107-14: Temporary Questioning Without Arrest
- U.S. Const. 4th Amendment

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.³⁰ For example, 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.

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.”³¹

³⁰ 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).

³¹ *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