

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	March 7, 2016
Time of Incident:	7:00 p.m.
Location of Incident:	[REDACTED]
Date of COPA Notification:	March 8, 2016
Time of COPA Notification:	8:17 p.m.

Involved Individual [REDACTED] was loading and paying for his groceries, when on-duty Involved Officer [REDACTED] asked him if he paid for the bottled water at the bottom of his cart. Mr. [REDACTED] responded, "Don't worry about it, nobody's stealing here." Officer [REDACTED] told Mr. [REDACTED] that he was not accusing him of stealing. A staring match ensued between both parties, resulting in Mr. [REDACTED] telling Officer [REDACTED] that he was a disgrace to the uniform. Officer [REDACTED] responded by telling Mr. [REDACTED] that he was a disgrace to his race. Officer [REDACTED] is black and Mr. [REDACTED] is white. A verbal altercation ensued between the two. Mr. [REDACTED] and Officer [REDACTED] exchanged words again as the [REDACTED] exited the store. There is distant surveillance video footage of their interaction, but it does not include audio of the incident.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee # [REDACTED], Date of Appointment, [REDACTED] 1990, Police Officer, Unit of Assignment, [REDACTED], DOB, [REDACTED] 1967, Male, Black.
Involved Individual #1:	[REDACTED], [REDACTED] 1987, Male, White.
Involved Individual #2:	[REDACTED], [REDACTED], 1986, Female, Asian.
Involved Individual #3:	[REDACTED], Male, [REDACTED] employee.

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Engaged in a verbal altercation with [REDACTED]. 2. Told [REDACTED] he was a disgrace to his race.	Sustained / 4 Day Suspension Sustained / 4 Day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

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

V. INVESTIGATION

a. Interviews

In a **statement** to IPRA on March 9, 2016, **Involved Individual** [REDACTED] related he was at [REDACTED] store with his wife [REDACTED]. Mr. [REDACTED] was loading his groceries onto the conveyer belt and his wife was behind him. Mr. [REDACTED] lifted two cases of bottle water from the bottom of his cart and presented them to the cashier for scanning. At this time, Mr. [REDACTED] observed Officer [REDACTED] engaging in conversation with a store employee who was bagging groceries. Mr. [REDACTED] returned the bottled water to the bottom of his cart and moved the cart forward so the groceries could be placed inside. Officer [REDACTED] asked Mr. [REDACTED] if he paid for the water. Mr. [REDACTED] responded, “Don’t worry about it, nobody’s stealing here.”² Officer [REDACTED] told Mr. [REDACTED] that he was not accusing him of stealing.

Mr. [REDACTED] and Officer [REDACTED] stared at one another. Mr. [REDACTED] looked away and then looked back to see that Officer [REDACTED] was still staring at him. Mr. [REDACTED] asked Officer [REDACTED], “What is your problem?”³ Officer [REDACTED] stated to Mr. [REDACTED] words to the effect of, “You need to calm down, your mouth’s gonna get you in trouble.”⁴ Mr. [REDACTED] became upset and told Officer [REDACTED] that he was being unprofessional and that he was a disgrace to the uniform.⁵ Officer [REDACTED] retorted, “You’re a disgrace to your race.”

² Att. 18, Transcription of [REDACTED]’s Statement, pg. 5, lines 4,5

³ *Id.* at pg. 5, line 19

⁴ *Id.* at pg. 5, lines 21, 22

⁵ Officer [REDACTED] was dressed in his Chicago Police Department uniform during this incident.

A verbal exchange ensued between them. Officer [REDACTED] threatened Mr. [REDACTED] by telling him that it was not going to end well for him. Mr. [REDACTED] responded that he knew his rights, he would physically defend himself, and that he would have Officer [REDACTED]'s job if he touched him. Mr. [REDACTED] asked Officer [REDACTED] if it was a racial issue with him, to which Officer [REDACTED] sarcastically replied, "Yeah, I'm investigating you because you're white."⁶ Officer [REDACTED] repeatedly stated to Mr. [REDACTED], "Get your groceries and get out of here."⁷

As Mr. [REDACTED] was pushing his cart to exit the cashier aisle, he stated "excuse me" to Officer [REDACTED], who was standing at the end of the aisle.⁸ Officer [REDACTED] refused to move and told Mr. [REDACTED] he had plenty of room to exit. Mr. [REDACTED] felt Officer [REDACTED] was harassing him and trying to provoke a physical altercation between them. Mrs. [REDACTED] stood behind Mr. [REDACTED] during this incident. Mrs. [REDACTED] attempted to diffuse the situation by telling everyone to relax. Mr. [REDACTED] was able to exit the aisle without contacting Officer [REDACTED]. Officer [REDACTED] was mumbling words under his breath as Mr. [REDACTED] passed him. Mr. [REDACTED] called Officer [REDACTED] an asshole as he exited the store.

Mr. [REDACTED] took a photograph of Officer [REDACTED] with his cellular telephone. Per Mr. [REDACTED], when he pulled out his cellular telephone, Officer [REDACTED] picked up a bag of Mr. [REDACTED]'s groceries for an unknown reason. Officer [REDACTED] did not refer to him in a racial slur or any derogatory term, and he did not recall if Officer [REDACTED] used profanity toward him. Mr. [REDACTED] offered that he was not completely innocent in this matter and that he could have handled it differently. Mr. [REDACTED] could not provide the name of the store employee to whom Officer [REDACTED] was speaking to but described her as a female African-American mid-twenties.⁹

In a **statement** to IPRA on March 9, 2016, [REDACTED] related she was placing groceries on the conveyer belt and that she was not initially aware of the verbal altercation between Mr. [REDACTED] and Officer [REDACTED]. Mrs. [REDACTED] became aware of the altercation when both parties raised their voices. Mrs. [REDACTED] heard Mr. [REDACTED] state, "What's your problem?"¹⁰ Mrs. [REDACTED] intervened and attempted to diffuse the situation by telling both parties to calm down and to forgive each other. Mr. [REDACTED] calmed down but Officer [REDACTED] continued to make comments, which led to another verbal altercation between the two. Mr. [REDACTED] told Officer [REDACTED] that if he touched him he would report him and cost him his job, and that he was a disgrace to his profession. Officer [REDACTED] replied, "You're a disgrace to white people." Officer [REDACTED] was standing at end of the cashier aisle where the groceries are bagged. As the [REDACTED] were exiting the cashier aisle with their cart, Mr. [REDACTED] stated, "excuse me" to Officer [REDACTED] so they could get by. Officer [REDACTED] advised there was enough room to pass and did not move. Mr. [REDACTED] maneuvered the cart around Officer [REDACTED]. Officer [REDACTED] made an unknown comment to Mr. [REDACTED] as they exited the store. Mr. [REDACTED] later informed Mrs. [REDACTED] that the altercation between him and Officer [REDACTED] began when Officer [REDACTED] asked him if he paid for bottled water at the bottom of their cart.¹¹

⁶ Transcription of [REDACTED]'s statement, pg. 13, lines 17, 18, 19

⁷ *Id.* at pg. 9, lines 29, 30

⁸ *Id.* at pg. 15, lines 18, 19

⁹ Att. 8, 18

¹⁰ Audio statement of [REDACTED], 8:00 minute mark

¹¹ Att. 12

IPRA spoke to [REDACTED] **Security Officer** [REDACTED] via telephone on 08 March 2019. Mr. [REDACTED] related he was requested by store personnel to respond to an incident occurring in a checkout lane. Upon arriving at the scene Mr. [REDACTED] observed a white man and black male uniformed Chicago Police Officer arguing, but they ceased when he approached. Shortly thereafter, the white man exited the store. Mr. [REDACTED] does not know what the individuals were arguing about.¹²

Two additional [REDACTED] employees were identified as potential witnesses to this incident. Cashier, [REDACTED], and Bagger, [REDACTED]. However, minors [REDACTED] and [REDACTED] declined to cooperate with this investigation.¹³

In a **statement** to COPA on November 28, 2016, **Officer** [REDACTED] stated that he had no recollection of the incident between him and Mr. [REDACTED]. Officer [REDACTED] was shown photographs of him at [REDACTED], but they did not aid in him recalling the incident. Officer [REDACTED] related that he does frequent the store and that he does speak to the employees, but he does not know them by name. Officer [REDACTED] reported that he did not recall the incident and denied the allegations.

b. Digital Evidence

The [REDACTED] **surveillance video** shows from a distance, the [REDACTED] placing their groceries on the conveyer belt and Officer [REDACTED] standing at the end of the cashier aisle near the bagging area. There appears to be an ongoing verbal exchange between Mr. [REDACTED] and Officer [REDACTED]; who are approximately 7ft. apart. As Mr. [REDACTED] exits the cashier aisle with his cart, he and Officer [REDACTED] appear to be less than 2ft. apart. It appears another verbal exchange takes place between the two as Mr. [REDACTED] maneuvers his cart around Officer [REDACTED]. Thereafter the [REDACTED] exit the store without further incident. Approximately six minutes later, Officer [REDACTED] exits the store. The video does not include audio.¹⁴

Mr. [REDACTED] provided COPA with a copy of his [REDACTED] **receipt**. The receipt documents that Mr. [REDACTED] was charged and paid for the bottled water.¹⁵

A still **overhead photograph** from [REDACTED] surveillance cameras shows Mr. [REDACTED] at the cashier holding a case of bottled water. Officer [REDACTED]'s feet can be seen at the end of the cashier aisle near the bagging area. Another overhead still photograph shows Mr. [REDACTED] with his cart at the bagging area and Officer [REDACTED]'s shoes at the end of the cart. It appears that Mr. [REDACTED] is looking in Officer [REDACTED]'s direction.¹⁶

Mr. [REDACTED] provided COPA with a copy of the **photograph** he took of Officer [REDACTED]. The photograph shows Officer [REDACTED] in full uniform with his last name and unit on the right side

¹² Att. 16

¹³ Att. 20

¹⁴ Att. 34

¹⁵ Att. 15

¹⁶ Atts. 32, 35

of his vest and his Department Star on the left side of his vest. Officer [REDACTED] is holding what appears to be a brown paper bag in his right hand.¹⁷

c. Documentary Evidence

Mr. [REDACTED] filed a **Web Complaint** to IPRA in which he detailed a similar narrative and allegations against Officer [REDACTED] as he made in his subsequent statement to IPRA.¹⁸

According to the **Attendance & Assignment Sheet**, Officer [REDACTED] was on duty at the time of incident, working [REDACTED] Watch, Beat [REDACTED].¹⁹

VI. LEGAL STANDARD

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 the conduct occurred and violated Department policy. *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, 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

¹⁷ Att. 9

¹⁸ Att. 40

¹⁹ Att. 17

VII. ANALYSIS

COPA finds that **Allegation #1**, that Officer [REDACTED] engaged in a verbal altercation with [REDACTED] is **SUSTAINED**. Officer [REDACTED] had no recollection of this incident with Mr. [REDACTED], yet also denied the allegation. However, Mr. [REDACTED] provided a detailed account of the incident, that is supported by Mrs. [REDACTED] Security Officer [REDACTED], a receipt, and digital evidence. Based on the evidence obtained during this investigation, it is reasonable to believe that Officer [REDACTED] initiated and continued to engage in conversation with Mr. [REDACTED] that lead to a verbal altercation. Officer [REDACTED] was in a public place, on-duty and wearing a visible Chicago Police Department uniform. The altercation between the two men rose to the level that [REDACTED] employees summoned security to respond. The evidence established that Officer [REDACTED] was involved publicly in a verbal altercation.

COPA finds that **Allegation #2**, that Officer [REDACTED] told Mr. [REDACTED] he was a disgrace to his race is **SUSTAINED**. Officer [REDACTED] had no recollection of this incident with Mr. [REDACTED] yet he also denied the allegation. Mr. [REDACTED] provided a detailed account of the incident, that was supported by Mrs. [REDACTED]'s description of the incident. As explained in the above allegation, the evidence established that Officer [REDACTED] and Mr. [REDACTED] engaged in a verbal altercation. It is reasonable to believe that Officer [REDACTED] responded to Mr. [REDACTED] in a retaliatory manner after Mr. [REDACTED] told him he was a disgrace to the uniform. Based on the totality of circumstances, there is a preponderance of evidence to support and Sustain this allegation.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

b. Officer [REDACTED], Star # [REDACTED]

Complimentary and Disciplinary History

COPA has taken into account both the complimentary and prior disciplinary history of the officer.

Complimentary History

- 1, Democratic National Convention Award
- 1, Presidential Election Deployment Award 2008
- 4, Attendance Recognition Award
- 18, Honorable Mention
- 1, 2004 Crime Reduction Ribbon
- 12, Complimentary Letter
- 1, Police Blue Star Award
- 2, Life Saving Award
- 1, NATO Summit Service Award
- 1, 2009 Crime Reduction Award
- 1, Unit Meritorious Performance Award

Disciplinary History

- 1 Day Suspension, 08N – Miscellaneous

Reprimand, 03G – Miscellaneous
2 Day Suspension, 10S – Sexual Harassment²¹

i. Recommended Penalty, by Allegation

1. Allegation No. 1

Officer [redacted] engaged in a public verbal altercation with [redacted]. COPA finds a 4-day punishment with public relations training appropriate.

2. Allegation No. 2

Officer [redacted] told [redacted], in public, that he was a disgrace to his race. COPA finds a 4-day punishment with public relations training appropriate.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [redacted]	1. Engaged in a verbal altercation with [redacted].	Sustained / 4 Day
	2. Told [redacted] he was a disgrace to his race.	Sustained/ 4 Day

[Redacted signature block]

Deputy Chief Administrator – Chief Investigator

4-24-19
Date

²¹ Although identified on the CPD Disciplinary History as Sexual Harassment in, CLEAR identified the Sustained allegation as [redacted] – Conduct Unbecoming, “The Reporting Party Complainant, Sgt. [redacted], Star # [redacted], alleges that on 01 AUG 2016 after off duty Police Officer, [redacted], Star # [redacted], and his family, received a tour of the [redacted] facility and its boats, located at [redacted] Access, that [redacted] conveyed his thanks by informing [redacted] and Captain [redacted] on how well [redacted] takes care of the guys, at which time, the accused Police Officer, [redacted] Star # [redacted], walked by and interjected: “Yeah, only if your white!”

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]