



Log # 2022-0003799

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On September 6, 2022, the Civilian Office of Police Accountability (COPA) received a telephone call from the complainant, [REDACTED] alleging misconduct against CPD Officers Edward Garcia and Anthony Iovinelli. [REDACTED] alleged that on September 1, 2022, Officer Garcia stopped and issued him two traffic violations and Officer Iovinelli patted him down, handcuffed him without justification and searched [REDACTED] vehicle without justification during the traffic stop. Following its investigation, COPA served an additional allegation on Officer Garcia of unprofessional verbal behavior and reached a **Sustained** finding. COPA reached **Exonerated** findings for the allegations against Officer Iovinelli.

II. SUMMARY OF EVIDENCE²

On September 1, 2022, at approximately 9:55 pm, in the area of 800 S. Homan, Officers Garcia, Iovinelli and Eyman, were on routine patrol when they observed [REDACTED] fail to stop at a stop sign while driving a car without valid registration.³ Officer Garcia curbed [REDACTED] car at 1201 S. Homan for a traffic stop, pulling up behind it, while at the same time, another unit with four officers pulled in front of it.⁴ All seven officers exited their vehicles and surrounded [REDACTED] car.

Officer Garcia approached the driver's side of the car, shining a flashlight in [REDACTED] face, which [REDACTED] complained about. Officer Garcia explained that the purpose of the stop was because [REDACTED] failed to stop at a stop sign, which [REDACTED] argued about. Officer Garcia asked [REDACTED] for his driver's license, which [REDACTED] immediately handed over to him. Officer Garcia asked if [REDACTED] had a CCL or FOID card. [REDACTED] indicated he did not. Officer Garcia asked if there were guns in the car. [REDACTED] indicated there were not. Officer Garcia asked if [REDACTED] had insurance, and [REDACTED] immediately handed it over to him.

Officer Garcia then asked [REDACTED] to step out of the vehicle. [REDACTED] did not understand why he was being asked to step out and became very argumentative. Officer Iovinelli joined Officer Garcia on the driver's side and told [REDACTED] that he was being asked to step out because he did not

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 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, and the interviews of [REDACTED] and Officers Garcia and Iovinelli.

³ Att. 8.

⁴ Att. 3 at 21:47:58.

look Officer Garcia in the eye when Officer Garcia asked about whether there were guns in the car, he seemed nervous, and he did not want to roll his windows down. (The BWC showed that when ██████ was asked about having a CCL, FOID card, and guns in the car, he was already looking towards a drink he had in the cup holder which he picked up and took a sip of, and his windows were rolled down halfway.) ██████ refused to step out and asked that a supervisor be called. The officers tried to explain that being asked to step out was a lawful order, but ██████ would not comply. Officer Iovinelli explained that if a supervisor came to the scene, ██████ would be arrested for obstruction.

██████ explained that he was upset and nervous because he did not do anything wrong and there were multiple officers surrounding his vehicle.⁵ He continued to refuse to step out and ask for a supervisor. ██████ further explained that he was nervous because, “I am a young, Black guy, and you all are killing people.” Officer Garcia responded, “and you are not killing people? You are not killing people? How am I supposed to know that you are not a murderer?”⁶

██████ continued to refuse to step out and to ask for a supervisor. Officer Iovinelli continued to explain to ██████ that he could be arrested for obstruction and not following their commands to exit the vehicle.⁷ ██████ explained that he had just gotten off work at the hospital and had been stopped before and had his car searched. He was not going to consent to a search.

At one point during the interaction, ██████ reached down under the seat to retrieve his cell phone which had fallen to the floor.⁸ Officer Garcia told him to stop reaching and moving, and ██████ related that he was getting his phone because he was going to call his people. Officer Garcia then stated, “What are your people going to do? Come back and shoot us?”⁹ Officer Garcia walked away to run ██████ name while Officer Iovinelli and one of the assisting officers¹⁰ opened the vehicle door, whereupon ██████ exited the vehicle on his own, approximately five minutes after first being asked to do so.

Officer Iovinelli proceeded to search the driver’s area of ██████ car, telling ██████ he was only searching where he saw ██████ reaching.¹¹ After not locating any weapons, Officer Iovinelli talked to Officer Garcia, who was writing two moving violations, and they decided not to arrest ██████ for obstruction. ██████ was uncuffed and Officer Garcia gave him the two citations and again attempted to explain the procedures to ██████. Officer Iovinelli completed an ISR report and provided ██████ with the ISR receipt.¹²

⁵ Att. 16, pg. 6, and Att. 2, at 21:48:05.

⁶ Atts. 2 – 3, at 21:50:55 – 21:51:15

⁷ Atts. 2 – 3, at 21:51:30 – 21:53:15.

⁸ Atts. 2-3 at 21:53:22.

⁹ Atts. 2 – 3, at 21:53:20 – 21:53:50, and Att. 24, pg. 19, lines 7 – 16.

¹⁰ The BWC identified Officer Eric Myers as the officer that assisted Officer Iovinelli in detaining ██████

¹¹ Att. 2, 21:55:05 – 21:56:20.

¹² Att. 2, 22:05:35 – 22:06:13.

The ISR described [REDACTED] as “irate and very argumentative” when he was pulled over.¹³ It stated that when asked about weapons in the car, [REDACTED] “appeared to remain silent at first, then looked away from R/O’s and down towards the floor and related in a non-confident way ‘no.’ R/O’s also observed [REDACTED] hands to be visibly shaking.... Due to [REDACTED] nervous and argumentative behavior and the inability to answer confidently that there were no weapons inside the vehicle, R/O’s requested that he exit the vehicle.... [REDACTED] became more irate and refused to exit the vehicle and began to relate not verbatim “you can’t search my car.” R/O’s continued to give verbal commands for him to exit the vehicle, which he continued to refuse. During this time [REDACTED] reached down to the floorboard and slightly underneath the driver’s seat with his right hand. R/O’s know from training and experience this type of movement is consistent with concealing or retrieving a weapon or other contraband. R/O’s gave verbal commands to keep his hands visible. R/O’s continued to give verbal commands to exit the vehicle to which he eventually complied. R/O’s detained the [REDACTED] due to the above actions and behavior, R/O’s conducted a protective pat down for weapons and conducted a brief weapons canvass in the immediately accessible area of the vehicle where R/O’s observed him reaching.”¹⁴

In his interview with COPA, Officer Garcia described [REDACTED] as hostile, upset, loud, aggravated, and “visibly shaking.”¹⁵ In response to being asked about the comments he made to [REDACTED] stating, “and you are not killing people? You are not killing people? How am I supposed to know that you are not a murderer,” Officer Garcia explained that he was “trying to make them understand. I will give them different scenarios. You know, it’s like, ‘Listen, I don’t know you and what you’re about. You know what I’m saying? You could be a murderer. Are you a shooter? No, I don’t know you.’”¹⁶ Officer Garcia also stated, “I’m not trying to school him or teach him, but I’m trying to make him understand. My words are not towards him. I’m just trying to explain a scenario.”¹⁷ According to Officer Garcia, [REDACTED] seemed to understand what he was saying because [REDACTED] demeanor seemed to change.¹⁸

When asked about his comment to [REDACTED] about whether [REDACTED] people were going to “come back and shoot us,” Officer Garcia agreed when COPA asked him if he was “in fear,” and stated that he did not know why [REDACTED] was going to call his people.¹⁹ Ultimately, Officer Garcia described his language as “off-color,” but stated he used the words “to make [REDACTED] feel a little more at ease so he doesn’t look at me like, ‘Oh, he’s high and mighty, you know all professional.’ So, I mean, sometimes you do kind of use words, but it was never directed at him.”²⁰

¹³ Att. 8.

¹⁴ Att. 8.

¹⁵ Att. 23, pgs. 10-11.

¹⁶ Att. 23, pg. 15, lines 2 – 22.

¹⁷ Att. 23, pg. 15.

¹⁸ Att. 23, pg. 16.

¹⁹ Att. 23, pg. 19.

²⁰ Att. 23, pg. 20.

In Officer Iovinelli's interview with COPA, he described ██████ as combative, argumentative, irate, and nervous.²¹ Officer Iovinelli explained that he handcuffed ██████ for officer safety, because potentially he could be arrested for obstruction and because he reached under the seat.²² Officer Iovinelli further explained that because ██████ refused multiple times to follow their direction, his reaching under the seat, the nervousness, and the glancing around the interior of the vehicle when asked about weapons, he detained ██████ with the handcuffs for safety and to prevent ██████ from fleeing if anything was recovered from the search of the car.²³ Officer Iovinelli conducted a search of that immediate area where ██████ reached down. The officers later learned that ██████ was reaching down for his cellular phone which he had dropped.

III. ALLEGATIONS

Officer Edward Garcia

It is alleged that on or about September 1, 2022, at 9:55 pm, at or near 1201 S. Homan, Officer Edward Garcia committed misconduct through the following acts or omissions by:

1. Was verbally unprofessional toward ██████
Sustained

Officer Anthony Iovinelli

It is alleged that on or about September 1, 2022, at 9:55 pm, at or near 1201 S. Homan, Officer Anthony Iovinelli committed misconduct through the following acts or omissions by:

1. Patting down ██████ without justification.
- Unfounded
2. Handcuffing ██████ without justification.
- Exonerated
3. Searching ██████ vehicle without justification.
- Exonerated

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

²¹ Att. 24, pg. 11.

²² Att. 24, pg. 12, lines 23 - 24, pg. 13, lines 1 - 6.

²³ Att. 24, pg. 19, lines 12 - 24.

Here, some of what Officers Garcia and Iovinelli stated to COPA and wrote on the ISR does not appear to be borne out by the BWC. For instance, Officer Iovinelli wrote in the ISR, and both officers stated to COPA, that when they first approached ██████ was visibly shaking and looked nervous. However, a review of the BWC does not show that ██████ or his hands were shaking or that he looked particularly nervous. In another instance, Officer Iovinelli stated that ██████ looked down when asked about weapons in the car, glanced around the car, did not immediately answer, and did not say “no” in a confident manner. Officer Garcia said that ██████ “kept looking around...to the floorboards.”²⁴ But the BWC showed that when Garcia was asking ██████ about the CCL, FOID card, and weapons, he did appear to answer, in a casual, not “non confident way,” as he looked towards and picked up his drink in the cup holder and took a sip.

However, due to differing perspectives, COPA cannot find by a preponderance of evidence that the officers’ credibility is necessarily compromised.

V. ANALYSIS²⁵

COPA finds **Allegation #1** against Officer Edward Garcia that he was verbally unprofessional toward ██████ is **Sustained**.

Department members will treat all persons with 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.²⁶

After ██████ stated that he was nervous as a young, Black man, noting that “you all are killing people,” Officer Garcia replied, “and you are not killing people? You are not killing people? How I my supposed to know that you are not a murderer.” Later, when ██████ said he was picking up his phone to call his people, Officer Garcia replied, “what are your people going to “come back and shoot us.” Both of these comments were inappropriate, suggesting racist undertones.

Officer Garcia’s explanation that he was trying to make ██████ understand that he did not know ██████ and did not know if ██████ was a murderer or a shooter, but that the comments were not directed towards ██████ does not make sense. Regardless, the comments were more than “off-color” even if Officer Garcia was “in fear.” Therefore, COPA sustains this allegation.

COPA finds that **Allegation #1** against Officer Iovinelli that he patted down ██████ without justification is **Unfounded**. This allegation was given to Officer Iovinelli by mistake, as he was misidentified. COPA learned that Officer Iovinelli did not pat down ██████ Therefore, COPA recommends that this allegation be removed from Officer Iovinelli’s record with a finding of unfounded.

²⁴ Att. 23, pg. 11.

²⁵ For a definition of COPA’s findings and standards of proof, see Appendix B.

²⁶ Att. General Order G02-01 (III)(B), Human Rights and Human Resources (effective October 5, 2017 – June 30, 2022).

COPA finds that **Allegations # 2 - 3** against Officer Iovinelli that he handcuffed ██████████ without justification and searched ██████████ vehicle without justification are **Exonerated.**

Warrantless searches of citizens and their property have been strictly limited by the Fourth Amendment of the United States Constitution and the Illinois Constitution, which established “the right of individuals to be free from unreasonable searches and seizures.” However, the police may conduct a temporary detention of an individual in an automobile if they have probable cause to believe that a traffic violation has occurred.”²⁷ Additionally, “[o]nce a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment's proscription of unreasonable searches and seizures.”²⁸

A police officer may also perform a protective pat-down search where, after making a lawful stop, the officer has a reasonable articulable suspicion that he or another is in danger of attack because the defendant is armed and dangerous.²⁹ CPD defines reasonable articulable suspicion as “an objective legal standard that is less than probable cause, but more than a hunch or general suspicion.” Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member’s training and experience.”³⁰

Additionally, when conducting a traffic stop, if the police have a reasonable suspicion based on specific and articulable facts to believe that a vehicle occupant may be armed and dangerous, they may not only conduct a protective search for weapon of the person, but also of the passenger compartment of the automobile.³¹ “[T]he search of the passenger compartment of an automobile, [is] limited to those areas in which a weapon may be placed or hidden.”³²

Finally, officers may use handcuffs during an investigatory stop to protect law enforcement officers, the public, or the suspect from the undue risk of harm.³³

Here, the officers had probable cause for conducting the traffic stop of ██████████ for the committed traffic violations. ██████████ vehicle had a dark tint on the windows and the stop was being conducted in a high crime involving illegal weapons, shootings, and drugs.³⁴ Although the BWC did not bear this out, in the officers’ view, they perceived ██████████ to be nervous and evasive

²⁷ *Whren v. United States*, 517 U.S. 806, 809-10 (1996).

²⁸ *Pa. v. Mimms*, 434 U.S. 106, 111 fn. 6 (1977).

²⁹ *People v. Sorenson*, 196 Ill. 2d 425, 432 (2001).

³⁰ Att. 17, S04-13-09(II)(C).

³¹ *Michigan v. Long*, 463 U.S. 1032, 1048-49 (1983).

³² *Michigan v. Long*, 463 U.S. at 1049, 105--51.

³³ *People v. Fields*, 2014 IL App (1st) 130209, P27.

³⁴ Att. 24, pg. 10, lines 2 – 7.

when answering questions about a gun in the car. Regardless, the officers had an unequivocal right to ask ██████ to step out of the car.

When they did so, ██████ became more argumentative and belligerent. During this period, ██████ cell phone fell to the floor of the car, and he bent down to retrieve it. While benign behavior to a layperson, the experienced officers considered that ██████ could be concealing or retrieving a weapon. Thus, when ██████ did eventually step out, Officer Iovinelli briefly handcuffed him, and Officer Iovinelli quickly searched the immediate driver's side area for a weapon. Officer Iovinelli described the reasonable articulable suspicion as ██████ belligerent and nervous behavior, not following orders to step out of the vehicle, and reaching to the floor, which in his experience, in a high crime area with many shootings, led him to believe that ██████ may have been armed.³⁵

Ultimately, ██████ was kept handcuffed for a total of eight and half minutes. Thus, COPA finds by clear and convincing evidence that the conduct described in the allegations occurred, but it was lawful and proper, and these allegations against Officer Iovinelli are **Exonerated**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Edward Gracia.

i. Complimentary and Disciplinary History³⁶

Officer Garcia was a CPD member for almost 18 years at the time of this incident. He has received 172 achievements including two Crime Reduction Awards, six Department Commendations, a Life Saving Award, a Problem-Solving Award, and 133 Honorable Mentions. He has one sustained Complaint Register from April of 2022, for "Operation/Personnel Violations Insubordination," for which he received a 5-day Suspension. He has a history of two SPARS: one from November of 2023 for a "misuse of equipment/supplies" for which he received a Reprimand; and one from March of 2022 for "preventable accident," for which he received a Reprimand.

ii. Recommended Discipline

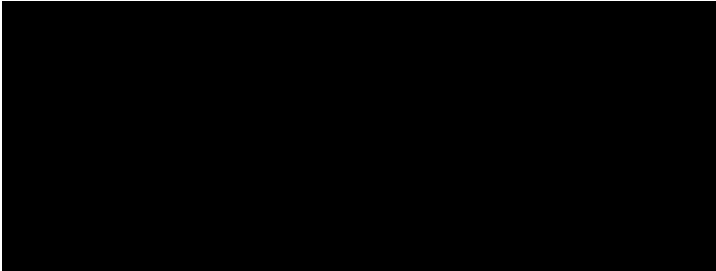
Generally, Officer Garcia did his best to maintain a professional demeanor with a difficult detainee, but Officer Garcia's comments suggesting that ██████ may be "killing people," and that ██████ people may be coming to shoot them, after ██████ described his nervousness about being a young Black man surrounded by police, were unprofessional, inappropriate and carried possible racist undertones.

COPA recommends a 2-day suspension.

³⁵ Att. 24, pgs. 11-19, 28, 33-34

³⁶ Att. 25

Approved:



2-28-2024

Angela Hearts-Glass
Deputy Chief Administrator-Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	September 1, 2022 / 9:55 pm / 1201 S. Homan Ave.
Date/Time of COPA Notification:	September 6, 2022 / 10:02 am
Involved Member #1:	Police Officer / Anthony Iovinelli / Star #3528, Employee ID # [REDACTED], Date of Appointment: January 16, 2018 / Unit 004 / Male / White
Involved Member #2:	Police Officer / Edward Garcia / Star #13694 / Employee ID # [REDACTED] / Date of Appointment: October 25, 2004 / 007 / Male / Hispanic
Involved Individual:	[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.

Applicable Policies and Laws

- General Order G02-01: Human Rights and Human Resources (effective June 30, 2022 - present)³⁷
- Special Order S04-13-09: Investigatory Stop Report (effective 10 July 2017 – present)³⁸

³⁷ Att. 18.

³⁸ Att. 17.

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.³⁹ 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.”⁴⁰

³⁹ 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).

⁴⁰ *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