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Mayor

Department of Police · City of Chicago  
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Larry Snelling  
Superintendent of Police

April 17, 2024

Andrea Kersten  
Chief Administrator  
Civilian Office of Police Accountability  
1615 West Chicago Avenue, 4th Floor  
Chicago, IL. 60622

**RE: Superintendent's Concurrence with COPA's findings and Partial Non-Concurrence with COPA's proposed penalties  
Complaint Register Number #2021-0002152  
Police Officer Clifford Martin Jr. #18859, Police Officer Gerald Jones #15189, and Police Officer Christopher Parker #6035**

Dear Chief Administrator,

After careful review of the recommendations made by the Investigator in this matter, the Superintendent concurs with the findings of COPA related to all allegations against Police Officer Clifford Martin Jr. #18859 ("Officer Martin"), all allegations against Police Officer Gerald Jones ("Officer Jones"), and all allegations against Police Officer Christopher Parker ("Officer Parker") but does not concur with COPA's recommended penalties.

### STATEMENT OF FACTS AND SUMMARY OF FINDINGS

COPA sustained a variety of allegations against three (3) Chicago Police Department (CPD) members, seeking a significant suspension up to and including separation of one (1) of these members, stemming from a traffic stop at or near 12335 S. Calumet Ave. on June 3, 2021.

On the day of the incident, Officer Jones and Police Officer Kameisha Burns observed [REDACTED] (" [REDACTED] ") driving a vehicle while the rear driver's side door was open. Officers Jones and Burns attempted to stop the vehicle but [REDACTED] refused to stop. The officers continued to follow the vehicle and were eventually able to conduct a traffic stop. Once the vehicle stopped, the officers exited their vehicle and Officer Jones ordered [REDACTED] to exit the vehicle and walk towards the officer's vehicle.<sup>1</sup> [REDACTED] complied and was detained and secured in the rear of the officer's vehicle. Once the officers learned that there was a passenger in the vehicle, [REDACTED] (" [REDACTED] ") they ordered [REDACTED] from the vehicle but he did not comply and refused to exit from the front passenger seat of vehicle.

Officer Martin and Officer Parker responded to assist Officers Jones and Burns. Upon arrival, Officers Martin and Parker approached [REDACTED] who was engaged in conversation with Officer Jones while still seated in the front passenger of the vehicle and recording the officers with his cellular phone. After several requests to exit the vehicle were made by the officers, [REDACTED] still refused and was physically removed from the vehicle

<sup>1</sup> Att. 21, Officer Jones BWC at 02:03.

and placed into handcuffs.<sup>2</sup>

Once [REDACTED] was removed from the vehicle, Officers Jones, Martin, Parker, and other responding officers conducted a search of the vehicle. During the search of the vehicle, Officer Martin is observed in video footage from his body-worn camera ("BWC") being handed [REDACTED] cellular phone from Officer Parker and deleting recordings of the interaction from [REDACTED] cellular phone.<sup>3</sup> After the search of the vehicle was completed, [REDACTED] was released while [REDACTED] was transported into the police station and issued citations. The vehicle was subsequently impounded.

COPA made the following determinations regarding the allegations:

### **Officer Martin**

It is alleged that on June 3, 2021 at 2:21 p.m. at 12335 S. Calumet Ave Chicago, Illinois, Officer Martin, Star #18859, committed misconduct through the following acts or omissions:

1. Forcefully removed [REDACTED] from his passenger seat without justification; **EXONERATED.**
2. Searched the vehicle of [REDACTED] without justification; **EXONERATED.**
3. Deleted a video from [REDACTED] cellular phone without justification; **SUSTAINED.**
4. Shut the vehicle door on [REDACTED] hand causing injury; **NOT SUSTAINED.**
5. Failed to comply with S03-14 by prematurely deactivating his body worn camera; **SUSTAINED.**
6. Failed to complete an Investigatory Stop Report for [REDACTED] after a traffic violation; **SUSTAINED.**

### **Officer Jones**

It is alleged that on June 3, 2021 at 2:21 p.m. at 12335 S. Calumet Ave Chicago, Illinois, Officer Jones, Star #15189, committed misconduct through the following acts or omissions:

1. Displayed his firearm at or near [REDACTED] without justification; **EXONERATED.**
2. Conducted a traffic stop of [REDACTED] without justification; **EXONERATED.**
3. Searched the vehicle of [REDACTED] without justification; **EXONERATED.**

<sup>2</sup> Att. 22, Officer Martin BWC at 01:12.

<sup>3</sup> Att. 22 at 01:39.

4. Used racial slurs and profanity while speaking to [REDACTED] (arrestee); **SUSTAINED.**
5. Failed to complete an Investigatory Stop Report for [REDACTED] after a traffic violation; **SUSTAINED.**
6. Detained [REDACTED] without justification; **EXONERATED.**

### **Officer Parker**

It is alleged that on June 3, 2021 at 2:21 p.m. at 12335 S. Calumet Ave Chicago, Illinois, Officer Parker, Star #6035, committed misconduct through the following acts or omissions:

1. Searched the vehicle of [REDACTED] without justification; **EXONERATED.**
2. Shut the vehicle door on [REDACTED] hand causing injury; **NOT SUSTAINED.**
3. Failed to comply with S03-14 by prematurely deactivating his body worn camera; **SUSTAINED.**

### **ANALYSIS**

### **Officer Martin**

Allegation #3 against Officer Martin, that he deleted a video from [REDACTED] cellular phone without justification is legally sufficient and therefore should be sustained.

The evidence is undisputed in this case. Not only were Officer Martin's actions caught on his own BWC, but Officer Martin freely admitted in his statement to COPA that he deleted the video.<sup>4</sup>

In *Riley v. California*, 573 U.S. 373 (2104), the Supreme Court held that law enforcement needed to obtain a warrant to search an arrestee's electronic devices. The Court found that examining an arrestee's phone went well beyond the purported rationale for a warrantless search-incident-to-arrest doctrine, which provides for suspicion-less searches of an arrestee for officer safety or to discover concealed contraband.

In this incident, there was no justified rationale for Officer Martin accessing [REDACTED] cellular phone. There was no officer safety issue or any other exigent circumstances to justify a warrantless search of the phone.

Allegation #5 against Officer Martin, that he prematurely deactivated his BWC in violation of with S03-14 is legally sufficient and therefore should be sustained.

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<sup>4</sup> Att. 30, Officer Martin Statement to COPA at 09:00.

Special Order S03-14, *Body Worn Cameras*, Section B, Subsection 1(a) states, "The Department member will not deactivate event mode unless: a. the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity." The Special Order identifies the circumstances in which a law-enforcement-related activity can be considered concluded which include when the member has cleared the assignment and/or when the member leaves the scene of the incident.

In this incident, Officer Martin deactivates his BWC while he is still on scene and has not cleared from the assignment.<sup>5</sup> Immediately before Officer Martin deactivates his BWC, you can still see officers on scene along with ██████ in the background still in handcuffs.<sup>6</sup> Officer Martin was required to keep his BWC activated at this point.

Allegation #6 against Officer Martin, that he failed to complete an Investigatory Stop Report ("ISR") for ██████ after the interaction is legally sufficient and therefore should be sustained.

Special Order S04-13-09, *Investigatory Stop System*, Section III, Subsection C, states, "Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report." An Investigatory Stop is defined as the temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion. More importantly, an Investigatory Stop is not considered a voluntary contact during which a person must feel free to leave the officer's presence.

In this case, ██████ was physically removed from the vehicle and handcuffed. At that point, ██████ obviously was not free to leave. Furthermore, when a department member conducts an Investigatory Stop and there is no other Department document that makes record of the reason for detention, the Department member must submit an ISR. In this case, ██████ was merely detained and was not arrested thus, Officer Martin was required to complete the ISR to document the interaction and reasons for the detention.

### **Officer Jones**

Allegation #4 against Officer Jones, that he used racial slurs and profanity while speaking to ██████ is legally sufficient and therefore should be sustained.

Similar to Officer Martin's allegations, this allegation against Officer Jones is supported by undisputed evidence based on the statement of Officer Jones as well as video footage from his own BWC.

General Order G02-01, *Human Rights and Human Resources*, Section III, Subsection B states, "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."

Although the Department does not agree that these were "racial" slurs as deemed by COPA, the Department does find that the language and profanity used was unprofessional. Officer Martin is heard on his BWC stating to ██████ "You keep on with that ho ass shit, you won't get that joint back."<sup>7</sup> Officer Martin also

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<sup>5</sup> Att. 22 at 10:34.

<sup>6</sup> *Id.*

<sup>7</sup> Att. 25, Officer Jones BWC at 02:15

admits to using this language in his statement to COPA.<sup>8</sup>

Allegation #5 against Officer Jones, that he failed to complete an Investigatory Stop Report ("ISR") for [REDACTED] after the interaction is legally sufficient and therefore should be sustained.

Special Order S04-13-09, Investigatory Stop System, Section III, Subsection C, states, "Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report." An Investigatory Stop is defined as the temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion. More importantly, an Investigatory Stop is not considered a voluntary contact during which a person must feel free to leave the officer's presence.

In this case, [REDACTED] was physically removed from the vehicle and handcuffed. At that point, [REDACTED] obviously was not free to leave. Furthermore, when a department member conducts an Investigatory Stop and there is no other Department document that makes record of the reason for detention, the Department member must submit an ISR. In this case, [REDACTED] was merely detained and was not arrested thus, Officer Jones was required to complete the ISR to document the interaction and reasons for the detention.

### **Officer Parker**

Allegation #3 against Officer Parker, that he prematurely deactivated his BWC in violation of with S03-14 is legally sufficient and therefore should be sustained.

Special Order S03-14, Body Worn Cameras, Section B, Subsection 1(a) states, "The Department member will not deactivate event mode unless: a. the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity." The Special Order identifies the circumstances in which a law-enforcement-related activity can be considered concluded which include when the member has cleared the assignment and/or when the member leaves the scene of the incident.

In this incident, Officer Parker deactivates his BWC while he is still on scene and has not cleared from the assignment.<sup>9</sup> Immediately before Officer Parker deactivates his BWC, you can still see officers on scene along with [REDACTED] in the background still in handcuffs.<sup>10</sup> Officer Parker was required to keep his BWC activated at this point.

## **CONCLUSION**

The evidence is legally sufficient with regard to the allegation that Officer Martin deleted the video from [REDACTED] phone without justification. This should be considered an unreasonable search.

According to the consent decree, discipline is to be consistently applied. "COPA and CPD will ensure that the recommended level of discipline for findings is consistently applied in a fair, thorough, and timely fashion, based on the nature of the misconduct. COPA and CPD will also ensure that mitigating and aggravating factors are identified, consistently applied, and documented" (Paragraph 513, Consent Decree, *State of Illinois*

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<sup>8</sup> Att. 25 at 11:15

<sup>9</sup> Att. 39, Officer Parker BWC at 10:26

<sup>10</sup> *Id.*

*v. City of Chicago*, (No. 17-cv-6260, N.D. Illinois, January 1, 2019). The Consent Decree further requires the Department to “use best efforts to ensure that the level of discipline recommended for sustained findings is applied consistently across CPD districts...” (Id. at Paragraph #514).

In his Command Channel Review, Second Exempt-Level Review, Commander Joseph Bird referenced three (3) recent log investigations involving unreasonable search allegations with COPA's recommended penalties for the accused in each incident.<sup>11</sup> The Department believes that these log investigations serve as sufficient references regarding discipline for sustained findings being applied consistently across the Department.

Log Number 2021-000818 involved five (5) sustained allegations, including forcibly opening and causing damage to the complainant's residence door, failing to document the damage, failing to timely activate BWC, and failing to complete an ISR. COPA found that the accused actions violated the complainant's high expectation of privacy in their own home and recommended a penalty of fifteen (15) days suspension and retraining.<sup>12</sup>

Log Number 2022-0001873 involved two (2) sustained allegations, including forcibly entering the complainant's residence without justification and engaging in an unjustified verbal altercation. COPA found that neither probable cause nor exigent circumstances existed at the time the accused entered the residence and recommended a penalty of ten (10) days suspension.<sup>13</sup>

Log Number 2019-0000456 involved two (2) sustained allegations, including using a pocketknife to unlock the complainant's front gate and enter the property without justification and entering the actual residence without justification. COPA recommended a five (5) day suspension.<sup>14</sup>

In this incident, there is no justification for Officer Martin's actions of accessing [REDACTED] cellular phone and deleting the video. [REDACTED] had an expectation of privacy and Officer Martin intentionally violated this expectation which is unacceptable. Thus, the Department finds that a suspension of fifteen (15) days for entering and deleting the video from [REDACTED] cellular phone without justification is appropriate.

In regards to the sustained allegation against Officer Martin and Officer Parker for deactivating their BWCs prematurely, in a recent Arbitrator's Binding Summary Opinion on April 14, 2023 regarding CR No. 1091202, the arbitrator reduced the involved department member's penalty of a two (2) day suspension down to a reprimand for failing to activate his body-worn camera in a timely manner. In this incident, the accused failed to activate his body-worn camera and admitted to the violation. The arbitrator took into account all the mitigating factors along with the officer's complimentary and disciplinary history. The arbitrator also noted that there was no evidence that the failure to activate the body-worn camera was intentional or malicious.

In this incident, there is no evidence to suggest that neither Officer Martin's nor Officer Parker's premature deactivation of their BWCs was intentional or malicious. However, as pointed out by COPA, this action by both Officers prevented investigators from fully investigating [REDACTED] allegation regarding the vehicle's door being closed on [REDACTED] finger. Taking into account both Officer Martin's and Officer Parker's

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<sup>11</sup> Att. 60, Cmdr. Bird CCR Second-Level Review, pp. 6-7.

<sup>12</sup> Log Number 2021-0000818.

<sup>13</sup> Log Number 2022-0001873.

<sup>14</sup> Log Number 2019-0000456.

individual complimentary and disciplinary history, the Department finds that a suspension of one (1) day for Officer Martin and a Reprimand for Officer Parker is appropriate for deactivating their BWCs prematurely.

The sustained allegation against both Officer Martin and Officer Jones for failing to complete an ISR on [REDACTED] is legally sufficient. [REDACTED] was physically removed from the vehicle and handcuffed. Ultimately, [REDACTED] was not arrested and an ISR should have been completed to document the stop and detention of [REDACTED]. Taking into account Officer Martin's and Jones' individual complimentary and disciplinary history, the Department finds that a suspension of one (1) day for both Officer Martin and Officer Jones is appropriate for failing to complete an ISR.

In regards to the sustained allegation against Officer Jones for using slurs and profanity while speaking to [REDACTED] in Log #1089700, COPA made the following finding: "...Officer Tirado, admittedly, used abusive language, poor emotional control, and puerile attempts to antagonize the complainant which escalated the incident unnecessarily. Her actions alienated the complainant and made the encounter significantly difficult." (COPA Summary Report of Investigation of Log #1089700, p. 13). COPA recommended a penalty of 10 days, CPD disagreed and an arbitrator decreased the penalty to 7 days. (Binding Summary Opinion, Grievance No. 011-21-003/374).

The incident underlying Log #1089700 involved Officer Tirado directing profanity at the complainant including the words "fuck" and "bitch" during the arrest of the complainant. Officer Tirado admitted to using the profane language during the log investigation.

Similarly, in this incident, Officer Jones clearly used profane language while speaking with [REDACTED] which was heard on his BWC and Officer Jones admitted to using the profane language to COPA investigators. Taking into account Officer Jones' complimentary and disciplinary history, the Department finds that a suspension of one (1) day for Officer Jones is appropriate for using profanity during his interaction with [REDACTED].

In conclusion, the Department finds that Officer Martin receive a seventeen (17) day suspension in aggregate for the Sustained allegations, Officer Jones receive a two (2) day suspension in aggregate for the Sustained allegations, and Officer Parker receive a Reprimand for the Sustained allegation.

The CPD looks forward to discussing this matter with you pursuant to MCC 2-78-130(a)(iii). If COPA and the CPD find themselves at an impasse on the resolution of this matter, the CPD asks that COPA include all attachments from the log investigation to the member of the Police Board selected to conduct the review.

Sincerely,

[REDACTED]  
Larry Shering  
Superintendent of Police