

CPD officers charged Officer [REDACTED] with aggravated assault (720 ILCS 5.0/12-2-C-1 – use of a deadly weapon).⁹ A breathalyzer test conducted upon Officer [REDACTED] at approximately 5:15 a.m. revealed a blood alcohol content (“BAC”) of 0.103.¹⁰ CPD stripped Officer [REDACTED] of his police powers, which remains in effect until conclusion of this investigation.¹¹ Officer [REDACTED] criminal case, captioned [REDACTED], concluded with a statutory dismissal (stricken on leave - “SOL”) on November 10, 2016. The case has since been expunged.¹² Overall, Officer [REDACTED] disputes the entirety of [REDACTED] account and allegations.

II. INVOLVED PARTIES

Involved Officer:	[REDACTED] ¹³ , star # [REDACTED] employee # [REDACTED], unit [REDACTED], detailed to unit [REDACTED] (Alternate Response Section), Date of Appointment: [REDACTED], 2004, Date of Birth: [REDACTED], 1962, Male, African-American.
Involved Individual #1:	[REDACTED] ¹⁴ , Male, African-American, Date of Birth: [REDACTED], 1978.
Involved Individual #2:	[REDACTED], Female, African-American, Date of Birth: [REDACTED], 1981.
Involved Individual #3:	[REDACTED], Female, African-American, Date of Birth: [REDACTED], 1975.
Involved Individual #4:	[REDACTED], Male, African-American, Date of Birth: [REDACTED], 1965.

III. ALLEGATIONS

Officer	Allegation	Finding/Recommendation
Officer [REDACTED] [REDACTED]	It is alleged that on August 22, 2016, at approximately 1:10 a.m., near a residence at [REDACTED] while off duty, Officer [REDACTED]: 1. Was intoxicated; 2. Directed a racial slur(s) at [REDACTED];	Sustained / 28 day suspension Not Sustained

⁹ See Attachment 14.

¹⁰ See Attachments 5, 8 and 9.

¹¹ See Attachments 10-12.

¹² See Attachments 38 and 46.

¹³ The OCIR lists his height and weight as 6’1” and 235 lbs. (See Attachment 13).

¹⁴ The OCIR lists his height and weight as 6’2” and 259 lbs. (See Attachment 13).

	<p>3. Directed profanity at [REDACTED] [REDACTED]</p> <p>4. Directed verbal threats at [REDACTED] [REDACTED];</p> <p>5. Threw a beer in the direction of [REDACTED]; and</p> <p>6. Displayed your firearm.</p>	<p>Not Sustained</p> <p>Sustained / 28 day suspension</p> <p>Not Sustained</p> <p>Sustained / 28 day suspension</p>
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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.

Rule 15: Intoxication on or off duty

Rule 38: Unlawful or unnecessary use or display of a weapon.

Chicago Police Department (“CPD”) Directives

1. Uniform and Property U04-02: Department Approved Weapons and Ammunition¹⁵

¹⁵ Effective Date: December 27, 2013. (See Attachment 46).

V. INVESTIGATION

a. Interviews

i. [REDACTED]¹⁶

Statement Date: August 24, 2016

Beginning in the evening of August 21, 2016, [REDACTED] told IPRA he first encountered Officer [REDACTED] at a liquor store.¹⁷ Returning from the liquor store, [REDACTED] tended to his ill father while Officer [REDACTED] came from his house's gate and sat on [REDACTED] father's porch with [REDACTED] and [REDACTED]. Later in the statement, [REDACTED] stated [REDACTED] came over to the porch with Officer [REDACTED]. To [REDACTED] knowledge, while he was in the house, an interaction took place between [REDACTED], Officer [REDACTED] and [REDACTED].^{18, 19} When [REDACTED] returned to his father's porch, Officer [REDACTED] had relocated to his own porch. [REDACTED] made a comment about Officer [REDACTED] relocating, relative to [REDACTED], to which Officer [REDACTED] told him to "eat a dick." A verbal altercation proceeded between [REDACTED] and Officer [REDACTED]. During the verbal altercation, [REDACTED] stated Officer [REDACTED] was hiding behind his badge and gun and calling people names while knowing nothing will happen to him because he is the police. Officer [REDACTED] told him, among other statements, (1) "Nigga, I'll kill you and get away with it," (2) [REDACTED] family would get paid, and (3) if he ever caught [REDACTED] in the streets he would go away for a long time. Officer [REDACTED] went into his house, came back out and stated to [REDACTED] that his deceased wife told him not to fuck with him and that he should have killed him a long time ago. About the time Officer [REDACTED] made the "I'll kill you" comment, [REDACTED] stated he pulled out a firearm²⁰ and put it to his side. [REDACTED] believed [REDACTED] stood on the porch with Officer [REDACTED] when this occurred. When Officer [REDACTED] pulled out his firearm, [REDACTED] had been on the sidewalk having come off his porch in response to Officer [REDACTED] throwing a beer can in [REDACTED] direction, almost hitting him. At one point, [REDACTED] stated Officer [REDACTED] also told him that they are enemies. At some point after Officer [REDACTED] had pulled his firearm out, [REDACTED] told him to come in the house which he did.

[REDACTED] stated Officer [REDACTED] drank from a "fifth" bottle of Seagram's Gin.²¹ [REDACTED] caveated that he did not know how much of the gin Officer [REDACTED] drank indicating that he believed, though did not know, that another person also drank the liquor with him. [REDACTED] described Officer [REDACTED] as "out of his body" and "fucked up," but denied that he slurred his speech. [REDACTED] told IPRA that he and Officer [REDACTED] had not been adversarial prior to the incident and he did not know from where the situation came, particularly Officer [REDACTED] telling him he would kill him.

¹⁶ See Attachment 19.

¹⁷ Per [REDACTED], [REDACTED] had been at the liquor store with Officer [REDACTED] and that him and [REDACTED] coincidentally bumped into them at the liquor store. [REDACTED] said everything had been "cool" at the liquor store.

¹⁸ [REDACTED] stated he had cordial interactions and "no beef" with [REDACTED].

¹⁹ According to [REDACTED] and based on what [REDACTED] and [REDACTED] told him when he came outside, [REDACTED] walked over to [REDACTED] porch with no shoes on to check on or see about [REDACTED] sitting next to Officer [REDACTED].

²⁰ [REDACTED] could not describe the firearm telling IPRA that once Officer [REDACTED] had pulled the firearm out he, paraphrasing, did not stop to pay attention to its descriptive features.

²¹ A "fifth" of alcohol is a 750ml bottle.

He estimated the incident occurred around 1:00 a.m. on August 22, 2016; however, he did not really recall. [REDACTED] called 911 after Officer [REDACTED] threatened his life. Earlier in [REDACTED] statement, he stated he believed Officer [REDACTED] threats because [REDACTED] had told him stories about getting away with “crooked stuff.” [REDACTED] believed it was possible that Officer [REDACTED] could “put something on him.” [REDACTED] also stated Officer [REDACTED] had made prior statements to him to the effect that if he got into it with someone, he would kill them and say that they tried to reach for his firearm.

ii. [REDACTED]^{22 23}
Statement Date: May 3, 2018

The night of August 21, 2016, [REDACTED] and Officer [REDACTED] arrived at his home at approximately 10 or 10:30 p.m. following a dinner celebrating their engagement. At the restaurant, [REDACTED] drank a glass of wine while Officer [REDACTED] also had wine. When they arrived home, she did not consider either of themselves to be intoxicated and stated neither of them drank anything further. Upon arriving at home, she went inside the house to use the bathroom while Officer [REDACTED] remained outside smoking a cigar. After going to the bathroom, she went back to the front door to ask Officer [REDACTED] when he would be inside. She estimated she had been gone only a few minutes. When she did, she heard [REDACTED] – stating she recognized his voice – say “oh she’s just a jealous bitch” “or whatever.” [REDACTED] stated that she never went outside on the porch. Officer [REDACTED] told [REDACTED] he was being disrespectful, and together with [REDACTED] they went inside. [REDACTED] did not see [REDACTED] and she did not hear any other voices. [REDACTED] stated that she did not look over to [REDACTED] porch and did not recall anyone being on the porch when she arrived at the house that night.

After they went inside, they both went into the bedroom. Later in the night, after going to sleep, she recalled hearing knocking. She vaguely recalled speaking with a white shirt officer, identified by COPA as a sergeant from the department reports. She recalled only being told at that time that Officer [REDACTED] was being taken to the station. She maintained that they remained in the bedroom together until the sergeant arrived. She asserted Officer [REDACTED] did not have his firearm on him that night, explicitly stating she remembered he did not have a firearm when they went to eat or at minimum she did not observe him with one. [REDACTED] denied that Officer [REDACTED] had gone to the liquor store that day.

iii. Officer [REDACTED]²⁴
Statement Date: April 27, 2018

On the incident date, Officer [REDACTED] characterized his and [REDACTED] relationship as cordial²⁵ though not friends. The night of August 21, 2016, Officer [REDACTED] had been at [REDACTED] in [REDACTED] attending his engagement party with [REDACTED] where he had a

²² See Attachment 39.

²³ [REDACTED] knows [REDACTED] as “[REDACTED]” from the neighborhood; expressly stating she did not know him, rather only knew of him.

²⁴ See Attachment 38.

²⁵ Officer [REDACTED] defined cordial as while he may not “vibe” with someone he can respect them.

couple of liquor-based cocktails.²⁶ He and ██████ returned to his house about 10:30-10:45 p.m. Upon their return, he sat on his porch and smoked a cigar. He did not have anything to drink at that time. Officer ██████ recalled several people being at ██████ house; he estimated five males and females.²⁷ At that time, ██████ father had been on hospice and Officer ██████ gave ██████ his condolences. ██████ and Officer ██████ remained on their respective porches.²⁸ ██████ came to the door - never going outside the door - and asked him when he would be coming inside to which he responded in a minute. ██████ overheard ██████ asking him this and stated to the effect of "she's a jealous bitch." Officer ██████ told him he was overstepping his boundaries to which ██████ blew up and told him he was letting the police stuff get to his head. Officer ██████ then went inside his house. Before he did, he stated ██████ told him if he was not the police he would "whoop his ass." Officer ██████ answered that ██████ observed the entire conversation between himself and ██████. Officer ██████ did not recall if ██████ had been drinking and did not pay attention to whether others on ██████ porch had been drinking. In all, he estimated he spoke with ██████ for five to ten minutes, going inside his house at approximately 11:00-11:15 p.m.

While he did not drink alcohol when on his porch, he did so when he returned inside his house. He also answered that he did not have alcoholic containers on his porch. Inside the house, Officer ██████ said he watched a movie, poured a cocktail and a shot of gin and ultimately fell asleep in his "La-Z Boy." Later in his statement, he said he only drank Cognac that night. He recalled being awoken at approximately 4:00 or 4:30 a.m.²⁹ by a sergeant at his door who informed him ██████ had accused him of pointing a gun at him which Officer ██████ denied. Although he did not feel that he had been intoxicated, he acknowledged that the breathalyzer results were above the legal limit of 0.08.

Officer ██████ confirmed he had his firearm that night stating he had it concealed under his shirt in a side holster adjacent his belt on his right side. He denied anyone could have seen his firearm. He also denied having gone to the liquor store on August 21, 2016. He told the COPA Investigator that he was in disbelief about the allegations that had been made surrounding his arrest.³⁰ He asserted he remembered everything that occurred that night and alcohol did not alter his thinking. Officer ██████ admitted the first allegation of being intoxicated and denied the remainder.

²⁶ COPA did not confirm Officer ██████ and ██████ statements of being at dinner celebrating their engagement on August 21, 2016.

²⁷ After being shown the CPD case report, which listed ██████ and ██████ as witnesses, Officer ██████ stated he is familiar with ██████ as the "neighborhood crackhead" and stated he did not interact with him that night past being cordial and saying hello.

²⁸ He recalled ██████ at some point stepping off his porch and moving towards the sidewalk. Officer ██████ clarified that ██████ never moved toward his porch or house. Only street lights were on that night.

²⁹ Officer ██████ admitted he did not look at a watch when the sergeant knocked on his door stating it felt like 4:00 a.m.

³⁰ As to his thoughts as to why ██████ made allegations which Officer ██████ refuted ever took place, he answered, *summarizing*, that he considers ██████ to be a suspected drug dealer³⁰ and ██████ did not like him. However, they always had been able to be cordial with each another. He continued that he could not state why people do what they do. He further denied having any fights with ██████ prior to the incident night.

b. Digital Evidence

i. [REDACTED] 911 Calls^{31 32}

[REDACTED] first called 911 on August 22, 2016 at approximately 1:08 a.m. In summary, [REDACTED] told the dispatcher that (1) Officer [REDACTED] was “drunk as shit” and “drunk as a skunk,” (2) that the officer told [REDACTED] he was going to kill him, and (3) he believed that Officer [REDACTED] pulled his firearm on him. He further told the dispatcher Officer [REDACTED] (1) stated, “Nigga, I’ll kill you,” (2) if he caught [REDACTED] in the streets he would lock him up, and (3) [REDACTED] is an enemy to him. When asked by the dispatcher whether Officer [REDACTED] showed [REDACTED] his firearm, [REDACTED] responded yes that he had “seen” his firearm. [REDACTED] continued telling the dispatcher that Officer [REDACTED] grabbed his firearm and put it out on his side. [REDACTED] indicated he would have brushed it off, but Officer [REDACTED] stated he would catch him in the streets. The dispatcher informed [REDACTED] that police would be sent. [REDACTED] also asked for a “white shirt” (i.e., a supervisor). [REDACTED] called 911 again at approximately 1:28 a.m. stating police had not shown up. He provided similar incident information to the second dispatcher.

ii. Cell Phone Recording Provided by [REDACTED]^{33 34}

In his statement to IPRA, [REDACTED] mentioned having recorded on his cell phone when officers arrived at his house. COPA requested and received the cell phone video via email. The video is taken outside with minimal to no lighting making it difficult to visually make out precisely what is occurring.

At the onset [REDACTED] is talking to an unidentified officer. A female voice is also heard but not positively identified. The unidentified officer asks for “his” – from context, not [REDACTED] – phone number. [REDACTED] responds he does not have it, and the female voice and [REDACTED] respond that “dude” – assumed to be [REDACTED] – is on the phone with him now talking about “it.” The officer also asks [REDACTED] when this occurred, and he responds that he did not remember and was not paying attention to the time, adding that it occurred probably two to three minutes before his first 911 call.

[REDACTED] walks over to [REDACTED] – self-identified on the video – who is talking to a second unidentified officer. [REDACTED] tells the second unidentified officer that Officer [REDACTED], referring to him as “[REDACTED]” had escalated the situation. He continued stating that Officer [REDACTED] had been on his porch and [REDACTED] was off the porch by the bushes. [REDACTED] continued that when Officer [REDACTED] pulled his firearm, he pulled it to his side, but did not point it at [REDACTED] and said, “Man, I’ll shoot you goddammit” and “I’ll just call it in.” [REDACTED] tells the officer that he told Officer [REDACTED] at that time that he was taking things too far. He continues that Officer [REDACTED]

³¹ The Event Query # for [REDACTED] first call is [REDACTED]. The second is [REDACTED] (See Attachment 16).

³² See Attachments 16 and 30-31.

³³ In his statement to IPRA, [REDACTED] indicated that he had recorded him and [REDACTED] speaking with the responding officers and the sergeant, as well as of Officer [REDACTED] and [REDACTED] after the sergeant had gone to his home. The video provided by [REDACTED] to COPA on June 25, 2018 ended before Sgt. [REDACTED] knocked on Officer [REDACTED] door. [REDACTED] only provided the one video in response to COPA’s request for the recording of Officer [REDACTED] arrest. (See Attachment 45).

³⁴ COPA obtained the cell phone recording after the statement with Officer [REDACTED] and does not know if he is aware of the recording.

“just said to him” he would “bite a bullet.” Finally, ██████ stated to a Caucasian male white shirt officer³⁵ that the night went from good-natured teasing to “threats of peoples’ lives.”

Towards the end of the video, a white-shirt officer informs ██████ he is going to knock on Officer ██████ door and ask what he wants done should he answer. ██████ asks what can be done to which the white shirt officer responds that Officer ██████ could be arrested. ██████ answers that he wants him arrested.

Finally, throughout the cell phone video, ██████ tells the officers that Officer ██████ threatened to kill him, called them enemies, and told him if he caught him in the street he would have him arrested.

c. Documentary Evidence

i. Original Case Incident Report, RD# ██████^{36 37}

Per the report, ██████ related to the responding officers³⁸ that Officer ██████ began arguing with him. ██████ and Officer ██████ remained on their respective porches with ██████ located on the former’s porch. During the argument, Officer ██████ threatened to kill ██████. With ██████ also as a witness, Officer ██████ told ██████, “Nigga, I’ll kill you and get away with it. We’re enemies now if I see you in the street it’s on.” Concurrently, Officer ██████ then pulled out a firearm from a holster on his person and placed it as his side. Despite Officer ██████ never pointing the firearm at ██████, he informed the responding officers that Officer ██████ action made him fearful of “receiving a battery.” ██████ and ██████ attested to ██████ narrative of events. Officer ██████ then fiancé, ██████, asserted to CPD that ██████ narrative and complaints never happened.

CPD recovered a Sig Sauer P226 9 mm semi-automatic firearm, a black holster, a fifteen-round magazine and a fifteen live 9 mm round from Officer ██████ home and inventoried the weapon under # ██████.³⁹ The OCIR indicates the firearm is not duty related – the Synoptic Report contradicts this statement (See Attachment 5).

ii. Officer ██████ Arrest Report, RD# ██████⁴⁰

The Arrest Report is consistent with the Original Case Incident Report. Arrest time is listed as 2:45 a.m. on August 22, 2016. The ██████ District Lockup received him at 6:25 a.m. Officer ██████ is listed as negative for “under the influence of alcohol/drugs” criteria under the “visual check of arrestee” section.

³⁵ This is most likely Sgt. ██████ as he is the only sergeant listed as being there on the CPD reports.

³⁶ See Attachment 13.

³⁷ Except for the statements attributed to ██████, Officer ██████, in his statement to COPA, disagreed with the OCIR. (See Attachment 38).

³⁸ The unit assigned was beat ██████: Officer ██████, star # ██████ and Officer ██████ star # ██████. Sgt. ██████, star # ██████, beat ██████ also responded. The OCIR indicates beat ██████ transported Officer ██████ to the ██████ District for processing. Officer ██████ is listed as the reporting officer. Officer ██████ Arrest Report lists Officer ██████, star # ██████, beat ██████, as an assisting arresting officer and Sgt. ██████ as the first arresting officer.

³⁹ See Attachment 44.

⁴⁰ See Attachment 14.

iii. Alcohol/Drug Influence Report (“ADIR”)^{41 42} and Synoptic Report⁴³

Sgt. ██████████⁴⁴ prepared the ADIR and noted the following observations: strong odor of alcohol beverage, cooperative, talkative, bloodshot and glassy eyes and good ability to follow instructions. Officer ██████████ did not participate in any standard field sobriety tests. A breathalyzer test⁴⁵ conducted by Sgt. ██████████⁴⁶ at the ██████████ District returned a BAC of 0.103 with the twenty-minute observation period beginning at 5:15 a.m. The breath strip lists Officer ██████████ test time at 5:41 a.m.⁴⁷

Sgt. ██████████ interviewed Officer ██████████ without Miranda Warnings. The interview time is not listed. Officer ██████████ admitted he had been drinking and answered he had a bottle of wine in his basement beginning between 10:00 p.m. and 11:00 p.m. and ending at 11:30 p.m. (August 21, 2016). At the time of the interview, he denied being under the influence of alcohol and drugs.

The Synoptic Report detailed the same information as the ADIR and breath strip. It adds that the inventoried firearm under # ██████████ is Officer ██████████ service weapon.

iv. Investigative Report of COPA’s Phone Conversation with ██████████⁴⁸

COPA reached out to ██████████ for a statement to which she agreed. However, on the scheduled date⁴⁹ she cancelled stating she did not feel that she could accurately recall the details of the incident. A phone conversation ensued as to what she did recall which was memorialized in an Investigative Report.

In summary, ██████████ confirmed she had been at ██████████ father’s house on the incident night. Also present were two gentlemen whose names she did not remember. She also confirmed seeing Officer ██████████ and ██████████. ██████████ said she first encountered Officer ██████████ at a liquor store. Officer ██████████ returned with them to ██████████ father’s house where he sat on ██████████ porch drinking alcohol with her and the two gentlemen. After about twenty minutes of drinking, ██████████ came outside, and an argument started; ██████████ did not recall how the argument started. During the argument, ██████████ and Officer ██████████ directed profanity at one another and she remember hearing statements to the effect of “I’ll fuck you up.” From the argument, she inferred a negative history between Officer ██████████ and ██████████. She added that she believed alcohol to have been a

⁴¹ See Attachment 8.

⁴² In his statement to COPA, Officer ██████████ stated the interview section in the ADIR where he answered he drank a bottle of wine was incorrect. He added that he did not recall making that statement. Though, he noted to the COPA Investigator that Cognac is a type of wine. However, he answered that he did not believe he drank an entire bottle of Cognac. (See Attachment 38).

⁴³ See Attachment 5.

⁴⁴ On the incident date, Sgt. ██████████ start number was # ██████████.

⁴⁵ See Attachment 9, breath strip. Prior to the breathalyzer test, ██████████ presented Officer ██████████ with “Notification of Charges/Allegations” (allegation of intoxication) and “Administrative Proceedings Rights” at 5:15 a.m. (See Attachments 6 and 7).

⁴⁶ “█████████” is notated for the “printed name of breath analyzer operator.” That number does not corroborate to Sgt. ██████████ star number or employee number (█████████). The breath strip (See Attachment 9) reveals Sgt. ██████████ as the test operator.

⁴⁷ See Attachment 9.

⁴⁸ See Attachment 42.

⁴⁹ May 3, 2018. (See Attachment 42).

contributing factor. Although [REDACTED] never saw Officer [REDACTED] with a firearm, she remembered him moving his right hand near his shirt and/or jacket area leading her to believe he had a firearm. Following the estimated twenty minutes of drinking, [REDACTED] described herself as being under the influence.

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.

VII. ANALYSIS

Aside from the intoxication allegation, Officer [REDACTED] denied all allegations, and further denied interacting with [REDACTED] beyond the five or ten minute exchange of only minimal conversation as described in his interview with investigators. However, after reviewing the available evidence, COPA does not find Officer [REDACTED] account credible.

Intoxication

Rule 15 of the CPD's Rules and Regulations dictate that "intoxication on or off-duty" is prohibited. We find that the evidence establishes Officer [REDACTED] as being intoxicated while off duty. First, a breathalyzer test at 5:41 a.m. on August 22, 2016 returned a BAC of 0.108. Second, Officer [REDACTED] told COPA investigators that he had a couple liquor-based cocktails at dinner

and then more alcohol once he returned home – per his statement, a cocktail and a shot of gin though later stating he had Cognac. Additionally, the ADIR indicated the Officer ██████ drank between 10:00 p.m. and 11:00 p.m. concluding at 11:30 p.m. While COPA notes that Officer ██████ did not recall answering that he drank a bottle of wine, he pointed out to COPA Investigators that Cognac, which he admitted to drinking, is a type of wine. While he denied feeling intoxicated that night, Officer ██████ acknowledged the breathalyzer test findings. When considering these factors, COPA finds it more likely than not that Officer ██████ was intoxicated at or about the time of the alleged incident.

Credibility Issues

Officer ██████ and ██████ dispute ██████ allegations contending that any interaction between ██████ and Officer ██████ was limited to ██████ referring to ██████ as a jealous bitch and Officer ██████ responding that he was overstepping his boundaries and, per ██████, stating he was being disrespectful. However, from there their statements differ. The following discrepancies between Officer ██████ and ██████ statements lead to questions of credibility.

In her statement, ██████ insisted she and Officer ██████ retired to their bedroom after coming inside the house. She further insisted that they remained in the bedroom together until Sgt. ██████ knocked on their door. Officer ██████ contradicts this account stating to COPA that he watched a movie, drank alcohol and fell asleep in his “La-Z Boy” before being awoken by Sgt. ██████. *This is a significant discrepancy.* Additionally, ██████ told COPA that neither she nor Officer ██████ drank anything further upon returning home. However, Officer ██████ told COPA he did. Also, ██████ first maintained that Officer ██████ did not have his firearm on him that night, though later stated she did not see him with a firearm while at dinner and did not remember him having one. Officer ██████, however, told COPA he did have his firearm on his person that night.⁵⁰ Of the differences in their accounts, the contradicting narratives of what they did after going inside the house - especially when hearing ██████ conviction in her statement – is sufficiently compelling to call into question the validity of their denials of ██████ allegations.

With alcohol a factor in the allegations, COPA notes that ██████ stated she only had a glass of wine at dinner and nothing further at the house. As detailed, Officer ██████ admitted to drinking at dinner and while inside his house, but he denies alcohol impaired his memory. It is not entirely clear whether ██████ had been drinking that night as he never clearly answered the IPRA Investigator. The Initiation Report authored by ██████ does mention that ██████, ██████ and ██████ had been drinking on ██████ father’s porch.⁵¹

Even excluding Officer ██████ and ██████ credibility issues, there are several pieces of evidence supporting ██████ account of a verbal altercation. At a minimum, ██████

⁵⁰ COPA notes that the controlling CPD Directive U04-02 at the time of incident dictated: “while sworn members are permitted to carry firearms during nonduty hours, they are instructed to refrain from doing so when there is a likelihood that they will be consuming alcoholic beverages or medications which may impair their physical and/or mental abilities.” (See Attachment 46).

⁵¹ COPA did not interview Sgt. ██████.

account to COPA corroborated [REDACTED] account that Officer [REDACTED] had been drinking alcohol and a verbal altercation took place; although, she did not see Officer [REDACTED] with a firearm.⁵² Even more compelling, the cell phone recording provided by [REDACTED] is particularly supportive of his allegation that a verbal altercation occurred with Officer [REDACTED] displaying a firearm and threatening him. Although the recording does not capture the alleged incident itself, it was nonetheless compelling capturing [REDACTED] and [REDACTED] conversations with the responding officers, which parallel [REDACTED] accounts to 911 and IPRA, and captured [REDACTED] account of seeing Officer [REDACTED] displaying the weapon. Also, quite compelling is the fact that we found [REDACTED] narrative to be consistent to 911, CPD and IPRA. Finally, COPA is also cognizant of [REDACTED] immediate actions following the incident he has alleged. Not only did he contemporaneously call 911, but he called back when officers had not promptly arrived. He also proceeded to sign complaints with CPD and was subsequently granted an emergency civil no contact order against Officer [REDACTED].

For the reasons outlined above, COPA finds the preponderance of the evidence most supportive to [REDACTED] account of a verbal altercation over Officer [REDACTED] statement that none occurred outside of him telling [REDACTED] he overstepped his boundaries for referring to [REDACTED] as a “jealous bitch.” Continuing further, COPA finds that the preponderance of the evidence supports [REDACTED] allegation that during the verbal altercation Officer [REDACTED] threatened him and displayed his firearm.

Being mindful of the preceding analysis, COPA now recommends finding for the individual allegations.

Allegation of Officer [REDACTED] Directing Verbal Threats at [REDACTED]

Based on the discussions above, COPA reached a finding of **SUSTAINED** on the allegation of Officer [REDACTED] having directed verbal threats to [REDACTED]. To reiterate, COPA does not find Officer [REDACTED] exceptionally credible. Conversely, we found [REDACTED] to be consistent in his allegations against Officer [REDACTED]. [REDACTED] corroborating comments in the cell phone recording also contribute to this finding along with [REDACTED] independent account. For these reasons, we find it is more likely than not that Officer [REDACTED] did verbally as alleged.

Allegation of Officer [REDACTED] Displaying his Firearm

By admission, Officer [REDACTED] confirmed he had his firearm on him that night though he denies displaying it. [REDACTED] told a 911 dispatcher that Officer [REDACTED] pulled his firearm on him. [REDACTED] corroborating comments of seeing Officer [REDACTED] displaying the gun prove significant. Again, having found Officer [REDACTED] less credible than [REDACTED] combined with the previous discussed evidence, COPA finds it more likely than not that Officer [REDACTED] displayed his firearm.

Rule 38 specifically prohibits “unlawful or unnecessary use or display of a weapon.” Even if Officer [REDACTED] admitted to displaying his firearm, there does not appear to be a lawful or

⁵² COPA considered that she acknowledged feeling intoxicated that night, she is [REDACTED] cousin and she admitted to being concerned of not being able to recall every detail.

necessary reason for Officer [REDACTED] to have displayed his firearm. Officer [REDACTED] alleged [REDACTED] threatened him when they were standing on their respective porches. Officer [REDACTED] himself stated [REDACTED] never moved towards Officer [REDACTED] porch or house. [REDACTED] states the same. Past one verbal threat, Officer [REDACTED] did not allege any physical threats by [REDACTED].

In conclusion, COPA finds by a preponderance of the evidence that Officer [REDACTED] displayed his firearm during the incident and that he did so without reason in violation of Rule 38. Accordingly, COPA reached a finding of **SUSTAINED**.

Allegation of Intoxication

COPA recommends a finding of **SUSTAINED** for the allegation that Officer [REDACTED] had been intoxicated during his encounter with [REDACTED]. In the instant case, COPA views Officer [REDACTED] as intoxicated during the encounter and that this intoxication was an aggravating factor to the verbal altercation.

Remaining Allegations of Officer [REDACTED] Directing a Racial Slur(s) and Profanity at [REDACTED], and Throwing a Beer in [REDACTED] Direction

Despite concluding that the preponderance of the evidence bolsters [REDACTED] allegations that Officer [REDACTED] had been intoxicated when he engaged in a verbal altercation with [REDACTED] in which he directed verbal threats and displayed his firearm, it is insufficient to prove or disprove the remaining allegations.

While there is testimonial evidence from [REDACTED] and [REDACTED] that Officer [REDACTED] and [REDACTED] directed profanity at each other and one could assume that Officer [REDACTED] used profanity, the evidence is less abundant when compared to the sustained allegations. The same follows for the allegations that Officer [REDACTED] directed a racial slur at [REDACTED] and even more so on the allegation that he threw a beer at [REDACTED]. As such, COPA reached findings of **NOT SUSTAINED** for these allegations.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

- i. **Complimentary and Disciplinary History:** Presidential Election Deployment Award, 1; Honorable Mention, 7; Complementary Letter, 2; NATO Summit Service Award, 1; and 2009 Crime Reduction Award, 1. Officer [REDACTED] has no CR or Spar history for the last 7 years.

Allegation No. 1: It is alleged that on August 22, 2016, at approximately 1:10 a.m., near a residence at [REDACTED], while off duty, Officer [REDACTED] was intoxicated. **Penalty – 28 day suspension**

Allegation No. 4: It is alleged that on August 22, 2016, at approximately 1:10 a.m., near a residence at [REDACTED], while off duty, Officer [REDACTED]

██████████ directed verbal threats a ██████████. **Penalty – 28 day suspension**

Allegation No. 6: It is alleged that on August 22, 2016, at approximately 1:10 a.m., near a residence at ██████████, while off duty, Officer ██████████ displayed your firearm. **Penalty – 28 day suspension**

IX. CONCLUSION

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

Officer	Allegation	Finding/Recommendation
Officer ██████████ ██████████	<p>It is alleged that on August 22, 2016, at approximately 1:10 a.m., near a residence at ██████████, while off duty, Officer ██████████:</p> <ol style="list-style-type: none"> 1. Was intoxicated; 2. Directed a racial slur(s) at ██████████; 3. Directed profanity at ██████████; 4. Directed verbal threats at ██████████; 5. Threw a beer in the direction of ██████████ ██████████; and, 6. Displayed your firearm. 	<p>Sustained / 28 day suspension</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained/ 28 day suspension</p> <p>Not Sustained</p> <p>Sustained/ 28 day suspension</p>

Approved:

██████████

June 24, 2019

Andrea Kersten
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator	
Supervising Investigator:	████████
Deputy Chief Administrator:	Kersten