



Log # 2023-0002003

FINAL SUMMARY REPORT

I. EXECUTIVE SUMMARY

On May 10, 2023, the Civilian Office of Police Accountability (COPA) received a complaint from [REDACTED] ([REDACTED] alleging misconduct by a member of the Chicago Police Department (CPD). Specifically, [REDACTED] alleged that on April 24, 2023, he was unjustly detained and his vehicle searched, resulting in damage to the moon roof, when CPD Officers Angelo Dicera, Sergio Martinez, Andrew Kats, Ian Patnett, and Juan Pintor Jr. conducted a traffic stop at or near 721 W 35th St.¹ Upon review of the evidence, COPA served additional allegations that Officer Sergio Martinez used profane and demeaning language toward [REDACTED]. Following its investigation, COPA reached **Sustained** findings regarding the allegations of conducting an unjustified search of [REDACTED] vehicle and using profane and demeaning language toward [REDACTED].

II. SUMMARY OF EVIDENCE²

On April 24, 2023, [REDACTED] was involved in a traffic stop in the area of W 35th St. and S Union Ave at approximately 9:00 PM. Officer Dicera approached [REDACTED] at the driver's side window and explained that he was pulled over for failing to stop at a red light near 3500 Emerald Ave. [REDACTED] then provided Officer Dicera his license and insurance upon request before Officer Dicera returned to his patrol vehicle to run [REDACTED] information.

After running [REDACTED] information, Officer Dicera returned to [REDACTED] vehicle and informed Officer Martinez, who had been standing with [REDACTED] that [REDACTED] is "valid."³ Officer Martinez then immediately turned to [REDACTED] and ordered him to step out of the vehicle while attempting to pull on the driver's door.⁴ [REDACTED] questioned Officer Martinez's order, asking why he needed to step out, but Officer Martinez said he is not the officer in charge.⁵ Officer Martinez said he was giving a lawful order that [REDACTED] needed to comply with without giving any other explanation as to why the order was given.⁶ [REDACTED] then asked Officer Martinez to request a "white shirt" [white shirt is common phrase for requesting a supervisor to the scene] and stated he

¹ 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.

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 the BWC footage, Investigatory Stop Report, and officer interviews.

³ Att. 5, PO Dicera BWC at 6:00-6:05

⁴ Att. 5, at 6:05-6:15

⁵ A reference to Officer Dicera having been the primary officer up that point before Officer Martinez' arrival.

⁶ This exchange cannot be clearly articulated in any of the BWC footage.

would happily step out of the vehicle once a “white shirt” arrived.⁷ Officer Martinez then requested a supervisor to the scene but continued to engage with ██████

While waiting for the supervisor to arrive, Officer Martinez told ██████ he “didn’t want to be an asshole, but when the white shirt comes, it’s going to be tickets galore, and everything galore but I don’t want to do that.”⁸ ██████ started recording the situation with his cellphone and asked again why he was being asked to step out, to which Officer Dicera explained the U.S. Supreme Court’s decision in *Pennsylvania v. Mimms* allowed officers to ask a driver out of a vehicle for any reason.⁹ ██████ then sat back in his seat and stated that he would just wait for the “white shirt” to give him orders. Immediately after this, officers asked ██████ about his parole status and why he was on parole, to which ██████ chose not to answer.

Moments later, Officer Dicera restated that he was giving ██████ an order to step out of the vehicle and if he did not comply, he would be arrested. ██████ replied that he has been stopped several times by police, but never asked to step out of the vehicle. Officer Martinez then replied something to the effect of because they (his team) were the real police and not lazy like the rest of those fucking people. Officer Martinez then asked where ██████ lives or hangs out at to which ██████ responded by pointing ahead of him and said, “the black side.” Officer Martinez responded by saying ██████ was making it a racial thing and continued by making comments such as, “That race shit doesn’t work with me. I’m Mexican,” “You fucked up that one,” “Are you saying black people hate Mexicans?” and “The next time I catch you eating tacos motherfucker, I’m going to come get your ass.”¹⁰

Shortly before Sgt. Vivanco arrived, Officer Martinez and Officer Dicera asked ██████ why he appeared nervous and told him that he was making a big deal out of nothing. ██████ responded by saying he has family who are police and fire fighters, so he knows what he is supposed to do, to which Officer Martinez responded, “Obviously you fucking don’t,”¹¹ and “You look nervous as a motherfucker.”¹² Officer Dicera continued to note how ██████ was wide-eyed, sweaty and his hands were shaky, before asking him once more why he seemed so nervous. These observations were noted in Officer Dicera’s and Officer Kats’ ISR¹³ as reasons why ██████ was asked to step out of the vehicle and justification for conducting their search later.¹⁴

As Sgt. Vivanco arrived on scene, ██████ asked if Sgt. Vivanco wanted him to step out, to which Sgt. Vivanco affirmed. ██████ then immediately opened his door and stepped out allowing Sgt. Vivanco, Officer Pintor Jr. and Officer Dicera to pat him down. Shortly after, Officer

⁷ Att. 5

⁸ Sgt. Adrian Vivanco (Star 1769) was the requested Supervisor; Att. 6 (4:20-4:30)

⁹ Att. 6, at 5:40-5:50

¹⁰ Att. 6, at 8:20-8:45

¹¹ Att. 6, at 10:50-11:05

¹² Officer Martinez was asked about this profanity in his statement to which he did not apologize or express regret but commented something to the effect of if I get motherfucked by someone, I’m going to motherfuck them back. Suggesting Michael was the one to initiate the altercation when Officer Martinez was the one to initiate the use of profanity.

¹³ Att. 3, Investigative Stop Report (ISR)

¹⁴ Despite these noted observations and comments, Michael did not appear nervous or shaky as described. Michael remained calm and polite, smiling through most of the investigation according to the BWC.

Pintor Jr. placed ██████ in handcuffs telling ██████ that he was going to be briefly detained because he did not immediately comply with commands to step out of the vehicle.¹⁵ A brief conversation was then had between ██████ Sgt. Vivanco, and Officer Martinez where there was confusion about whether ██████ was actually under arrest or just detained with Officer Martinez saying he was “in custody” for obstruction.¹⁶ In every interview, when asked why ██████ was handcuffed, every officer stated that it was an officer safety issue.

While ██████ was handcuffed and detained near the rear of his vehicle, Officers Dicera, Kats, Patnett, and Pintor Jr. all were conducting individual searches of the vehicle. Officers Dicera and Patnett searched the rear cab, under all the seats, compartments, and under the hood, with some plastic pieces in the front of the vehicle being manipulated several times.¹⁷ Based on responses in the officer interviews, there was no clear scope of the vehicle search. In total, the search of the vehicle by these officers took approximately 10 minutes and did not yield any weapons or narcotics. Following the conclusion of the search, ██████ was released and advised on his traffic violation and complying with lawful orders.

III. ALLEGATIONS

PO Angelo Dicera:

1. Conducting a traffic stop on ██████ without justification.
 - **Not Sustained**
2. Searching the vehicle of ██████ without justification.
 - **Sustained**, Violation of Rules 2, 3, and 6

PO Sergio Martinez:

1. Using profanity and demeaning language toward ██████
 - **Sustained**, Violation of Rules 2, 3, 6, and 8

PO Andrew Kats:

1. Conducting a traffic stop on ██████ without justification.
 - **Not Sustained**
2. Searching the vehicle of ██████ without justification.
 - **Sustained**, Violation of Rules 2, 3, and 6

PO Ian Patnett:

1. Searching the vehicle of ██████ without justification.
 - **Sustained**, Violation of Rules 2, 3, and 6

PO Juan Pintor:

1. Searching the vehicle of ██████ without justification.
 - **Sustained**, Violation of Rules 2, 3, and 6

¹⁵ Att. 6, at 13:00-:14:05

¹⁶ Att. 6, at 13:45-14:05

¹⁷ This was specifically done by Officer Dicera and Officer Patnett.

2. Causing damage to the roof of [REDACTED] vehicle during their search.
 - **Not Sustained**

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. However, Officer Martinez recalled the incident involving profanity in the direction of [REDACTED] differently than was evidenced by his BWC.

V. ANALYSIS¹⁸

a. Traffic Stop Allegation

COPA finds the allegation that Officer Dicera conducted a traffic stop of [REDACTED] without justification, is **Not Sustained**. According to the ISR, [REDACTED] was initially stopped for failing to stop at a red signal near the intersection of S Emerald Ave and W 35th St. As a part of its investigation, COPA requested both in-car camera recordings, as well as, POD¹⁹ footage; however in-car was unavailable and POD did not capture the incident. As a result, COPA was faced with competing statements from involved Officers and the Complainant regarding the justification for the traffic stop. Because COPA found that neither party presented credibility issues that impacted the veracity of their claims, there was insufficient evidence to prove or disprove the allegation by a preponderance of the evidence. Therefore, COPA finds the allegation is **Not Sustained**.

b. Vehicle Search Allegations

COPA finds the allegation that Officer Dicera, Officer Kats, Officer Pintor Jr., and Office Patnett searched the vehicle of [REDACTED] without justification, is **Sustained**. According to the ISR, [REDACTED] was “nervous in that he was wide-eyed, breathing rapidly, appeared to have an elevated heart rate and shaky hands.” These observations were repeated by Officer Dicera, Officer Martinez, and Officer Pintor Jr. in their COPA statements.²⁰ Officers told COPA that [REDACTED] demeanor was why they asked him to exit his vehicle as it can be indicative of concealing contraband, based on the officers’ training and experience.

However, according to the BWC footage, [REDACTED] does not appear to be nervous, combative, or make any movements that suggest he could be attempting to conceal something nefarious.²¹ [REDACTED] also appeared calm and smiled through most of the interaction with his hands remaining visible as well.²² In light of this evidence, there was no clear reason for officer to search

¹⁸ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

¹⁹ Police Observation Device (POD)

²⁰ These officers were closest to Michael prior to him stepping out of the vehicle.

²¹ Att. 6, at 2:15-12:40

²² Att. 6, at 2:15-12:40, [REDACTED] hands were visible in part because he was filming on his phone.

the vehicle. Additionally, officers did not offer any alternative probable cause reasons to justify searching the vehicle.²³ Therefore, COPA finds this allegation is **Sustained**.

c. Vehicle Damage Allegation

COPA finds the allegation that Officer Pintor Jr. caused damage to the roof of [REDACTED] vehicle during the search, is **Not Sustained**. [REDACTED] alleged during the search of his vehicle the roof sustained damage in the amount of \$6,000. However, [REDACTED] did not specify what was damaged as a result of the search. According to BWC footage, Officer Pintor Jr. manipulated multiple buttons in the vehicle that may or may not have controlled the moon-roof, but there is no clear evidence that those actions caused damage to the vehicle. Furthermore, no officer interviewed could recall observing any damage occurring to the vehicle's moon roof when asked in their statements. COPA finds a lack of sufficient evidence to either prove or disprove the allegation by a preponderance of the evidence. Therefore, this allegation is **Not Sustained**.

d. Profanity Allegation

COPA finds the allegation that Officer Martinez used profanity and demeaning language in the direction of [REDACTED] is **Sustained**. Based on the obtained BWC footage, Officer Martinez not only engaged in using profanity toward [REDACTED] but he was also the one to initiate its use.²⁴ Of note, during his statement to COPA, Officer Martinez said words to the effect of if someone is going to motherfuck me, I am going to motherfuck them back, implying that [REDACTED] used profanity toward him first. According to BWC, this claim is not accurate. Officer Martinez also did not express any regret for his actions.²⁵ Therefore, COPA finds the allegation is **Sustained**.

VI. DISCIPLINARY RECOMMENDATION

a. PO Angelo Dicera

i. Complimentary and Disciplinary History²⁶

Officer Angelo Dicera has received 171 complimentary awards, including 159 honorable mentions, four Department commendations, and 2 police officer of the month awards. Officer Dicera has received three SPARs, one for failure to timely activate his BWC, one for a court appearance violation, and one for a preventable accident. Officer Kats received a violation noted for a sustained neglect of duty allegation from an incident in 2022.

²³ No officer in their interview could explicitly describe additional probable cause to search the vehicle such as odors of marijuana, visible paraphernalia, or furtive movements. In fact, these examples were stated to have not been observed

²⁴ Att. 6, at 10:50-11:05

²⁵ Att. 30, PO Martinez Statement, Pg. 12, Lns. 2-24; and Pg. 13, Lns. 1-12.

²⁶ Att. 24.

ii. Recommended Discipline

COPA has considered Officer Dicera's complimentary history and disciplinary history. COPA has considered the totality of the evidence in this case. Here, the search of the vehicle was without justification and extensive. COPA recommends a suspension of up to 30 days and Search and Seizure Training.

b. PO Sergio Martinez

i. Complimentary and Disciplinary History²⁷

Officer Sergio Martinez has received 310 complimentary awards, including 279 honorable mentions, seven Department commendations, and 2 police officer of the month awards. Officer Martinez has received zero SPARs. Officer Martinez received a three-day suspension for an improper report in 2021 and a reprimand for misuse of Department equipment and supplies in 2022.

ii. Recommended Discipline

COPA has considered Officer Martinez's complimentary history and disciplinary history. COPA has considered the totality of the evidence in this case. Here, Officer Martinez use profanity and demeaning language towards ██████████ Officer Martinez showed no accountability or remorse for his conduct. COPA recommends a suspension of up to 30 days.

c. PO Andrew Kats

i. Complimentary and Disciplinary History²⁸

Officer Andrew Kats has received 146 complimentary awards, including 135 honorable mentions, four Department commendations, and 2 police officer of the month awards. Officer Kats has received two SPARs, one for failure to timely activate his BWC and the other for a court appearance violation. Officer Kats received a reprimand for a sustained neglect of duty allegation from an incident in 2022.

ii. Recommended Discipline

COPA has considered Officer Kats' complimentary history and disciplinary history. COPA has considered the totality of the evidence in this case. Here, the search of the vehicle was without justification and extensive. COPA recommends a suspension of up to 30 days and Search and Seizure Training.

²⁷ Att. 24.

²⁸ Att. 24.

d. PO Ian Patnett

i. Complimentary and Disciplinary History²⁹

Officer Ian Patnett has received 109 complimentary awards, including 99 honorable mentions, three Department commendations, and 2 police officer of the month awards. Officer Patnett has received two SPARs, both for court appearance violations. Officer Patnett does not have a record of a sustained case against him.

ii. Recommended Discipline

COPA has considered Officer Patnett’s complimentary history and disciplinary history. COPA has considered the totality of the evidence in this case. Here, the search of the vehicle was without justification and extensive. COPA recommends a suspension of up to 30 days and Search and Seizure Training.

e. PO Juan Pintor Jr.

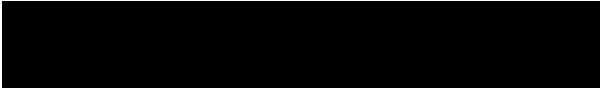
i. Complimentary and Disciplinary History³⁰

Officer Juan Pintor Jr. has received 140 complimentary awards, including 134 honorable mentions and two Department commendations. Officer Pintor Jr. has received one SPAR for a preventable accident. Officer Pintor Jr. does not have a record of a sustained case against him.

ii. Recommended Discipline

COPA has considered Officer Pintor’s complimentary history and disciplinary history. COPA has considered the totality of the evidence in this case. Here, the search of the vehicle was without justification and extensive. COPA recommends a suspension of up to 30 days and Search and Seizure Training.

Approved:



Sharday Jackson
Deputy Chief Administrator – Chief Investigator

September 26, 2024

Date

²⁹ Att. 24.

³⁰ Att. 24.

Appendix ACase Details

Date/Time/Location of Incident:	April 24, 2023 / 8:00 PM / 721 W 35 th St.
Date/Time of COPA Notification:	May 10, 2023 / 9:05 AM
Involved Officer #1:	Angelo Dicera, Star# 14902, Employee# [REDACTED], Date of Appointment: July 27, 2018, Unit of Assignment: 211, Male, Hispanic
Involved Officer #2:	Sergio Martinez, Star# 19512, Employee# [REDACTED], Date of Appointment: December 2, 2002, Unit of Assignment: 211, Male, Hispanic
Involved Officer #3:	Andrew Kats, Star# 17577, Employee# [REDACTED], Date of Appointment: July 27, 2018, Unit of Assignment: 211, Male, White
Involved Officer #4:	Ian Patnett, Star#18110, Employee# [REDACTED], Date of Appointment: April 16, 2019, Unit of Assignment: 211, Male, Black
Involved Officer #5:	Juan Pintor, Star# 6255, Employee# [REDACTED], Date of Appointment: October 17, 2017, Unit of Assignment: 211, Male, Hispanic
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 1:** Violation of any law or ordinance.

Applicable Policies and Laws

- S04-13-09: Investigatory Stop Systems (July 2017 – Present)
- G02-01: Protection of Human Rights (June 2022 – Present)
- 725 ILCS 5/107-14(a)

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.³¹ 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.”³²

³¹ 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).

³² *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