

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / Time of Incident:	February 18, 2018, approximately 6:39 p.m.
Location of Incident:	██
Date / Time of COPA Notification:	February 20, 2018, approximately 1:12 p.m.

Sergeant ██████████ (“Sgt. ██████████” with the Chicago Police Department (“CPD”) engaged in an altercation with an ██████████ (██████████) who was visiting a relative at a nursing home. The Civilian Office of Police Accountability (“COPA”) has determined that Sgt. ██████████ behavior constituted misconduct.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████ Employee ID # ██████ Date of Appointment: ██████, 2000, Rank: Sergeant, Unit of Assignment: ██████, DOB: ██████, 1975, F/S.
Individual #1:	██████████ DOB: ██████, 1951, F/B.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sgt. ██████████	On or about February 18, 2018, at approximately 6:39 p.m., at or near ██████████ Chicago, Illinois, the accused committed misconduct through the following acts or omissions: 1. Failed to follow Special Order S03-14 by not activating her body worn camera to event mode at the beginning of an incident. 2. Failed to follow Special Order S03-14 by deactivating her body worn camera from event mode prior to the conclusion of an incident. 3. Forcefully tried to remove a cell phone from ██████████ hand in violation of Department policy.	 Exonerated Exonerated Sustained/ Reprimand

4. Failed to follow the Chicago Police Department's Standards of Conduct during her encounter with [REDACTED]	Sustained/ Reprimand
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, CPD Rules of Conduct (prohibiting legal violations)
2. Rule 2, CPD Rules of Conduct (prohibiting conduct that brings discredit upon the CPD)
3. Rule 6, CPD Rules of Conduct (prohibiting disobedience of CPD directives)
4. Rule 8, CPD Rules of Conduct (prohibiting disrespect to or maltreatment of any person)

Special Orders

1. S03-14 *Body Worn Cameras* (effective date: October 17, 2017 through April 30, 2018)

State Laws

1. 50 ILCS 706/10-20

V. INVESTIGATION¹

A. Interviews

[REDACTED]

[REDACTED] gave an audio-recorded interview on February 21, 2018. During her interview, [REDACTED] told investigators that she had an encounter with a CPD officer now known to be Sgt. [REDACTED]. In summary: (1) [REDACTED] stated that she was visiting a relative at [REDACTED] [REDACTED] at the time in question; (2) [REDACTED] complained that Sgt. [REDACTED] attempted to take away her cell phone and informed [REDACTED] that she was under arrest after [REDACTED] attempted to use her phone to photograph Sgt. [REDACTED] and (3) [REDACTED] complained that Sgt. [REDACTED] body-worn camera was not activated during the encounter. [REDACTED] also stated that she had made and kept video recordings depicting her encounter with Sgt. [REDACTED]²

Sergeant [REDACTED]

Sgt. [REDACTED] gave an audio-recorded statement on October 31, 2018. In summary, Sgt. [REDACTED] told investigators that she responded to the scene of the incident because she had been dispatched

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

²[REDACTED] refused COPA's request for her to allow COPA to view such recordings. See Attachment #35.

there in response to a request for a CPD supervisor.³ Upon her arrival, Sgt. ██████ spoke with nursing home staff members who informed her that ██████ had refused their requests for her to leave, which resulted from a request by a patient who claimed that ██████ had been harassing her. Sgt. ██████ further stated that she attempted to grab a cell phone from ██████ hand upon entering ██████ room because she believed that it was unlawful for ██████ to record in a medical facility under privacy laws. According to Sgt. ██████ slapped Sgt. ██████ hand as she attempted to take ██████ cell phone away from her. Sgt. ██████ stated that she had asked ██████ to stop recording on multiple occasions prior to attempting to take ██████ phone from her.

Sgt. ██████ confirmed that she did not seek authorization to activate her body-worn camera, stating that it was then her understanding that CPD policy did not require sergeants of police to seek any such authorization. Sgt. ██████ acknowledged that she used a slur in referring to ██████ in a conversation with another CPD sergeant who subsequently arrived at the scene, as depicted in body-worn camera footage recorded during the incident.⁴ Sgt. ██████ stated that she did so because “that’s how [██████] was acting.” Sgt. ██████ further stated she made that remark outside of ██████ hearing. According to Sgt. ██████ a CPD lieutenant subsequently came to the scene and directed that no arrest should be made due to ██████ willingness to leave the facility and due to ██████ health and age.

B. Digital Evidence

Body-worn Camera (“BWC”)

BWC footage⁵ depicts parts of the incident. Among other things, that footage shows that Sgt. ██████ activated her BWC device at approximately 6:39 p.m. on the date in question and that she de-activated that device approximately four minutes later. Footage captured by Sgt. ██████ shows that Sgt. ██████ was engaged in a verbal altercation with ██████ in a nursing home room at the moment that Sgt. ██████ activated the device. That footage shows that no patient other than ██████ relative is in that room.

The footage begins with Sgt. ██████ accusing ██████ of having slapped her hand, followed by Sgt. ██████ telling ██████ that she was under arrest, followed by several minutes of turbulent argument between Sgt. ██████ and ██████ concerning whether ██████ had in fact slapped Sgt. ██████ hand and concerning whether ██████ was or was not permitted to record in the nursing home facility. In the footage, ██████ appears to be recording the incident with a cell phone. The footage shows that ██████ relative is watching the altercation between Sgt. ██████ and ██████ and that she does not object to any recording.

The footage also depicts Sgt. ██████ radioing for non-emergency assistance, stating, among other things, that ██████ “was recording in a private area that she’s not supposed to be recording

³An Event Query Report confirms that on February 18, 2018, at approximately 6:06 p.m., OEMC dispatched Beat ██████ (now known to be Sgt. ██████) to the incident scene in response to a civilian’s request for the presence of a CPD supervisor. Attachment #5 is a copy of that report.

⁴See Section V.B below.

⁵See Attachments ## 17 and 22.

in, and she's refusing to give me her camera." The footage then depicts Sgt. ██████ stating, "She started recording me. I grabbed her phone." The footage also depicts Sgt. ██████ stating to nursing home staff, "I would just talk to your attorney and she should be banned from ever being allowed to visit." The footage then shows the arrival of approximately ten CPD officers approximately two minutes after Sgt. ██████ called for assistance. The footage then shows continued argument between Sgt. ██████ and ██████ conducted in the presence of responding officers, with Sgt. ██████ stating, among other things, "Get up and turn your camera off." The footage then shows Sgt. ██████ step out of the room and confer with a responding CPD sergeant, stating, among other things, "She is being a fucking cunt," and "She was recording another patient and everybody in a private area and then she started recording me. I went to grab her phone and she slapped me in the fucking hand."

Other footage shows a responding CPD sergeant enter the room and de-escalate the incident, as ██████ repeatedly states that the CPD will have to drag her out if they are going to arrest her, and as the sergeant repeatedly assures her that the CPD does not want that to happen. Footage also shows that the incident is subsequently resolved peacefully and without arrest at approximately 7:00 p.m. as ██████ leaves the facility under her own accord.

IV. 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.

VI. ANALYSIS

Allegations 1 and 2

The evidence clearly and convincingly demonstrates that Sgt. ██████ did not violate the terms of Special Order S03-14 in connection with her initial failure to activate her body-worn camera or in connection with her subsequent deactivation of that device. Special Order S03-14 then provided, in part, that a body-worn camera “will not be activated to record inside medical facilities, except when directly relevant and necessary to a law enforcement investigation and approved by the member’s immediate supervisor.”⁶ COPA finds that the incident site, a nursing home, was a medical facility. Sgt. ██████ had not been authorized by an immediate supervisor to record. Therefore, Sgt. ██████ failure to activate her body-worn camera and her subsequent deactivation of that device were both lawful and proper.⁷

Sgt. ██████ is accordingly exonerated with respect to Allegations 1 and 2.

Allegation 3

Allegation 3 is supported by a preponderance of the evidence. In her statement, Sgt. ██████ has admitted to the fact alleged, *i.e.*, that she forcefully tried to remove a cell phone from ██████ hand. Sgt. ██████ admitted conduct hindered ██████ in recording police activity at a time and place where no officer had an expectation of privacy. Therefore, that conduct violated CPD policy as set out in CPD Special Order S03-14, which restates Illinois law prohibiting police officers from hindering the recording of police activity.⁸

COPA rejects Sgt. ██████ claimed justification of her behavior. COPA is not aware of any law authorizing a police officer to seize a camera from a civilian under the circumstances presented. COPA recognizes that a police officer who seizes a camera to prevent the recording of an unwilling patient in a medical facility might reasonably be mistaken in taking such action, perhaps misguidedly thinking that such enforcement activity is indeed authorized by law. However, we find that the evidence shows that Sgt. ██████ did not act entirely in furtherance of such a purpose. On the contrary, we find the evidence shows that the incident took place in a private-residence area away from patients except for ██████ relative, who plainly did not object to ██████ record. Equally important, Sgt. ██████ statements, captured by BWC, that “she started recording me ... I grabbed her phone,” and “then she started recording me ... I went to grab

⁶See Special Order S03-14 *Body Worn Cameras* (effective October 17, 2017 through April 30, 2018), Sec. IV.A.2.

⁷Of course, Sgt. ██████ activation of her BWC device without prior authorization went against the letter of Special Order S03-14’s prohibition against recording in a medical facility without prior authorization, if not against its spirit. Recognizing that the purpose of the directive’s prohibition against such recording is to protect patient privacy, COPA has determined that no allegation of misconduct should be pursued against Sgt. ██████ or any other CPD member in connection with the activation of a BWC device during the incident, because such activation did not in fact involve any non-consensual violation of any patient’s privacy.

⁸The directive provided, in pertinent part, “no officer may hinder or prevent any non-officer from recording a law enforcement officer who is performing his or her duties in a public place or when the officer has no reasonable expectation of privacy. ... However, a member may take reasonable actions to enforce the law and perform their duties.” See Special Order S03-14 *Body Worn Cameras* (effective October 17, 2017 through April 30, 2018), Section IV(C). See also 50 ILCS 706/10-20(a)(11) (providing a similar prohibition).

her phone,” both persuasively suggest that Sgt. ██████ attempted seizure of ██████ phone was motivated at least in part by an intention to prevent ██████ from recording police activity.

For these reasons, we find that Allegation 3 is sustained.

Allegation 4

Allegation 4 is also supported by a preponderance of the evidence. CPD’s Standards of Conduct affirmatively imposed a number of duties upon Sgt. ██████ that were germane during the incident, including the obligation for Sgt. ██████ to “maintain courageous calm in the face of danger, scorn, or ridicule,”⁹ as well as the obligation for her to conduct herself “in a manner which does not bring discredit to h[er]self, the Department or the city.”¹⁰ In addition, the Standards of Conduct required Sgt. ██████ to “treat each person with respect,”¹¹ and to strive to make her contact with ██████ one that “inspired respect for [her]self as an individual and as a professional.”¹² The evidence shows that Sgt. ██████ failed to fulfill these duties.

Sgt. ██████ did not maintain a calm demeanor during the incident; instead, she was verbally animated throughout. Rather than stepping back from ██████ after having informed ██████ that she was under arrest and that assisting officers were *en route*, Sgt. ██████ instead continued to engage verbally with ██████ in an argumentative fashion, doing so even after the arrival of those officers. Rather than endeavoring to inspire respect in the presence of those officers, most of whom were Sgt. ██████ subordinates, Sgt. ██████ instead brought discredit to those fellow CPD members and to herself through her behavior. Sgt. ██████ statement to nursing home staff, to the effect that ██████ should be banned from visiting the nursing home, as well Sgt. ██████ calling ██████ a “cunt” in the presence of a fellow CPD supervisor, likewise ran contrary to Sgt. ██████ obligation to strive to inspire respect. In sum, we find that Sgt. ██████ unprofessional and tantrum-like behavior were outside the bounds of the CPD’s Standards of Conduct.

Accordingly, allegation 4 is therefore sustained.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant ██████

- i. Complimentary and Disciplinary History** – Sgt. ██████ relevant Complimentary History includes 1 Department Commendation, 42 Honorable Mentions, 12 Complimentary Letters, 1 Life Saving Award, 1 Joint Operations Award, 2009 Crime Reduction Award, and 2 Unit Meritorious Performance Awards. Sgt. ██████ does not have any Disciplinary History.

⁹See CPD Standards of Conduct, ¶3.b.

¹⁰See *id.*, ¶5.

¹¹See *id.*, ¶10.

¹²See *id.*, ¶13.

ii. Recommended Penalty, by Allegation

1. Allegation 3 – Reprimand

2. Allegation 4 – Reprimand

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sgt. [REDACTED]	<p>On or about February 18, 2018, at approximately 6:39 p.m., at or near [REDACTED] Chicago, Illinois, the accused committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failed to follow Special Order S03-14 by not activating her body worn camera to event mode at the beginning of an incident, in violation of Rule 6 of the CPD Rules of Conduct; 2. Failed to follow Special Order S03-14 by deactivating her body worn camera from event mode prior to the conclusion of an incident, in violation of Rule 6 of the CPD Rules of Conduct; 3. Forcefully tried to remove a cell phone from [REDACTED] hand in violation of Department policy and in violation of Rules 1 and 6 of the CPD Rules of Conduct; and 4. Failed to follow the Chicago Police Department’s Standards of Conduct during her encounter with [REDACTED] in violation of Rules 2, 6, and 8 of the CPD Rules of Conduct. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained/ Reprimand</p> <p>Sustained/ Reprimand</p>

Approved:

[REDACTED Signature]


Deputy Chief Administrator – Chief Investigator

May 6, 2019

Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	