



Log # 2022-0004916

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On November 17, 2022, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD).² ██████████ alleged that on October 23, 2022, unknown “white shirts”³ committed misconduct by stopping him without justification, searching ██████████ vehicle without justification, using racial slurs, illegally arresting him, and striking his vehicle with a CPD vehicle.⁴

Upon review of the evidence, COPA served allegations on Officer Panos Theodorides, alleging Theodorides detained ██████████ without justification, failed to timely activate his BWC, and acted in a disrespectful and/or unprofessional manner by mocking ██████████ COPA served allegations on Officer Kenneth Sunde, alleging that Sunde detained ██████████ without justification, searched ██████████ vehicle without justification, and failed to timely activate his body-worn camera (BWC).

Following its investigation, COPA reached sustained findings regarding the allegations against Officer Theodorides for acting in a disrespectful and/or unprofessional manner towards ██████████ and for failing to timely activate his BWC. COPA reached sustained findings against Officer Sunde for searching ██████████ vehicle without justification and for failing to timely activate his BWC.

Both officers were exonerated with respect to the allegations surrounding the detention of ██████████

II. SUMMARY OF EVIDENCE⁵

On October 23, 2022, at about 8:30 pm, Officer Sunde and Officer Theodorides were tactical team officers wearing plain clothes and on patrol in an unmarked police vehicle. Officer Theodorides received a phone call from Sergeant Erick Seng, requesting assistance with stopping

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 COPA did not interview ██████████ because his legal representation did not return COPA’s request to speak with ██████████

³ A reference to CPD supervisors.

⁴ 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.

⁵ 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, and officer interviews.

a suspicious person. Sergeant Seng advised that the individual was standing near a vehicle that was both illegally parked and equipped with tinted windows.⁶

When Officer Sunde and Officer Theodorides arrived at or near 509 N. LaSalle Drive, Officer Sunde parked their unmarked CPD vehicle in front of [REDACTED] vehicle. The two vehicles did not make contact.

Officer Sunde and Officer Theodorides approached [REDACTED] who was standing on the sidewalk next to a vehicle.⁷ The passenger door of that vehicle was already open. Officer Sunde searched the door cup holders and found cannabis (although Officer Sunde said the substance which appeared to be cannabis was in plain view within the vehicle,⁸ BWC footage indicates it was not in plain view, but inside what appears to be a travel mug with a lid inside the passenger door cup holder that the officer was only able to identify once he removed it from the cup holder and opened it; alternatively it was in a small plastic bag that was only apparent after items were removed from the passenger-door cup holder).⁹ At some point, Sergeant Seng arrived on the scene. Officer Sunde continued to search [REDACTED] vehicle, and ultimately found a loaded pistol on the rear seat under a bag; the pistol was equipped with an extended magazine and an after-market device allowing its conversion from semi-automatic to fully automatic fire.¹⁰

[REDACTED] was taken into custody and was subsequently criminally charged with possessing a revoked FOID,¹¹ aggravated unlawful use of a weapon (No FCCA-FOID),¹² and with having an obstructed driver's view/tinted windows¹³.

Officer Sunde and Officer Theodorides again interacted with [REDACTED] after [REDACTED] arrest when [REDACTED] was being held in a cell at the 18th District.

III. ALLEGATIONS

A. Officer Kenneth Sunde

1. Detaining [REDACTED] without justification.
 - Exonerated.
2. Searching [REDACTED] vehicle without justification.
 - **Sustained**, Violation of Rule 1.
3. Failing to timely activate his body worn camera.
 - **Sustained**, Violation of Rules 2, 3, 6, and 10.

⁶ Att. 30, pg. 7, lns. 5 to 11.

⁷ Att. 4, from 1:50 to 2:10.

⁸ Att. 30, pg. 7, lns. 19 to 21.

⁹ Att. 4, from 5:16 to 5:30.

¹⁰ Att. 30.

¹¹ 430 ILCS 65/3-A-1.

¹² 720 ILCS 5/24-1.6-A-1.

¹³ Municipal Code of Chicago – 9-76-220(A).

B. Officer Panos Theodorides

1. Detaining ██████████ without justification.
 - Exonerated.
2. Failing to timely activate his body worn camera.
 - **Sustained**, Violation of Rules 2, 3, 6, and 10.
3. Acting in a disrespectful and/or unprofessional manner.
 - **Sustained**, Violation of Rules 2, 3, 6, 8, and 10.

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.

Following a review of the evidence, COPA has concluded that certain allegations made by ██████████ are inconsistent with the preponderance of the evidence, such that his ability to recall events may not be entirely reliable. Specifically, ██████████ related that he was subjected to racial slurs and that his vehicle was struck by a police vehicle. COPA has found no other evidence to indicate that these particular events occurred.

COPA similarly has concerns regarding the reliability of Officer Sunde's statement that the cannabis found in ██████████ vehicle was in plain view; this does not appear to be corroborated by the BWC footage.

V. ANALYSIS¹⁴

A. Officer Sunde

1. Detaining ██████████ without justification

COPA's findings exonerate Officer Sunde from the allegation that ██████████ detention was unjustified.

CPD special order S04-13-09 defines an investigatory stop as the temporary detention and questioning of a person in the vicinity where the person was stopped based on reasonable articulable suspicion (RAS) that the person is committing, is about to commit, or has committed a criminal offense.¹⁵ RAS "is an objective legal standard that is less than probable cause but more

¹⁴ For a definition of COPA's findings and standards of proof, see Appendix B.

¹⁵ S04-13-09(II)(A).

substantial than a hunch or general 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...can result from a combination of particular facts, which may appear innocuous in and of themselves, but taken together amount to reasonable suspicion."¹⁶

Officer Sunde told COPA that, Officer Theodorides received a call from Sergeant Seng, who relayed that he observed a vehicle partially parked in a tow zone, and equipped with a tinted front windshield and observed an individual in and about the vehicle, and asked the officers to assist with stopping the individual since Sergeant Seng was working alone.¹⁷ [REDACTED] was observed at the side of the vehicle, reaching into the vehicle, walking around the vehicle, and Officer Sunde and Officer Theodorides approached [REDACTED] to conduct a traffic stop.¹⁸ Officer Sunde was justified in detaining [REDACTED] as he was standing near a vehicle that was illegally parked and equipped, and [REDACTED] was reasonably supposed to be the operator of that vehicle.¹⁹ Officer Sunde told COPA that as he approached [REDACTED] and [REDACTED] vehicle, he observed that the windshield of [REDACTED] vehicle was tinted and that the vehicle was parked in a tow zone.²⁰

2. Searching [REDACTED] vehicle without justification

COPA's sustains the allegation that Officer Sunde search of [REDACTED] vehicle was without justification.

"The Fourth Amendment to the Constitution of the United States guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country."²¹

Officer Sunde told COPA that he was able to see cannabis in [REDACTED] vehicle because the passenger door was open and a bag of cannabis was in plain view within the passenger compartment of [REDACTED] vehicle;²² "you can't transport open baggies of cannabis; so it has to be sealed just or taking [*sic.*] to your abode."²³ State law provides that no driver may possess cannabis within any area of any motor vehicle upon a highway except in a secured, sealed or resealable, odor-proof, child-resistant cannabis container that is inaccessible.²⁴ After his discovery of cannabis, Officer Sunde continued his search of the vehicle. Officer Sunde opened the rear, passenger door of [REDACTED] vehicle, and located a firearm under a plastic bag.²⁵

A review of the BWC footage from Officer Sunde's camera appears to contradict the assertion that the cannabis was in plain view. A search of the cupholder in the front passenger door, and Officer Sunde opening a container found therein, appear to have been required before

¹⁶ S04-13-09(II)(C).

¹⁷ Att. 30, pg. 7, lns. 5 to 11.

¹⁸ Att. 30, pg. 7, lns. 12 to 15.

¹⁹ *Whren v. United States*, 517 U.S. 806 (1996).

²⁰ Att. 30, pg. 13, ln. 13 to pg. 14, ln. 2.

²¹ G02-01(IV)(B).

²² Att. 30, pg. 7, lns. 12 to 22.

²³ Att. 30, pg. 9, lns. 8 to 10.

²⁴ Illinois Compiled Statutes - 625 ILCS 5/11-502.15(b).

²⁵ Att. 4, beginning at 6:17 to 6:24.

the cannabis was found. As such, the “plain view” exception would not apply and the search was unlawful, as it exceeded a reasonable search related to the purported reason for the traffic stop (that the vehicle was illegally parked and equipped with tinted windows). The unlawful search constituted misconduct.

3. Failing to timely activate BWC

COPA sustains the allegation against Officer Sunde for failing to timely activate his BWC.

To increase transparency and improve the quality and reliability of investigations, CPD policy requires law-enforcement-related activities to be electronically recorded.²⁶ Law-enforcement-related activities include, but are not limited to, calls for service, arrests, investigatory stops, use of force incidents, *statements made by individuals in the course of an investigation*, high-risk situations, and any other instances when enforcing the law.²⁷ *The decision to record is mandatory, not discretionary.*²⁸ CPD members are required to activate their BWCs *at the beginning of an incident and record the entire incident.*²⁹ If circumstances prevent the activation of a BWC at the beginning of an incident, the member will activate their camera as soon as practical.³⁰

Officer Sunde activated his camera appropriately before the initial contact with █████ on the street; he deactivated it after █████ was removed from the scene by uniformed officers.³¹

Officer Sunde re-activated his BWC at some undetermined time after he and Officer Theodorides began speaking with █████ in the district lockup.³² Before the re-activation of the BWC by Officer Sunde, two minutes of buffer video without sound was captured and automatically preserved by the BWC. The buffer footage depicts █████ seated on the bench in the cell, Officer Theodorides standing to the left of Officer Sunde and in front of █████ and the three men having some sort of interaction. The video depicts Officer Sunde holding the General Handbook given to officers open to the page on which the “Required Warnings to be Given Prior to Interrogation” (Miranda Rights) appear.³³ COPA did not determine the nature of the conversation, if any, which Officer Sunde, Officer Theodorides, and █████ may have had before the activation of the BWC by Officer Sunde. No questions in this regard were asked during Officer Sunde’s statement and Officer Sunde did not volunteer any information in that regard.

Officer Sunde activated his BWC before reading Miranda Rights to █████ Officer Sunde intentionally recorded 43 seconds of him reading the Miranda rights to █████ but none of the conversation which preceded that (at least two minutes of which can be seen but not heard on the buffer video automatically captured by the device). Officer Sunde wrote in the Arrest Report,

²⁶ Att. 34, S03-14(II)(A).

²⁷ Att. 34, S03-14(III)(2)(a-r).

²⁸ Att. 34, S03-14(III)(A)(1).

²⁹ Att. 34, S03-14(III)(A)(2).

³⁰ Att. 34, S03-14(III)(A)(2).

³¹ Att. 4.

³² Att. 24, from beginning to 2:00.

³³ Att. 24, from beginning to 0:10.

³⁴ Att. 34, S03-14(III)(2)(f, I, and k).

“MIRANDA read at 2220HRS at which point the arrestee invokes his right to remain silent.”³⁵ When Officer Sunde activated his BWC, and audio began recording, Officer Sunde was heard reading the required warnings to ██████³⁶

Officer Sunde’s failure to activate the BWC during the earlier conversation with ██████ at the police station (when combined with his partner’s failure to wear/activate a BWC for the same events) makes key evidence unavailable for the determination of whether a law-enforcement-related activity had occurred before Officer Sunde activated his BWC. On a balance of probabilities COPA finds that conversations between the arresting officers and ██████ were law enforcement activities.

There was no evidence of circumstances that would have prevented the activation of Officer Sunde’s BWC at the beginning of the interaction with ██████ in the lockup as required by the special order.

B. Officer Theodorides

1. Detaining ██████ without justification.

COPA’s findings exonerate Officer Theodorides regarding the allegation of detaining ██████ without justification. As COPA concluded regarding the similar allegation against Officer Sunde, Officer Theodorides was justified in detaining ██████ as ██████ was standing near a vehicle, presumably as the operator of the vehicle, and the vehicle was illegally parked and illegally equipped with a tinted front window.

2. Failing to timely activate his body worn camera.

COPA sustains the allegation against Officer Theodorides that he failed to timely activate his body worn camera.

As mentioned in the analysis of the similar allegation against Officer Sunde, CPD policy requires law-enforcement-related activities to be electronically recorded to increase transparency and improve the quality and reliability of investigations.³⁷

Officer Theodorides did not activate his BWC for approximately two minutes after he and Officer Sunde began the investigatory stop of ██████ on the street.³⁸ During these two minutes, Officer Sunde located cannabis in ██████ vehicle, searched ██████ vehicle, recovered a pistol, and arrested ██████

At the 18th district police station, Officer Theodorides failed to activate his BWC a second time (or even be equipped with his BWC) while he and Officer Sunde were in the cell with ██████

³⁵ Att. 3, Arrest Report.

³⁶ Att. 24, at 2:00 to 2:43.

³⁷ Att. 34, S03-14(II)(A).

³⁸ Att. 5, 00:00 to 02:00.

Footage from Officer Sunde's BWC shows that Officer Theodorides was standing in the cell with ██████ and not equipped with a BWC.³⁹ The audit log for Officer Theodorides's BWC usage on October 23, 2022 was reviewed (the last activation of his BWC was in relation to an unrelated traffic stop). No questions regarding the failure to activate his BWC while at the station were asked during Officer Theodorides' statement and he did not volunteer any information in that regard.

3. Acting in a disrespectful and/or unprofessional manner by mocking ██████

COPA sustains the allegation against Officer Theodorides that he acted in a disrespectful and/or unprofessional manner by mocking ██████

All members of the Department are required to interact with all members of the public in an unbiased, fair, and respectful manner, treat all persons with the courtesy and dignity which is inherently due every person as a human being, act, speak, and conduct themselves in a courteous, respectful and professional manner and maintain a courteous, professional attitude; they must not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner and will not use language or take action intended to taunt or denigrate an individual.⁴⁰

After ██████ was handcuffed and taken into custody, he pleaded with the police, protesting that the pistol recovered by Officer Sunde did not belong to him and highlighting his lack of criminal history.⁴¹ ██████ stated that he was confused about why he was being harassed.

On two occasions Officer Theodorides said, "he said harassed," in a mocking manner.⁴²

In his statement to COPA Officer Theodorides characterized this comment as sarcasm. Officer Theodorides told COPA, despite the fact that he was not in uniform at the time of the incident, "[T]he verb 'harass' in public view, when I'm in uniform and executing my duties as an official of the city is insulting. So, like, every time I hear it, like, I just -- it just rings on my bell the wrong way."⁴³

BWC audio reviewed by COPA does not evidence the use of any racial slurs by the officers, although COPA notes that not every part of the conversation between ██████ and the officers in the lockup was recorded and that this was, itself, due to the officers' own shortcomings in the use of issued BWC equipment.

VI. DISCIPLINARY RECOMMENDATION

A. Officer Kenneth Sunde

1. Complimentary and Disciplinary History⁴⁴

³⁹ Att. 24.

⁴⁰ Att. 37, G02-01(III)(B)(1, 2, 3, and 4).

⁴¹ Att. 5, 02:00 to 04:15.

⁴² Att. 5, 04:15 to 04:38.

⁴³ Att. 29, pg. 15, lns. 19 to 23.

⁴⁴ Att. 39.

Officer Sunde’s “Five Year Sustained History Report” as received from CPD indicates a 2020 sustained finding resulting in a one-day suspension for misuse of department equipment/supplies. His “SPAR History Report” received from CPD indicates a 2023 preventable accident for which no disciplinary action was taken.

Officer Sunde has received 131 Departmental Awards throughout his career, including two “Top Gun Arrest” awards.

2. Recommended Discipline

Given COPA’s findings of misconduct and the complimentary and disciplinary history of the CPD member, as well as the applicable aggravating and mitigating factors,⁴⁵ COPA recommends a 5-day suspension.

B. Officer Panos Theodorides

1. Complimentary and Disciplinary History⁴⁶

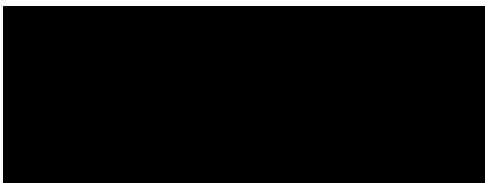
Officer Theodorides “Five Year Sustained History Report” as received from CPD indicates that he has not received sustained findings regarding allegations of misconduct in the five years preceding these events.

Officer Theodorides has received 249 Departmental Awards, including 197 Honorable Mentions, 20 Emblems of Recognition, 11 Department Commendations, and 6 Complimentary Letters.

2. Recommended Discipline

Given COPA’s findings of misconduct and the complimentary and disciplinary history of the CPD member, as well as the applicable aggravating and mitigating factors,⁴⁷ COPA recommends a 3-day suspension.

Approved:



5/17/2024

⁴⁵ COPA policy, Disciplinary and Remedial Recommendations (effective June 24, 2021), para. II.

⁴⁶ Att. 36.

⁴⁷ COPA policy, Disciplinary and Remedial Recommendations (effective June 24, 2021), para. II.

Appendix ACase Details

Date/Time/Location of Incident:	October 23, 2022/8:30 pm/509 N. LaSalle Drive, Chicago, Illinois.
Date/Time of COPA Notification:	November 17, 2022
Involved Officer #1:	Officer Kenneth Sunde, Star Number:18633, Employee ID# [REDACTED], Date of Appointment: February 20, 2018, Unit of Assignment: 018 th District, male, White.
Involved Officer #2:	Officer Theodorides, Star Number: 5383, Employee ID#: [REDACTED] Date of Appointment: December 18, 2000, Unit of Assignment: 018 th District, male, White.

Applicable Rules

- Rule 1:** Violation of any law or ordinance.
- Rule 2:** Any action or conduct that 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

- US Constitution, Amendment IV
- 725 ILCS 5/108-1.01, Search during temporary questioning
- 725 ILCS 5/107-14, Temporary questioning without arrest
- G02-01, Protection of Human Rights (June 30, 2022)
- SO4-13-9, Investigatory Stop System (July 10, 2017)
- S03-14, Body Worn Cameras (April 30, 2018 – current version is dated December 29, 2023)

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.⁴⁸ 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.”⁴⁹

⁴⁸ 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).

⁴⁹ *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