

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 3, 2018
Time of Incident:	3:15pm
Location of Incident:	██████████ ██████████
Date of COPA Notification:	July 9, 2018
Time of COPA Notification:	12:15pm

On July 3, 2018, Chicago Police Officers ██████████ # ██████████ and ██████████ # ██████████ were driving in an unmarked Ford Explorer SUV, when they encountered ██████████ ██████████ and ██████████ walking across the street near ██████████ and ██████████ ██████████ recorded portions of his interaction with Officer ██████████ using his cell phone video camera. The videos captured Officer ██████████ stating, “I kill mother fuckers” and “I fuck ya momma.” Furthermore, video captured Officer ██████████ following ██████████ into a nearby park and calling ██████████ a “retard.” ██████████ and Officer ██████████ continued to interact, and ██████████ was arrested for assault to a police officer after he stated to Officer ██████████ “you know that cop that was killed...that could happen to you.” At roughly the same time, Officer ██████████ arrested ██████████ for assault and battery after ██████████ raised closed fists and told Officer ██████████ to “call me so we can fight.” COPA investigated allegations relating to the incident, including, but not limited to, allegations of unlawful arrest, an unjustified verbal altercation, and failure to activate body-worn cameras. The following summarizes COPA’s findings.

II. INVOLVED PARTIES

Accused Officer #1:	██████████ star # ██████████ employee ID# ██████████ Date of Appointment – ██████████, 1984, ██████████ District, Date of Birth – ██████████, 1984, Police Officer, Male, ██████████
Accused Officer #2:	██████████ star # ██████████ employee ID# ██████████ Date of Appointment – ██████████, 2015, ██████████ District, Date of Birth – ██████████, 1992, Police Officer, Male, ██████████
Accused Lieutenant	██████████ star # ██████████ employee ID ██████████ Date of Appointment – ██████████, 1999, Date of Birth – ██████████ ██████████ District, 1975. Lieutenant, Male, ██████████
Involved Individual #1:	██████████ Date of Birth – ██████████ 1997, Male, Black

Involved Individual # 2: [REDACTED] Date of Birth – [REDACTED] 1997,
Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	<p>It is alleged by the Complainant that on July 3, 2018, near [REDACTED] and [REDACTED] at or about 3:15pm that Officer [REDACTED] [REDACTED]</p> <ol style="list-style-type: none"> 1. Stated words to the effect of “I kill mother fuckers” 2. Called the Complainant a “retard” 3. Repeatedly yelled out words to the effect of “I don’t give a fuck” 4. Stated words to the effect of “I’ll fuck your mother” 5. Escalated the interaction with the Complainant by following him into a park with no intent to further a valid police purpose. 6. Placed his foot in the path of Complainant with no intent to further a valid a police purpose <p>It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018, near [REDACTED] and [REDACTED] at or about 3:15pm, Officer [REDACTED] [REDACTED]</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>

	<ol style="list-style-type: none"> 7. Engaged in an unjustified verbal altercation with [REDACTED] 8. Called [REDACTED] a “pussy fuck” 9. Used an unauthorized device to record an interaction with a civilian 10. Followed [REDACTED] into a park with no intent to further a valid police purpose 11. Failed to activate his body-worn camera before engaging in law related activities 12. Improperly instructed [REDACTED] to stop recording him 13. Attempted to intimidate [REDACTED] by advising him that Illinois requires two parties to consent to a video recording 14. Improperly charged [REDACTED] with Assault 	<p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
<p>Officer [REDACTED]</p>	<p>It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018, in relation to an incident which occurred on [REDACTED] and [REDACTED] at or about 3:15pm, Officer [REDACTED]</p> <ol style="list-style-type: none"> 1. Improperly charged and arrested [REDACTED] with Assault 2. Improperly charged and arrested [REDACTED] with Battery 3. Failed to set forth the elements of an Assault and a Battery in 	<p>Sustained</p> <p>Unfounded</p> <p>Sustained</p>

	<p>the Arrest Report of [REDACTED]</p> <p>4. Failed to activate his body-worn camera before engaging in law related activities</p> <p>5. Knowingly made a false oral report when he told Officer [REDACTED] that [REDACTED] said not verbatim “we can fight right now”</p> <p>6. Knowingly made a false oral report when he told Officer [REDACTED] that [REDACTED] hit Officer [REDACTED] about the hand with a swatting motion.</p>	<p>Sustained</p> <p>Unfounded</p> <p>Unfounded</p>
<p>Lieutenant [REDACTED]</p>	<p>It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018 Lieutenant [REDACTED]</p> <p>1. Approved the probable cause of [REDACTED] assault charge, which lack sufficient elements of an Assault.</p> <p>2. Approved the Arrest Report of [REDACTED] which lacked sufficient elements of Assault and Battery in the narrative portion of the arrest report.</p>	<p>Sustained</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 3: Prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Rule 11: Prohibits the Incompetency or inefficiency in the performance of duty.

Rule 14: Prohibits the making a false report, written or oral.

General Orders

General Order G01-01- Mission Statement and Core Values

General Order G02-01- Human Rights and Human Resources

General Order G06-01- Processing Persons under Department Control

Special Orders

Special Order S03-14 - Body Worn Cameras

V. INVESTIGATION¹

a. Interviews

In an interview with COPA on July 17, 2018, **Complainant** ██████████ stated that, on July 3, 2018, he was in a store located at ██████ and ██████ where a customer and a clerk engaged in a fist fight which lasted about two minutes. After the fight, ██████ and two of his friends, ██████ and ██████ decided to leave the store and go to a nearby park. As the group was leaving the store, ██████ noticed a marked squad car drive to the center of ██████ Avenue. ██████ related that a police officer stepped out of the car and ordered ██████ to walk toward the officer. ██████ stated that he and ██████ decided to leave ██████ and walk to the park. ██████ recalled that as he and ██████ were walking across the street to the park, an unmarked police SUV accelerated towards ██████ direction, causing him and ██████ to hurry and jog across the street. ██████ stated that the unmarked SUV stopped as soon as the vehicle reached ██████ so ██████ pulled out his cell phone and started to record his interaction with Officer ██████². This interaction was documented in Attachment 7, referred to as cell phone video 1.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 7

█████ stated that the interaction he had with █████ lasted several minutes. █████ related that after the first video ended, Officer █████ pulled out his phone and started recording █████ related that he started to record Officer █████ again.³ This video, referred to as cell phone video 2, is forty-one seconds long. █████ related that during the interaction

█████ testified that after his second recording he walked farther into the park and that wherever he went inside the park, Officer █████ followed.⁴ █████ related that Officer █████ attempted to play tic tac toe with him, and that Officer █████ continued to laugh and harass him. █████ stated that Officer █████ asked █████ if he was scared, to which █████ replied, “Yes I’m scared you guys kill people.”⁵ According to █████ Officer █████ responded, “You people kill people.” █████ asked █████ if he was racists and Officer █████ responded by saying he had a “black wife.”⁶

█████ stated that he had to be at work at UPS at 3:00 pm and had decided to leave the park. As he was walking out of the park, Officer █████ continued to walk with him. █████ stated that Officer █████ said, “What happened to █████ didn’t he get shot and killed?”⁷ █████ said that Officer █████ said this in a joking way while laughing. █████ stated that he responded by saying something to the effect of “You thinking [*sic*] it’s funny, the same thing could happen to you.” Officer █████ told █████ that he could take that as a threat, and then arrested █████

█████ articulated that he did not intend to threaten Officer █████ but instead was bringing up the fact that police officers have a dangerous job, and it is not right to laugh at the death of another. █████ also stated that his interaction with Officer █████ lasted approximately twenty minutes. █████ stated that Officer █████ never asked him any questions pertaining to the fight at the store or gang signs. █████ related that Officer █████ never tried to illicit any information from him, and that he just continued to follow and harass him throughout the park.⁸

In an interview with COPA on August 6, 2018, **Officer █████** stated that, on the date in question, he was working as a tactical officer with Officer █████ in the █████ District.⁹ Officer █████ stated that he was driving an unmarked SUV when he received a call over his police radio of an African American male with facial tattoos who ran away from police officers at █████ and █████ Officer █████ related that he was driving eastbound down █████ Street going the speed limit, when he noticed three young African American men walk into the street, while not in a crosswalk. Officer █████ said that the men stopped in the middle of the street and displayed Black

³ Att. 23

⁴ During the BWC buffer period, Officer █████ body-worn camera does show Officer █████ continuing to attempt to engage with █████ when █████ has discontinued interacting with Officer █████ can be seen leaning against a vertical tic-tac-toe board that is part of playground equipment, looking at his phone. Officer █████ approaches and speaks to █████ though the footage lacks audio and what is said is not captured. █████ then turns away from Officer █████ while Officer █████ continues talking to █████ When the audio turns on, Officer █████ can be heard saying, “I’ll even let you go first” while touching the tic-tac-toe board.

⁵ Att. 22 at 10:30

⁶ Att. 22 at 10:38

⁷ █████ is a 15-year old boy who died in the neighborhood.

⁸ Att. 22

⁹ Officer █████ was able to view both of █████ cell phone videos during his COPA interview.

Disciple gang signs, causing him to slam on his breaks to avoid hitting them with his vehicle. Officer █████ stated that the men then crossed the street and started walking into the park.

Officer █████ related that he turned off his lights and sirens so that he could hear what the men were saying to him. Officer █████ stated that █████ said, “y’all kill motherfuckers,” to which Officer █████ testified that he sarcastically replied, “I kill motherfuckers,” reiterating what █████ had just said to him.¹⁰ When asked whether he repeatedly yelled out, “I don’t give a fuck,” while he was in the unmarked SUV, Officer █████ said that he could not remember.

Officer █████ said that █████ was walking with █████ and an unknown male. Officer █████ stated that he did not know who █████ was before July 3, 2018. However, Officer █████ knew █████ was a Black Disciple gang member in the area who matched the description of a possible battery offender. Officer █████ said that he decided to get out of his vehicle and follow the three men into the park. Officer █████ stated that he called for assisting units because there were three subjects and only two officers.

Officer █████ admitted to saying the word “retard” after █████ and his friend asked Officer █████ for his star number twice. Officer █████ stated that “retard” is a common word and that he “was not directing it at them specifically.” When asked who he was directing the word at, Officer █████ said he “just kind of said it because it was there” and he was “not specifically pointing at one person and saying ‘hey, you are a retard.’”

Officer █████ said that he exited the car and followed █████ into the park because █████ matched the flash message of the possible battery offender and █████ was walking with █████ in the street. When asked why █████ does not appear in the first Facebook video that depicts Officer █████ exiting his car, Officer █████ stated, he had “no idea” because he did not take the video. He then said █████ was in the park in other videos.

Officer █████ stated that while walking with █████ into the park his foot became entangled with █████ foot and that he unintentionally collided with █████ Officer █████ said that he did not kick or try to trip █████ and the collision was unintentional in both respects.

Officer █████ related that he “felt it was appropriate” to tell █████ that Illinois requires two parties to consent to recordings and that he did not give misleading information to █████ “at all” in doing so. However, when asked what he believed Illinois law to be regarding citizens’ abilities to record their interactions with officers, Officer █████ said officers “are recorded everyday by citizens,” and he “did not really care” whether █████ recorded him. He also said that despite telling █████ that █████ recording was illegal, he “never once” told █████ he had to stop recording. Officer █████ said that █████ even told Officer █████ he was going to put the video on Snapchat and Officer █████ said, “that’s cool.” Later, Officer █████ said he “always” tells citizens not to record him but he does not tell them they *have* to stop recording.

Officer █████ stated that he did not actually record █████ when he held up his phone. He said that he acted like he was recording █████ to delay the group and keep them in the park until more officers could arrive. Officer █████ stated that he believed it was appropriate to tell █████ that his

¹⁰ Att. 29 between 18:50 – 19:24

Snapchat handle was, “I’ll fuck ya [*sic*] momma,” because, based on the language that [REDACTED] and the others were using toward him, Officer [REDACTED] felt the group would feel “I’ll fuck ya [*sic*] momma” was the name of an actual Snapchat account. According to Officer [REDACTED] he would “absolutely not” characterize his interaction with [REDACTED] as an unjustified verbal altercation.

Officer [REDACTED] said that he was in the area because he was called to assist another officer with a foot chase. Officer [REDACTED] stated that he did not ask any investigatory questions to [REDACTED] or his friends because he was outnumbered by the men, three to two. Officer [REDACTED] said that the reason he used the language that he did was to try to keep the men fixated on him, so they would not walk out of the park. When more officers arrived, Officer [REDACTED] stated that the mood changed, and it became more “community policing,” and that he even played a game of tic tac toe with [REDACTED]. When more officers arrived in the park Officer [REDACTED] stated that he still did not ask [REDACTED] or any of the other men any investigatory questions.

Officer [REDACTED] related that while he was escorting [REDACTED] out of the park and while [REDACTED] was standing outside of the park, [REDACTED] made the statement of, “You know that CPD cop who was killed, who was sniped, that could happen to you.” Officer [REDACTED] stated that he arrested [REDACTED] for assault because [REDACTED] made the statement menacingly. Officer [REDACTED] testified that the probable cause to arrest [REDACTED] came from the statement alone. Officer [REDACTED] admitted he called [REDACTED] a “pussy fuck,” while placing him into the back of a marked SUV. Officer [REDACTED] stated that he said this in the heat of the moment.

Officer [REDACTED] said that he forgot to turn his body-worn camera on at the beginning of the incident and that he turned it on as soon as he realized it was not on. He received a SPAR on the day of the incident for his failure to turn on the camera.

Officer [REDACTED] said his language was “not entirely” appropriate but was appropriate given how he was being spoken to by [REDACTED] and his friends. When asked whether his actions brought discredit to the CPD, he said his actions brought discredit to the CPD “in the twisted minds of the media” because the media blows things “completely out of proportion.” Specifically, he said the media made it seem as though he jumped out and harassed the men for no reason, when in fact he had a reason to stop them because they were in the vicinity of the store that was robbed and [REDACTED] matched the description of the [REDACTED] offender. He also noted the video did not show the beginning of his interaction with the group, when somebody was talking about police killing people. Officer [REDACTED] stated that he had an exemplary history in the [REDACTED] District and most of the people with whom he interacts in the community told him the video was “totally not [him].”¹¹ Officer [REDACTED] related that with the benefit of hindsight he would have changed his language because the language he used does not adequately describe who he is as a person.

In an interview with COPA on August 22, 2018, Officer [REDACTED] stated that, on the date in question, he was working with his regular partner, Officer [REDACTED] in full uniform. Beat [REDACTED] sent out a flash message, stating that the beat officers were in a foot pursuit with a battery offender, who was an African American male with facial tattoos. Officer [REDACTED] and Officer [REDACTED] decided to respond to the call. Officer [REDACTED] stated that he knew an individual named [REDACTED] who lived in the area and that matched the flash message description. While driving

¹¹ Att. 29

eastbound down █ Street, Officer █ saw █ walking slowly across the street while not in a crosswalk.

Officer █ related that he did not see anyone display gang signs, but he did see █ walk slowly across the street. Officer █ stopped short of █ and █ Officer █ stated that he was talking to another squad car outside of the passenger side window while Officer █ was speaking to █

Officer █ knew that █ had been arrested for having weapons in the past and stepped out of the vehicle to perform a pat down on █ for officer safety reasons as well as to conduct a field interview. Officer █ stated that while he was patting down █ █ swatted his hand away, stepped into a bladed stance, and said words to the effect of, "Touch me again, and I'll beat your ass." Officer █ stated that he chose not to arrest █ at that time because he did not think much of it¹², and he wanted to wait for assisting units to arrive. Officer █ then stated that █ walked behind him and encroached into his zone of safety. Officer █ stated that he pushed █ back, and █ bladed his stance.

Officer █ stated that the Original Case Incident Report narrative section pertaining to his battery by █ was inaccurate. Officer █ related that he did not write the Original Case Incident Report and that Officer █ authored the document. Officer █ explained that █ committed a battery against him by swatting his hand away when Officer █ went to talk to him. Officer █ articulated that the battery █ committed did not occur as alleged in the Original Case Incident Report. Officer █ stated that he believed he read the report for accuracy after it was drafted by Officer █

On Officer █ body-worn camera, █ says, "Call me so we can fight." The Original Case Incident Report dictated that █ said, "not verbatim we can fight right now."¹³ Officer █ explained that it was a loud scene and that he did not hear █ say, "Call me so we can fight." Furthermore, Officer █ related that even if he heard █ say, "Call me so we can fight," he still would have interpreted that statement as an assault.

When asked why the assault and battery were not articulated in the arrest report of █ Officer █ believed that it was an error on his part and that the battery was not described in the report, but Officer █ believed the assault was described.¹⁴

In an interview with COPA on September 4, 2018, **Lieutenant █** stated that he was working as a field lieutenant in the █ District and not as the Watch Commander. Lt. █ stated that he was not on scene when █ or █ were arrested. Lt. █ stated that although he was not the Watch Commander he did review and approve the arrest report of █ and █ through the CLEAR system. Lt. █ stated that he may have approved the report because the Watch Commander on duty may have stepped away from his desk.

¹² Officer █ does eventually arrest █ and charged him with aggravated battery to a PO, see att. 12.

¹³ Att. 26 and 15

¹⁴ Att. 30

Regarding [REDACTED] Lt. [REDACTED] stated that the elements of an assault were based on his reading of 720 ILCS 5/12-1(a), and that he believed the statement made by [REDACTED] reasonably put Officer [REDACTED] in fear of receiving a battery.¹⁵ Lt. [REDACTED] went on to state that he believed [REDACTED] statement, “You know that CPD cop who was killed, who was sniped, that could have happened to you,” rose to the level of an assault. Lt. [REDACTED] further articulated that based on his interpretation of the law he believed a “words only” assault fit the criteria of an assault. Lt. [REDACTED] testified that the law states that any conduct which places another in reasonable fear of receiving a battery and “any conduct” includes words. Lt. [REDACTED] also stated that the statute itself does not require the battery to be imminent.

Regarding [REDACTED] arrest for battery and assault, Lt. [REDACTED] stated that it was an oversight on his part on why the elements of a battery were not included in the arrest report. However, Lt. [REDACTED] testified that he believed the elements of an assault were adequately listed in the arrest report for [REDACTED] Lt. [REDACTED] went on to articulate that if anyone raised their hands and clenched their fists without anything more, it was sufficient to constitute an assault.¹⁶

b. Digital Evidence

COPA obtained **body-worn camera** footage of 18 police officers that were on scene. Many of the videos capture the same incident, only from different angles. Officer [REDACTED] and Officer [REDACTED] body-worn camera videos are summarized below.¹⁷

Officer [REDACTED] body-worn camera is nine minutes and twenty-three seconds long. There are approximately thirteen officers in the park standing around looking at [REDACTED] The video starts with Officer [REDACTED] looking at [REDACTED] who is sitting on a piece of playground equipment. [REDACTED] walks off the park bench and says, “Y’all a bunch of niggas, and I bet out of all y’all, y’all don’t get no pussy.” Officer [REDACTED] places his hand on [REDACTED] chest and yells that is no way to talk in front of children. [REDACTED] swipes Officer [REDACTED] hand away and tells the officer not to touch him. Officer [REDACTED] tells another park patron, who is on a bike, to get [REDACTED] out of the park. The bike patron informs Officer [REDACTED] that he will not, and Officer [REDACTED] tells that man that he is not supposed to be on a bike in the park. Officer [REDACTED] threatens to take the man to jail for being on his bike. Another police officer can be heard saying that, “Anyone twelve and under not with a child cannot be in a playground.” [REDACTED] and Officer [REDACTED] can be seen talking to each other. [REDACTED] is on his cell phone and Officer [REDACTED] has his hands in his pocket. Officer [REDACTED] asks [REDACTED] to leave the park, and [REDACTED] refuses. More officers arrive, bringing the total number of officers to approximately fifteen. Officer [REDACTED] then turns to a group of park patrons, two adult women, two small children, and three adult males. Officer [REDACTED] demands that one of the males in this group take [REDACTED] out of the park and the park patron declines Officer [REDACTED] command, because he is with his family.

¹⁵ 720 ILCS 5/12-1(a): A person commits an assault when, without lawful authority, he or she knowingly engages in conduct which places another in reasonable apprehension of receiving a battery.

¹⁶ Att. 31

¹⁷ LIST ALL 18

Officer ██████ then looks to the group and asks how many of them are on parole.¹⁸ A male in the group says that no one is on parole to which Officer ██████ responds by saying they are all known gangbangers affiliated with the Racine Money Gang. The group starts to laugh. ██████ tells Officer ██████ he does not know his gangs and Officer ██████ asks ██████ and the group to what gang they belong. Officer ██████ tells the group that they are “lacking.” Sgt. ██████ asks Officer ██████ if he wants her to call the wagon. Officer ██████ responds by saying that ██████ already assaulted him. Officer ██████ then handcuffs ██████ and walks ██████ to a squad car away from ██████ without incident.

Officer ██████ walks back to the park and walks over to where ██████ is sitting on a swing. Sgt. ██████ walks up to ██████ and begins speaking with him. ██████ responds by repeatedly saying, “Take me to the back.” Officer ██████ and Sgt. ██████ argue with ██████ over whether he called Sgt. ██████ gay. The argument transitions to ██████ accusing Officer ██████ of touching him. ██████ then repeatedly calls Officer ██████ a “bitch” and starts walking away. A female park patron takes ██████ by the hand and pulls him away from Officer ██████ and the fifteen other officers. Officer ██████ says to ██████ “Even your girl knows you’re tweaking.” ██████ keeps calling Officer ██████ a “bitch” and says, “I swear to god folk, if I ever catch you bro, without no badge or nothing, off duty folk, call me bro, call me, I’m saying call me so we can fight, call me.” Sgt. ██████ yells out that ██████ statement is a threat. ██████ makes a phone gesture with his hands and holds the gesture to his head then closes his hands into a fist and says, “I’m saying call me, so we can fight, call me.” Officer ██████ then says, “You’re putting your arms up like you’re about to fight.” Officer ██████ then handcuffs and places ██████ under arrest.¹⁹

The **body-worn camera of Officer ██████** is one minute and fifty-seven seconds long. It starts with him in the park watching ██████ being handcuffed. Officer ██████ follows Officer ██████ and another officer as they take ██████ out of the park. Through Officer ██████ body-worn camera Officer ██████ can be seen speaking with ██████ Officer ██████ says, “Have a seat brother,” while placing ██████ in the back of the squad car. When ██████ is in the car, Officer ██████ says, “Good job, pussy fuck,” then shuts the door.²⁰

The **First Cell Phone video** was taken by ██████ The video is one minute and forty-one seconds long. The video opens with ██████ walking up to Officer ██████ who is in the driver’s seat of an unmarked squad car with Officer ██████ who is in the passenger seat. ██████ can be heard saying, “You shoot motherfuckers?” the officer replies by saying, “huh?” and ██████ says again, “You say you trying to shoot motherfuckers?” Officer ██████ then says, “No, I kill motherfuckers, they’re trying to shoot motherfuckers out here today.” ██████ asks Officer ██████ if he was trying to hit him with his car, and Officer ██████ says to ██████ “Don’t try to film me dude alright, you want to do the bullshit cool, how about I lock you up for walking across the street.”

██████ is then heard saying he was walking across the street. Officer ██████ says that he was walking across the street illegally. ██████ tells Officer ██████ that he is recording, and Officer ██████ again says, “Illegally.” Officer ██████ backs his squad car up and says “bye.” ██████ says again, “You

¹⁸ BWC video of Officer ██████ at 1:59 minutes

¹⁹ Att. 26

²⁰ Att. 25

say you shoot people or kill people?” Officer ██████ responds by saying “bye.” ██████ while walking away, says, “Oh yes you did it’s on camera bro.” Officer ██████ yelled out “I don’t give a fuck three times.

Officer ██████ is then seen placing the car in park, he steps out of the car, and starts to follow ██████ Video captures Officer ██████ say, “Do you want to know the good news though, Illinois is a two-party consent state and I don’t consent to you recording me, so therefore that’s illegally.” ██████ responds by saying that he is recording himself and Officer ██████ placed himself in the view of the camera. The two continue to walk together, in close proximity, when both men accuse each other of trying to trip the other. Officer ██████ tells ██████ to, “Watch out.” ██████ tells Officer ██████ that his mother’s boyfriend is a sergeant to which Officer ██████ repeatedly tells ██████ to “call him.” ██████ tells Officer ██████ “You don’t even have your name tag.” Officer ██████ responds by stating his name and badge number. A voice is heard saying, “Get it from right there,” Officer ██████ responds by saying, “I already said it, retard.” ██████ then ends his recording.²¹

The **Second Cell Phone video**²² was also taken by ██████. The second cell phone video is forty-five seconds long. It starts with ██████ and Officer ██████ still in the park. ██████ says to Officer ██████ “You didn’t even go to the store yet.” Officer ██████ says, “Why would I go to the store.” ██████ tells him, “Because that’s where the fight was at that’s where the incident was at.” Officer ██████ takes out an Apple cell phone and says that he is recording ██████ says, “Didn’t you just say you needed consent to record, y’all can do what y’all want? Y’all can just break the rules huh?” Officer ██████ says, “He’s recording me, I’m recording him.” Officer ██████ then says, “This is going on Snapchat.” ██████ says, “You don’t even got a Snapchat bro,” Officer ██████ says, “Yes I do, It’s called I fuck ya momma.” ██████ says, “I don’t care.” Officer ██████ says that they can “link up” and that ██████ can see his videos. ██████ responds by saying, “I don’t know you dude,” and the recording stops.²³

c. Documentary Evidence

The **Arrest Report of ██████** authored by Officer ██████ documents that he was arrested for aggravated assault to a police officer, as well as obstruction of traffic. The narrative section of the report dictates that Officer ██████ observed ██████ step into traffic – not in a crosswalk, and display Black Disciples’ street gang signs. The Arrest Report articulates that ██████ remained in the street until Officer ██████ vehicle almost struck ██████. The arrest report goes on to provide that while ██████ was exiting the park he stated, “You know that CPD cop who was killed, who was sniped, that could have happened to you.” Officer ██████ writes that this statement placed him in fear of receiving a battery and that he then placed ██████ into custody.²⁴ On October 11, 2018, the charges against ██████ were dismissed.²⁵

The **Arrest Report of ██████** authored by Officer ██████ provides that he was arrested for assault and battery. The arrest report was authored by Officer ██████ and, in

²¹ Att. 7

²² The time is not specified on the video, however the video starts in the park and is clearly later in time than the “First Cell phone vide”

²³ Att. 23

²⁴ Att. 13

²⁵ Att. 37

the narrative section of the report, Officer ██████ writes that he knew ██████ to be a gang member and to frequent ██████ and ██████. Officer ██████ reported that he called for additional units to come to the location of ██████ and ██████ and, when they arrived, he attempted to get ██████ to leave the park since there were small children present. ██████ became irate when he was approached by Officer ██████ and raised clenched fists and bladed his stance, which placed Officer ██████ in reasonable fear of receiving a battery.²⁶ On October 15, 2018, the charges against ██████ were dismissed.²⁷

The **Original Case Incident Report** was authored by Officer ██████. The following is a summary of the narrative section:

On July 3, 2018, at 3:15pm near ██████ and ██████ three adult African American males stepped into traffic, not in a crosswalk, and threw up Black Disciple Street Gang signs. One of the men was ██████ who matched the description of a ██████ offender, so Officer ██████ exited the vehicle and approached ██████ and ██████ for a field interview. Officer ██████ knew that ██████ had a history of firearms and went on to conduct a pat down of ██████ for weapons at which point ██████ swatted Officer ██████ hand away and stated, “touch me again and I’ll beat your ass.” When more officers arrived Officer ██████ arrested ██████.²⁸

████████ approached Officer ██████ in an aggressive manner and Officer ██████ then pushed ██████ to create space. In response ██████ clenched his fists and bladed his stance. Officer ██████ then called and waited for assisting units to arrive. Later, ██████ stated to Officer ██████ “We can fight right now,” while balling his fist and taking a fighting stance. When Officer ██████ attempted to arrest ██████ hit Officer ██████ hand with a swatting motion.²⁹

While Officer ██████ was escorting ██████ out of the park, ██████ stated to Officer ██████ “You know that CPD cop that was killed, who was sniped, that could happen to you,” thus placing Officer ██████ in fear of receiving a battery.

The **Tactical Response Report** of ██████ indicates that ██████ failed to follow verbal commands, made verbal threats, and pulled away. Officer ██████ also wrote that ██████ placed him in imminent fear of receiving a battery and attacked Officer ██████ with a hand strike. Officer ██████ believed this attack was gang-related. Officer ██████ wrote that he used tactical positioning and verbal control techniques in response to ██████ actions.³⁰

The **Tactical Response Report** of ██████ indicates that ██████ made verbal threats against Officer ██████. Specifically, ██████ said, “You know that CPD cop that was killed, who was sniped, that could happen to you.”³¹

²⁶ Att. 14

²⁷ Att. 38

²⁸ Because he is a minor, information about ██████ criminal case was not available to COPA.

²⁹ Att. 15

³⁰ Att. 11

³¹ Att. 10

VI. ANALYSIS

The standard of proof in administrative cases investigated by COPA is a preponderance of the evidence. A preponderance of evidence can be described as evidence that makes it more likely than not that the alleged misconduct took place. *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 has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred than that it did not occur, even if by a narrow margin, then the standard of proof has been met.³² Using the preponderance of the evidence standard, COPA makes the following findings and recommendations.

a. Allegations Against Officer [REDACTED]

COPA has **Sustained** findings against Officer [REDACTED] for all five allegations of engaging in an unjustified verbal altercation and demonstrating disrespect to any person on or off duty, in violation of the Chicago Police Department Rules 8 and 9. Chicago Police General Order G02-01, which makes it clear that a police officer must be respectful in their contact with the public, states:

“Department members will treat all persons with the 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.”

COPA finds that the videos sufficiently establishes that Officer [REDACTED] made each statement as alleged. After considering each statement, Officer [REDACTED] explanations, and the context of the statements, COPA finds Officer [REDACTED] violated Department rules. The following summarizes the analysis for each statement.

COPA **Sustains** the finding that Officer [REDACTED] engaged in an unjustified verbal altercation when he said, “No, I kill motherfuckers” in response to [REDACTED] asking, “You say you shoot motherfuckers?” In his interview with COPA, Officer [REDACTED] testified that he sarcastically stated “I kill mother fuckers” in an effort to repeat [REDACTED] statement. COPA does not find Officer [REDACTED] explanation sufficient to justify his words. An objectively reasonable officer would not use sarcasm or profanity relative to killing people to a member of the public. Accordingly, this allegation is **Sustained**.

COPA **Sustains** the finding that Officer [REDACTED] repeatedly yelled out, “I don’t give a fuck.” During his interview with COPA, Officer [REDACTED] stated he could not hear anyone in the video clip say, “I don’t give a fuck,” and testified that he did not remember if he said the words or not. COPA makes the factual determination that at the 0:26 mark through the 0:35 mark of [REDACTED] first cell phone video Officer [REDACTED] voice can be heard yelling “I don’t give a fuck” three times, while

³² In criminal cases the standard of proof is beyond a reasonable doubt, which is a significantly higher evidentiary standard than the preponderance of the evidence standard that applies to COPA’s administrative findings.

driving his police vehicle backward. COPA finds that this too was an unnecessary verbal altercation and therefore this allegation is **Sustained**.

COPA **Sustains** the finding that Officer █████ engaged in an unjustified verbal altercation when he said, “Retard,” “I’ll fuck your mother,” and “Pussy fuck.” It is undisputed that Officer █████ made these statements on camera toward █████ and members of the public. COPA finds that there is no justification for using such profane, derogatory and biased insensitive language.³³ Moreover, an objectively reasonable officer would not speak to a citizen in this manner. Therefore, these allegations are **Sustained**.

COPA **Sustains** the finding against Officer █████ for failing to activate his body-worn camera before engaging in law-related activities. Special Order S03-14 states that Department members will activate their cameras at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the body-worn camera at the beginning of an incident, the member will activate the body-worn camera as soon as practical.

Officer █████ failed to turn on his body-worn camera at the beginning of his interaction with █████. Officer █████ stated that he received a SPAR for failing to turn on his body-worn camera. However, Officer █████ provided COPA with no evidence of his alleged SPAR. During COPA’s interview with Lt. █████ the Lieutenant testified that Officer █████ was not issued a SPAR and instead was merely admonished by his sergeant. COPA **Sustains** this allegation.

COPA **Sustains** the finding that Officer █████ improperly instructed █████ to stop recording him and **Sustains** the finding that Officer █████ attempted to intimidate █████ by advising him that Illinois requires two parties to consent to a video recording.

The Illinois state legislature has made it clear that citizens can record their interactions with police officers. See 720 ILCS 5/14-2 (“[n]othing in this Article shall prohibit any individual, not a law enforcement officer, from recording a law enforcement officer in the performance of his or her duties in a public place or in circumstances in which the officer has no reasonable expectation of privacy”). Officer █████ told █████ “Don’t try to film me dude alright, you want to do the bullshit cool, how about I lock you up for walking across the street.” A few seconds later, Officer █████ told █████ “Do you want to know the good news though, Illinois is a two-party consent state and I don’t consent to you recording me, so therefore that’s illegally.” Officer █████ had no authority to tell █████ to stop recording. Moreover, Officer █████ implied he would arrest █████ for walking across the street in retaliation for █████ recording him. By making these statements Officer █████ misstated

³³ Officer █████ claimed the word “retard” is a “common word” and that he was “not directing it anybody,” despite the video showing he said the word directly to █████ and █████. Officer █████ also said he used the language “I’ll fuck your mother” because he believed █████ and the others would think this was an actual Snapchat handle. Such an explanation is nonsensical, and Officer █████ stated rationale for using the words “retard” and “I’ll fuck your mother” demonstrates that he has either failed to accept any responsibility for his actions or he fails to understand why his actions were entirely inappropriate and unbecoming of a Chicago Police Department member.

the law and threatened to arrest [REDACTED] if he failed to stop recording; therefore, COPA concludes this allegation is **Sustained**.³⁴

COPA **Sustains** the finding against Officer [REDACTED] for improperly charging [REDACTED] with assault. Officer [REDACTED] stated that [REDACTED] placed him in fear of receiving a battery when he stated, not verbatim, "You know that CPD cop who was killed, who was sniped that could happen to you."

Assuming, *arguendo*, that this is exactly what [REDACTED] said to Officer [REDACTED] Illinois law does not support a "words only" assault.³⁵ Illinois courts have held that words alone are seldom, if ever, sufficient to constitute an assault; rather, some action or condition must accompany those words.³⁶

Here, Officer [REDACTED] testified that [REDACTED] remark came out of nowhere as he walked [REDACTED] out of the park. Officer [REDACTED] related that he arrested [REDACTED] for a "words only" assault. COPA finds that the requisite elements of a misdemeanor assault in Illinois were not met, as no gestures accompanied [REDACTED] remarks suggesting that a battery was imminent. Thus, [REDACTED] was improperly charged with assault, and thus this allegation is **Sustained**.

COPA **Sustains** the finding against Officer [REDACTED] for following [REDACTED] into the park with no valid police purpose and **Sustains** the finding of escalating the interaction with [REDACTED] with no valid police purpose.

Special Order S04-13-09 allows an officer to conduct an investigatory stop if it is based on specific and articulable facts which, combined with rational inferences from these facts, give rise to a reasonable articulable suspicion that criminal activity is afoot. The sole purpose of the temporary detention is to prove or disprove those suspicions.

Officer [REDACTED] claimed that he followed [REDACTED] into the park because he knew [REDACTED] was a Black Disciple and [REDACTED] matched the description of a possible battery offender. Certainly, a reasonable officer may have proceeded into the park to look for [REDACTED] given these facts. But the evidence in this case belies the suggestion that this was Officer [REDACTED] reason for going into the park. The video shows that Officer [REDACTED] exits his car and follows [REDACTED] only after he and [REDACTED] have a verbal exchange and Officer [REDACTED] repeatedly states, "I don't give a fuck." When he exits his car, Officer [REDACTED] makes no attempt to question [REDACTED] or the other individual with [REDACTED] instead, he states to them, "We gonna play in the park!" He then slowly walks behind the two, continuing to engage with them instead of proceeding directly through the park to find [REDACTED] Furthermore, in his

³⁴ During his statement to COPA, Officer [REDACTED] in no way acknowledged that it was inappropriate to tell [REDACTED] that Illinois is a two-party consent state and that [REDACTED] recording was illegal. Instead, Officer [REDACTED] justified his actions by saying that he did not tell [REDACTED] to stop recording him. First, the video footage belies Officer [REDACTED] claim, as Officer [REDACTED] can be seen on the video saying "don't try to film me dude alright, you want to do the bullshit cool, how about I lock you up for walking across the street." Further, even if Officer [REDACTED] did not tell [REDACTED] to stop recording, Officer [REDACTED] engaged in coercive and inappropriate behavior by incorrectly advising [REDACTED] that his activity was illegal and by threatening to arrest [REDACTED] for crossing the street when he noticed [REDACTED] recording him. That Officer [REDACTED] continued to claim during his COPA interview that his comments were appropriate demonstrates he either has no remorse for making these comments or does not understand why these comments were inappropriate.

³⁵ See, e.g., *People v. Floyd*, 278 Ill. App. 3d 568, 570-71 (1996). In Illinois, misdemeanor assault occurs when a person "knowingly engages in conduct which places another in reasonable apprehension of receiving a battery." 720 ILCS 5/12-1(a).

³⁶ See *Floyd*, 278 Ill.App.3d at 570-71 (1996).

statement, Officer █████ claimed that he did not ask any investigatory questions to █████ or their friends regarding the prior battery because he and his partner were outnumbered. However, Officer █████ failed to ask any such questions when multiple officers arrived on scene as back up, and none of the Department reports reflect any such questions were asked during █████ and █████ arrest and processing. Officer █████ actions show that his reason for following █████ into the park in the manner that he did was not for the reason he offered in his COPA statement. Instead, his actions show he was attempting to antagonize █████ and escalate the interaction with █████ For these reasons, this allegation is **Sustained**.

COPA concludes a finding of **Not Sustained** that Officer █████ used an unauthorized device to record his interaction with █████ In the second cell phone video taken by █████ Officer █████ can be seen with a black cell phone in his hand. Officer █████ can be heard saying “He’s recording me, I’m recording him.” Officer █████ denied actually recording his interaction with █████³⁷ Other than Officer █████ statement, there is no evidence to suggest that he actually did record █████ using his cell phone camera. Since there is not enough evidence to either prove or disprove the allegation, this allegation is **Not Sustained**.

COPA concludes a finding of **Not Sustained** that Officer █████ made unnecessary physical contact with █████ by blocking his walking path. █████ stated that while walking with Officer █████ the officer intentionally placed his foot in the path of █████ causing █████ to stumble over Officer █████ Officer █████ stated that while the two men were walking their feet inadvertently collided with one another. The cell phone video that █████ took with his phone shows █████ and Officer █████ arguing over who tripped who but does not show the trip. COPA finds this allegation cannot be proven or disproven and therefore the allegation is **Not Sustained**.

b. Allegations Against Officer █████

COPA concludes an **Unfounded** finding that Officer █████ improperly arrested and charged █████ for battery. Officer █████ stated in his COPA interview that █████ committed battery on him when █████ swatted Officer █████ hand away after Officer █████ touched █████ chest. Officer █████ was not trying to arrest or detain █████ when he touched him. Officer █████ body-worn camera captures █████ telling the officers that, “Ya’ll a bunch of niggas, I bet out of all y’all, y’all don’t get no pussy.” The sergeant on scene tells █████ that is no way to talk in front of children. █████ responds by saying, “What?” Officer █████ then steps in front of █████ places his hand on █████ chest and yells, “That is no way to talk in front of kids.” █████ then swats Officer █████ hand away and tells Officer █████ not to touch him. During his interview with COPA, Officer █████ expressly stated this was the basis of his battery arrest.

In Illinois a person commits battery if he or she knowingly and without legal justification by any means (1) causes bodily harm to an individual or (2) makes physical contact of an insulting

³⁷ Of course, if Officer █████ was not, in fact, recording with his phone, it is a necessary conclusion that Officer █████ was untruthful when he told █████ that he was doing so. Alternatively, if Officer █████ was recording █████ with his phone, then he was not untruthful with █████ but was untruthful in his COPA statement. In other words, Officer █████ was either truthful in his statement to █████ or truthful in his statement to COPA, but not in both statements.

or provoking nature with an individual. 720 ILCS 5/12-3(a). Officer [REDACTED] body-worn camera shows [REDACTED] swat Officer [REDACTED] hand; therefore, this allegation is **Unfounded**.

COPA concludes a **Sustained** finding that Officer [REDACTED] improperly arrested and charged [REDACTED] with assault. The body-worn camera from Officer [REDACTED] shows [REDACTED] walking away from Officer [REDACTED] and saying, "I swear to god folk, if I ever catch you bro, without no badge or nothing, off duty folk, call me bro, call me." An officer says to [REDACTED] to "say that again, that's a threat." [REDACTED] then says, "I'm saying call me so we can fight, call me." While he is saying "call me," [REDACTED] closes his middle, ring, and index fingers as if to simulate a telephone, and while he is saying "so we can fight," he balls his hands into fists. Officer [REDACTED] stated that he took [REDACTED] statement as an assault.

As stated above, an assault in Illinois requires some type of conduct that places another in reasonable apprehension of receiving a battery. See 720 ILCS 5/12-1(a). COPA finds that [REDACTED] statement to Officer [REDACTED] and his hand gestures did not rise to the level of an assault. The Illinois caselaw is clear that an assault needs to be accompanied by some actions indicating a battery is imminent. See, e.g., *People v. Kettler*, 121 Ill. App. 3d 1, 6 (1984). Here, [REDACTED] told Officer [REDACTED] to call him so that they could fight. Despite the "clenched" fist and what is listed on the Original Case Incident Report, body-worn camera footage makes clear, [REDACTED] never told Officer [REDACTED] he wanted to fight him in that moment. By saying "call me so we can fight," [REDACTED] requested to fight Officer [REDACTED] at an unspecified time in the future. [REDACTED] even conditioned his statement by requesting that Officer [REDACTED] call him to organize the fight. Since [REDACTED] statement to Officer [REDACTED] lacked any indicia of imminence or a threat, COPA finds that the *prima facie* requirements of an assault were not met and therefore [REDACTED] arrest and charge of an assault were improper. Thus, this allegation is **Sustained**.

COPA **Sustains the** finding against Officer [REDACTED] for failing to set forth the elements of an assault and a battery in the arrest report of [REDACTED] Chicago Police Special Order S06-01 dictates that the arresting officer will be responsible for setting forth, in the narrative section of an arrest report, sufficient information (elements of the offense and probable cause to arrest) to substantiate all charges brought against an arrestee.

Officer [REDACTED] testified to authoring [REDACTED] arrest report and forgetting to describe the elements of the battery in the arrest report. Officer [REDACTED] stated that it was an error on his part. It is the responsibility of the arresting officer to sufficiently describe the factors of the offense in the arrest report; therefore, COPA **Sustains** this allegation.

COPA **Sustains** the finding against Officer [REDACTED] for failing to activate his body-worn camera before engaging in law-related activities. As stated above, Chicago police officers must activate their body-worn cameras at the beginning of an incident, if time permits, pursuant to Special Order S03-14. Here, Officer [REDACTED] stated that he believed he had turned on his body-worn camera as soon as he stepped out of his squad car but later noticed that it was not turned on. Due to Officer [REDACTED] failure to activate his body-worn camera, the initial incident with [REDACTED] was not captured. Since Officer [REDACTED] admitted to failing to turn on his body-worn camera at the onset of his police interaction, COPA **Sustains** this allegation.

COPA concludes a finding of **Unfounded** for the allegation that Officer ██████ knowingly made false representations in the original case incident report (OCIR) that ██████ (1) made the statement “not verbatim we can fight now” and (2) hit Officer ██████ about the hand. Officer ██████ stated that the OCIR was written by Officer ██████ based on the representations Officer ██████ made to Officer ██████. Officer ██████ qualified his statement by testifying that although he viewed his body-worn camera, he did not hear ██████ full statement until his COPA interview due to the poor quality of speakers at the ██████ District.

COPA finds that even though the narrative of the OCIR is inconsistent with Officer ██████ body-worn camera, there is no evidence to indicate that he knowingly made false representations for Officer ██████ to include in the report and therefore the allegation is **Unfounded**.

c. Allegations Against Lieutenant ██████

COPA concludes a **Sustained** finding that Lieutenant ██████ approved probable cause for the assault charge against ██████ which lacked sufficient elements of an assault. Chicago Police General Order 06-01 states in pertinent part, “[t]he district station supervisor of the unit of detention will indicate initial approval of probable cause on the Arrest Report at the onset of the booking process indicating there is probable cause to detain the arrestee and the elements of the offense have been included in the narrative portion of the Arrest Report.”

As stated above in COPA’s analysis of the allegations against Officer ██████ the arrest of ██████ lacked sufficient probable cause. Lt. ██████ stated that he based his decision to approve the charges on the assault statute, which does not articulate the need for words and an accompanying gesture as articulated in caselaw. In his interview with COPA, Lt. ██████ admitted he was not familiar with the caselaw. A supervising officer has a responsibility to understand the law to approve charges. In this case, the charge lacked the necessary elements. Therefore, COPA **Sustains** this allegation.

COPA concludes a finding of **Sustained** that Lieutenant ██████ approved ██████ arrest report, which lacked sufficient elements of assault and battery in the narrative portion of the arrest report.

Lieutenant ██████ admitted that he approved the arrest report for ██████. COPA finds the facts which purportedly supported the assault charge are included in the arrest report. However, the arrest report failed to mention the battery in any way. Furthermore, Officer ██████ TRR only describes the battery of ██████ not ██████. In any event, even if the battery description was articulated in the TRR, the general order requires the narrative portion of the arrest report to establish probable cause for each charge. Therefore, the allegation is **Sustained**.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	<p>It is alleged by the Complainant that on July 3, 2018, near [REDACTED] and [REDACTED] at or about 3:15pm that Officer [REDACTED]</p>	
	<p>1. Stated words to the effect of “I kill mother fuckers”</p>	Sustained
	<p>2. Called the Complainant a “retard”</p>	Sustained
	<p>3. Repeatedly yelled out words to the effect of “I don’t give a fuck”</p>	Sustained
	<p>4. Stated words to the effect of “I’ll fuck your mother”</p>	Sustained
	<p>5. Escalated the interaction with the Complainant by following him into a park with no intent to further a valid police purpose.</p>	Sustained
	<p>6. Placed his foot in the path of Complainant with no intent to further a valid a police purpose</p>	Not Sustained
	<p>It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018, near [REDACTED] and [REDACTED] at or about 3:15pm, Officer [REDACTED]</p>	
	<p>7. Engaged in an unjustified verbal altercation with [REDACTED]</p>	Sustained
	<p>8. Called [REDACTED] a “pussy fuck”</p>	Sustained
		Not Sustained

	<ol style="list-style-type: none"> 9. Used an unauthorized device to record an interaction with a civilian 10. Followed ██████████ into a park with no intent to further a valid police purpose 11. Failed to activate his body-worn camera before engaging in law related activities 12. Improperly instructed ██████████ ██████████ to stop recording him 13. Attempted to intimidate ██████████ by advising him that Illinois requires two parties to consent to a video recording 14. Improperly charged ██████████ ██████████ with Assault 	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
<p>Officer ██████████</p>	<p>It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018, in relation to an incident which occurred on ██████████ and ██████████ at or about 3:15pm, Officer ██████████</p> <ol style="list-style-type: none"> 1. Improperly charged and arrested ██████████ with Assault 2. Improperly charged and arrested ██████████ with Battery 3. Failed to set forth the elements of an Assault and a Battery in the Arrest Report of ██████████ 4. Failed to activate his body-worn camera before engaging in law related activities 	<p>Sustained</p> <p>Unfounded</p> <p>Sustained</p> <p>Sustained</p>

- 5. Knowingly made a false oral report when he told Officer [REDACTED] that [REDACTED] said not verbatim “we can fight right now” **Unfounded**
- 6. Knowingly made a false oral report when he told Officer [REDACTED] that [REDACTED] hit Officer [REDACTED] about the hand with a swatting motion. **Unfounded**

Lieutenant [REDACTED]

It is alleged by the Civilian Office of Police Accountability (C.O.P.A.) that on July 3, 2018 Lieutenant [REDACTED]

- 1. Approved the probable cause of [REDACTED] assault charge, which lack sufficient elements of an Assault. **Sustained**
- 2. Approved the Arrest Report of [REDACTED] which lacked sufficient elements of Assault and Battery in the narrative portion of the arrest report. **Sustained**

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer ██████████

1. Complimentary and Disciplinary History

Officer ██████████ relevant Complimentary History consists of 2 Problem Solving Awards, 6 Superintendent's Honorable Mentions, 1 Department Commendation, 102 Honorable Mentions, 1 Complimentary Letter, 1 Honorable Mention Ribbon Award, 2 Joint Operations Awards, and 1 Unit Meritorious Performance Award. Officer ██████████ does not have any relevant Disciplinary History.

2. Recommended Penalty: a minimum suspension of 365 days, applicable training, and transfer to a different district of assignment.

At its core, this case is about human dignity. Specifically, a reasonable officer's responsibility to extend human dignity to every citizen and Officer ██████████'s failure to do so in this incident. General Order 02-01 states "Department members will treat all persons with the courtesy and dignity which is inherently due every person as a human being." Throughout this incident, Officer ██████████ repeatedly and continuously engaged in a course of conduct that failed to show the respect and professionalism that is expected of all police officers when dealing with members of the public. Officer ██████████ repeatedly made profane and derogatory statements which served to harass and antagonize members of the public. Officer ██████████ also used his position of authority to intimidate and threaten Mr. ██████████. Officer ██████████ failed to demonstrate any valid police purpose for his actions, which ultimately resulted in the improper arrest of Mr. ██████████. Officer ██████████'s actions were in direct violation of General Order 02-01 which states that "The Chicago Police Department will not tolerate abuse of law enforcement authority. While the Department does recognize the concept of discretion, that discretion must be reasonable, defensible and may not be for an improper purpose." COPA finds that Officer ██████████'s actions were unreasonable, indefensible, and committed for an improper purpose. Moreover, Officer ██████████'s conduct was deliberate, malicious, aggressive, and demoralizing behavior that demonstrated disdain for members of the public. His intentional escalation of this incident also necessitated the response of additional officers, which resulted in a waste of extensive police resources.

Moreover, Officer ██████████'s conduct occurred in a public park, where many citizens, including impressionable children, witnessed his unprofessional conduct. Video footage of the incident was also widely publicized and did more harm to breakdown police/public relations than witnessed in a long time. Officer ██████████'s words and actions undermine the hard work and dedication of his fellow officers at a time when his Department is working diligently to rebuild trust with many members of the public. Officer ██████████ also failed to take adequate responsibility for his actions, stating only that he should have used "different language." However, Officer ██████████ placed blame on the citizens involved by arguing that while his language was "not entirely" appropriate, it was appropriate given how he was being spoken to by ██████████. Officer ██████████ also tried to justify his comments regarding a citizen's right to record police actions, which were inaccurate

and used to intimidate. Even with the benefit of hindsight, Officer [REDACTED] lacks the judgment to understand how his language and conduct were impermissible and deeply damaging.

Based on the totality of the circumstances, COPA's recommended discipline is a 180-day suspension and any applicable training. COPA also strongly urges the Department to consider assigning Officer [REDACTED] to a different district, which is an appropriate disciplinary recommendation pursuant to MCC §2-78-1201(I). Given the high-profile nature of this event, a new district of assignment may be beneficial to both Officer [REDACTED] and the community he serves, in order for him to be successful in moving past this incident.

b. Officer [REDACTED]

1. Complimentary and Disciplinary History

Officer [REDACTED] relevant Complimentary History consists of 1 Problem Solving Award, 2 Department Commendations, 16 Honorable Mentions, 1 Life Saving Award, and 1 Joint Operations Award. Officer [REDACTED] has no Disciplinary History.

2. Recommended Penalty: 20-day Suspension and any applicable training.

While Officer [REDACTED] did not commit the same acts of verbal harassment that his partner did, Officer [REDACTED] was responsible for the improper arrest of Mr. [REDACTED] which is a serious action with significant negative consequences for Mr. [REDACTED]. COPA has no indication that Officer [REDACTED] mistake of law was intentional. However, while on scene, Officer [REDACTED] failed to deescalate a tense situation, which was created by his partner. In fact, many of the statements made by Officer [REDACTED] served to further escalate the conflict. Specifically, Officer [REDACTED] is captured on video threatening to take a man to jail for riding his bike in the park and asking the group how many of them are on parole. While Officer [REDACTED] may have had lawful authority to make those statements, they served no valid police purpose and COPA finds that Officer [REDACTED] never intended to act on them. Officer [REDACTED] comments only further harassed and incited the group of civilians who were present. Lastly, his failure to timely activate his body-worn camera (BWC) resulted in a lack of video footage for certain portions of this incident.

c. Lieutenant [REDACTED]

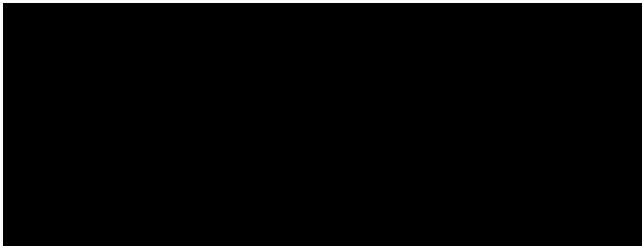
1. Complimentary and Disciplinary History

Lieutenant [REDACTED] relevant Complimentary History consists of 1 Problem Solving Award, 127 Honorable Mentions, 6 Department Commendations, 4 Complimentary Letters, 1 Police Officer of the Month Award, 1 Life Saving Award, 1 Honorable Mention Ribbon Award, 1 Superintendent's Award of Tactical Excellence, 3 Joint Operations Awards, and 1 Unit Meritorious Performance Award. Lieutenant [REDACTED] does not have any relevant Disciplinary History.

2. Recommended Penalty: 1-day Suspension and any applicable training.

The case law related to the sufficiency of the evidence of assault is clear that a words only assault is not sufficient. However, while Lt. [REDACTED] should be aware of the distinction between the plain language of the statute and the case law, it is an understandable mistake. Though a violation of CPD policy, COPA does not find the mistake was made maliciously or intentionally.

Approved:



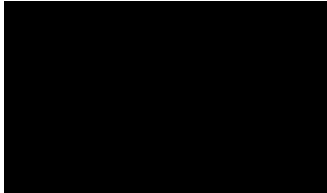
Chief Administrator

April 16, 2019

Date

Appendix A

Assigned Investigative Staff

Squad#:	4
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	