

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / Time of Incident:	September 11, 2018
Time of Incident	Approximately 7:13 a.m.
Location of Incident:	██████████ Chicago, Illinois
Date of COPA Notification	September 13, 2018
Time of COPA Notification	11:33 a.m.

██████████ (██████████) called 911 to obtain Chicago Police Department (“CPD”) assistance in retrieving personal property from his residence. Previously, ██████████ was arrested in connection with a domestic incident (only charged as simple assault) approximately thirty-six hours before, and the conditions of his bail prohibited him from contacting the victim, ██████████ (██████████) who lived at the residence with ██████████. A CPD officer responded and met ██████████ outside the residence, went to the door, spoke to the ██████████ and arranged for the ██████████ to bring out ██████████ belongings. Soon thereafter, the officers arrested ██████████ for violating conditions of his bail. COPA has determined by a preponderance of the evidence that ██████████ arrest was without probable cause, and that the responding officers failed to properly inventory ██████████ belongings.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████, 2005; Rank: Sergeant; <sup>1</sup> Unit of Assignment: ██████████ DOB: ██████████, 1973; Female, Black
Involved Individual #1:	██████████ DOB: ██████████, 1972; Male, Black

III. ALLEGATIONS

Member	Allegation	Finding/ Recommendations
Sgt. ██████████	1. On September 11, 2018, at approximately 7:13 a.m., at or near ██████████ Chicago, Illinois, the accused arrested the Complainant without having probable cause to believe that he had committed an offense.	Sustained / Violation Noted
	2. At the same time and place, the accused failed to secure and/or inventory the personal property that was in the Complainant’s possession at the time of his above-	Sustained 10 Day Suspension

<sup>1</sup> According to CPD records, Sgt. ██████████ was promoted to Sergeant on ██████████, 2018.

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referenced arrest.

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#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 1, CPD Rules of Conduct (prohibiting the violation of any law).
  2. Rule 6, CPD Rules of Conduct (prohibiting the disobedience of a directive).
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##### Special Orders

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1. S06-13-02 *Special Conditions – Release of Person on Bail Bond* (eff. date: July 20, 1994).
  2. S07-01-01 *Inventoring Arrestee's Personal Property* (eff. date: December 1, 2017).
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##### Federal Laws

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1. U.S. Constitution, Fourth Amendment.
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##### State Laws

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1. 720 ILCS 5/32-10 (proscribing the violation of bail conditions).
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#### V. INVESTIGATION

##### a. Interviews

██████████  
██████████ gave an audio recorded interview on September 28, 2018.<sup>2</sup> The following is a non-verbatim summary of the pertinent things stated by ██████████ during that interview.

██████████ told investigators that he lived at ██████████ with his cousin, ██████████. On September 9, 2018, ██████████ CPD officers arrested ██████████ at that residence in connection with an alleged domestic incident involving ██████████.<sup>3</sup> ██████████ went to court in connection with that arrest the following day. Upon his release at court, ██████████ was informed by a bailiff that he should not contact ██████████. The bailiff stated if he needed to gain access to his personal property at his residence, he should call the police who would then escort him there and assist him.

The next day, ██████████ followed the bailiff's instructions by calling 911 and meeting with responding officers at the residence. ██████████ told the officers that he had been arrested two days prior and that he needed to retrieve his personal property. According to ██████████ the officers then went to the residence door while he stayed on the sidewalk. ██████████ met the officers at the

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<sup>2</sup> Attachment 4 is an audio recording of that interview.

<sup>3</sup> Attachment 19 is a copy of the Arrest Report relating to that September 9, 2018 arrest.

door. Her boyfriend brought out bags of clothing and tools, which the officers gave to [REDACTED]. The officers then arrested [REDACTED] claiming that he had violated the conditions of his bail.

The officers then took [REDACTED] to the police station, but left [REDACTED] tools and clothing behind. [REDACTED] then returned to the residence after he was released from court following his second arrest but was unable to find the clothing and tools there were left behind.

*Sergeant* [REDACTED]

Sergeant [REDACTED] (“Sgt. [REDACTED]”) gave an audio recorded statement on November 28, 2018.<sup>4</sup> The following is a non-verbatim summary of the material parts of that statement.

Sgt. [REDACTED] stated that it was her belief, at the time of the incident, that [REDACTED] mere presence outside the [REDACTED] residence constituted a violation of the conditions of his bail bond. In support of that belief, Sgt. [REDACTED] read from provisions of CPD Special Order S06-13-02 *Special Conditions – Release of Person on Bail Bond*, and she stated that she believed that she properly followed the procedures set out in that directive.

Sgt. [REDACTED] stated that the person she telephoned during the incident, as depicted by BWC footage, was CPD Sergeant [REDACTED] (“Sgt. [REDACTED]”) who was not one of her supervisors. Sgt. [REDACTED] stated that she called Sgt. [REDACTED] instead of one of her supervisors because she knew that Sgt. [REDACTED] had served as a district station supervisor in the past and because she expected that Sgt. [REDACTED] would have knowledge of applicable procedures. According to Sgt. [REDACTED] Sgt. [REDACTED] told her during the telephone call (depicted by BWC footage) that [REDACTED] was not supposed to be on the scene, that the officers should not let [REDACTED] go, and that the officers should arrest him.

Sgt. [REDACTED] referenced [REDACTED] statement (depicted by BWC footage) during which [REDACTED] stated that he had called [REDACTED] as grounds supporting her arrest of [REDACTED] Sgt. [REDACTED] acknowledged that she did not conduct any investigation or inquiry concerning the time that [REDACTED] made that telephone call, concerning the time that the court entered the bail order, or concerning whether [REDACTED] made that telephone call prior to or after the court’s entry of the bail order.

Sgt. [REDACTED] stated that she did not secure or inventory the two bags and tools delivered to [REDACTED] during the incident because those items were not “on his person” at the time of his arrest, and that it “was not [her] responsibility to go looking for items that he had removed from the scene.”

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<sup>4</sup> Attachments 13 - 15 are the audio recordings of that statement. Attachment 20 is a transcript.

**b. Documentary Evidence***Court Order*

On September 10, 2018, the Circuit Court of Cook County, Illinois entered an Order for Special Conditions of Bail in the matter of *People v. ██████████* Case No. ██████████. This order prohibited ██████████ from contacting ██████████ but did not impose a 72-hour no contact order.

*Arrest Report*

An Arrest Report<sup>6</sup> confirms that Sgt. ██████████ and P.P.O. ██████████ arrested ██████████ at the ██████████ residence at 7:13 a.m. on September 11, 2018, and that ██████████ was then charged with the misdemeanor offense of violation of bail bond.<sup>7</sup> The narrative portion of that report references the bail order as well as its provisions prohibiting ██████████ from contacting ██████████. The narrative portion further states that ██████████ had admitted in the officers' presence that he had telephoned ██████████ the previous day.

**c. Digital Evidence***Body Worn Camera*

COPA reviewed body worn camera ("BWC") footage captured during the incident.<sup>8</sup> In summary, the footage shows Sgt. ██████████ (then a field training officer) and Officer ██████████ arriving at ██████████ where they meet with ██████████ in the street. ██████████ then explains to the officers that he had been arrested two days before and that he needed CPD assistance in retrieving clothing and tools from inside the residence. The officers then go to the door of the residence, ring the bell, and meet with ██████████ at the door. ██████████ then states that ██████████ was not supposed to be there for seventy-two hours. Sgt. ██████████ informs ██████████ that ██████████ is there to retrieve his belongings. ██████████ then goes inside to retrieve ██████████ personal belongings. Sgt. ██████████ then tells ██████████ that "tomorrow would be seventy-two hours. You have seventy-two hours that's the law." Approximately two-and-a-half minutes pass as the officers wait at the door. A male resident then brings out two plastic garbage bags and a tool bag, which the officers deliver to ██████████ in the street. Sgt. ██████████ then suggests to ██████████ that he should enlist the help of a friend to remove the property, stating to ██████████ that "you're not supposed to be over here."

Approximately eight minutes after arriving at the scene, Sgt. ██████████ initiates a wireless call. The voice of the other participant in the call cannot be heard. The call lasts approximately two minutes. While speaking on the phone, Sgt. ██████████ says, among other things, "I have a quick question for you. ... A guy was arrested on Sunday .... He wanted to come over here and

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<sup>5</sup> Attachment 6 is a copy of that document.

<sup>6</sup> Attachment 5 is a copy of that document.

<sup>7</sup> Under 720 ILCS 5/32-10(b), a person who has been admitted to bail while charged with a criminal offense in which the victim is a family or household member and who knowingly violates a condition of his release commits a Class A misdemeanor.

<sup>8</sup> Attachment 10 comprises that footage.

get his things. ... I'm like if it's been less than seventy-two hours he's not even supposed to be here. ... It was a domestic-related incident. I know if it's less than seventy-two hours he's not supposed to come back. But he's back today to get his stuff. Now, he didn't go to the door. We went to the door. You know he was like at the next-door house. He just wanted to get his stuff. ... But I'm like technically though he didn't come to the door. But he's here. ... That's what I'm telling him. ... You're not supposed to be over here for seventy-two hours. ... So, we're supposed to lock him up, right? For violation of his bail bond. So, when he takes his stuff down there we're going to put him in cuffs. Take him to the station. ... Right."

██████████ then reappears at the door. Sgt. ██████████ then tells ██████████ that ██████████ will be arrested. ██████████ then tells Sgt. ██████████ that ██████████ called her the previous day. ██████████ then reappears without the property that had been delivered to him. Sgt. ██████████ then tells ██████████ "when you left the district they told you that for seventy-two hours you're not supposed to come back over here. ... So, you violated your bail bond." Sgt. ██████████ then takes ██████████ into custody. ██████████ starts crying. He asks, "Can I just put my stuff up here in the garage? It's just over there in the alley. It's just out in the street. Somebody is going to steal my stuff." He cries, "I didn't come to the house! I called you guys!" Sgt. ██████████ says, "[██████████] says you called her yesterday." ██████████ responds, "I called her from the police station, I called her from the police station!" He pleads, "My stuff is in the gangway down here. ... Those are my tools. Please. Please." Sgt. ██████████ states, "Mr. ██████████ you're not supposed to be over here. Your stuff was secure until tomorrow." The officers then transport ██████████ to a CPD facility. En route, ██████████ continues to plead to retrieve his belongings. Sgt. ██████████ refuses.

## 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

### *Allegation 1*

COPA finds a preponderance of the evidence supports a sustained finding for Allegation #1 against Sgt. ██████████ which is that she arrested ██████████ without having probable cause to believe that he had committed an offense.

A law enforcement officer violates the Fourth Amendment when she makes an arrest without probable cause.<sup>9</sup> Probable cause to arrest exists when a law enforcement officer has knowledge of facts and circumstances that would lead a reasonable person to conclude that a person had committed or is committing an offense.<sup>10</sup> Therefore, a CPD member violates the Fourth Amendment when she makes an arrest without having knowledge of facts or circumstances that would lead a reasonable person to conclude that the arrestee had committed or is committing an offense.

Sgt. ██████████ did not have probable cause to arrest ██████████ for violations of his bail conditions or any other offense. The bail order prohibited ██████████ from contacting ██████████. However, no reasonable officer would have concluded that ██████████ contacted by ██████████ by calling 911 and requesting *law enforcement personnel* remove his personal property from the residence. BWC footage never shows ██████████ enter the residence nor does it depict any officer directing ██████████ to leave the area or to step back. The BWC captures the officers retrieving ██████████ property while ██████████ remained away from the residence and on the street or sidewalk during the entire encounter. For these reasons, we find that ██████████ did not remain at or enter the residence and did not contact ██████████ during the encounter. A reasonable officer would have concluded that ██████████ was specifically requesting law enforcement involvement to obtain his personal belonging for the specific purpose of complying the condition of his bail to avoid contacting ██████████.

Sgt. ██████████ asserted on her BWC footage and during her statement to COPA that Special Order S06-13-02 justified ██████████ arrest. It is apparent that Sgt. ██████████ mistakenly believed that she was following the procedures set out in Special Order S06-13-02. COPA finds that Sgt. ██████████ stated reliance on certain provisions of CPD Special Order S06-13-02 as justification for ██████████ arrest to be unreasonable. Those provisions, among other things, direct CPD members to make an arrest if they have determined that a person on the scene has violated conditions of a bail bond by “entering or remaining at the victim’s residence within 72 hours following his release from custody.”<sup>11</sup> Special Order S06-13-02 does not prohibit an individual from standing on the sidewalk while law enforcement personnel remove his or her

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<sup>9</sup> *Bailey v. United States*, 568 U.S. 186, 192 (2013).

<sup>10</sup> *People v. Jones*, 215 Ill.2d 261, 273-74 (2005) (citation omitted).

<sup>11</sup> CPD Special Order S06-13-02 *Special Conditions – Release of Person on Bail Bond* (eff. date: July 20, 1994), Section IV.C. Attachment 22 is a copy of that special order.

from the victim's residence. A reasonable officer would not have concluded that [REDACTED] standing on the street or sidewalk while law enforcement personnel remove his belongings constituted entering or remaining at the victim's residence.

Additionally, COPA recognizes that an officer's mistaken but objectively reasonable misinterpretation or misunderstanding of a department directive may excuse their behavior that would otherwise constitute misconduct. However, this point is moot, because COPA finds that Sgt. [REDACTED] mistaken belief that she was following proper procedure here was not objectively reasonable. COPA takes notice that, as here, court personnel routinely instruct defendants to contact law enforcement for assistance in retrieving personal property upon their release from custody when a bail order prohibits them from entering a residence following their release. Under the circumstances, COPA can find no good reason for Sgt. [REDACTED] to have concluded or to have assumed that the Bail Order required [REDACTED] to wait seventy-two hours following his release before he could lawfully meet CPD officers outside [REDACTED] residence to retrieve his things.

Furthermore, Sgt. [REDACTED] had time and opportunity to gather more information and acted without requesting the presence of a field supervisor at the scene. Instead, Sgt. [REDACTED] sought advice only by way of a brief, outside-of-her-chain-of-command telephone call, which contributes to COPA's determination that Sgt. [REDACTED] mistake was not excusable. COPA finds that Sgt. [REDACTED] could not have reasonably expected that Sgt. [REDACTED] would be able to make an informed judgment and to render reliable advice based only on her receipt of a cursory factual rundown without also coming to the scene. Regardless, Sgt. [REDACTED] should have followed her chain of command and requested the presence of a field supervisor.

Finally, Sgt. [REDACTED] did not have any other valid basis to arrest [REDACTED] Sgt. [REDACTED] arrest report for [REDACTED] referenced [REDACTED] alleged phone call to [REDACTED] as another possible basis for his arrest. The BWC footage demonstrates that Sgt. [REDACTED] learned from [REDACTED] that [REDACTED] had telephoned [REDACTED] after his September 9, 2018 arrest. However, that same footage shows that Sgt. [REDACTED] did not then inquire concerning the specific timing of that call to determine whether it violated the conditions of his bail. Sgt. [REDACTED] acknowledged to investigators that she made no effort to determine the specific time of that call or the specific time that the court entered the Bail Order and there is no evidence that any other officer investigated these issues. Sgt. [REDACTED] had ample time and opportunity to conduct further investigation to confirm or dispel his belief that [REDACTED] may violated his bail. Specifically, [REDACTED] and could have temporarily detained [REDACTED] (*i.e.* a *Terry* stop) to gather more information by questioning [REDACTED] or [REDACTED] about the timing of the call and the specific time the bail order was entered. COPA therefore concludes, that at the time of [REDACTED] September 11, 2018 arrest, neither Sgt. [REDACTED] nor any other officer at the scene, was aware of facts or circumstances that would lead a reasonable officer to conclude that [REDACTED] had contacted [REDACTED] after the court had entered the Bail Order, thereby violating its terms. In other words, Sgt. [REDACTED] did not have probable cause to arrest [REDACTED] for his phone call to [REDACTED] following his September 9, 2018 arrest.

For these reasons, we find that Allegation #1 against Sgt. [REDACTED] is sustained.

*Allegation 2*

COPA finds that a preponderance of the evidence supports a sustained finding for Allegation #2 against Sgt. ██████████ which is that she failed to secure and/or inventory the personal property that was in ██████████ possession at the time of his arrest.

CPD Special Order S07-01-01 requires arresting officers to inventory “all personal property in possession of the arrestee” except for certain enumerated items not pertinent here, which are to be inventoried instead by lockup personnel.<sup>12</sup>

Based on the BWC footage, COPA finds that that ██████████ was in possession of two bags of clothing and a toolbox at the time of his arrest, and that, therefore, Sgt. ██████████ was required by Special Order S07-01-01 to secure that property by inventorying it. Though that property was not on ██████████ person, it was nearby and subject to ██████████ control. COPA rejects Sgt. ██████████ contention that she had no responsibility for securing that property because it was not on ██████████ person at the time of his arrest. COPA finds that such an interpretation of Special Order S07-01-01’s requirements was not objectively reasonable under the circumstances, especially in light of the fact that it was Sgt. ██████████ who caused the property to be removed from a secure location. Moreover, ██████████ specifically noted that the property belonged to him and that he was concerned it would be stolen if it was left behind.

Allegation #2 against Sgt. ██████████ is therefore sustained.

**VIII. RECOMMENDATIONS****a. Sergeant ██████████****i. Complimentary and Disciplinary History**

**Complimentary History:** Presidential Election Deployment Award 2008, 1; Attendance Recognition Award, 4; Emblem of Physical Fitness, 1; Department Commendation, 1; Honorable Mention, 33; Police Officer of the Month Award, 1; Complimentary Letter, 7; NATO Summit Service Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 1.

**Disciplinary History:** No prior sustained findings misconduct within the past 7 years.

**Recommended Penalty, by Allegation**

1. **Allegation 1** – Violation Noted
2. **Allegation 2** – 10 Day Suspension

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<sup>12</sup> Special Order S07-01-01 *Inventorizing Arrestee’s Personal Property* (Effective: December 1, 2017), Section III.A. Attachment 23 is a copy of that directive.



We find that the sustained finding for allegation 1 against Sgt. ██████ is a result of the Sergeant’s general lack training and/or a misunderstanding of the applicable law and CPD polices. While Sgt. ██████ tried to handle the situation properly, she ultimately did not, nor did she seek proper guidance through her chain-of-command. When considering these findings and the unintentional nature of this violation, COPA recommends the penalty of Violation Noted for allegation 1.

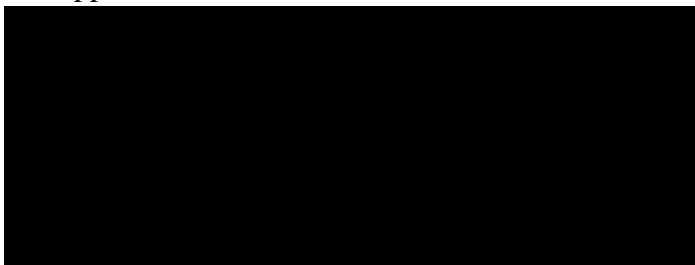
Unlike allegation 1, we find that Sgt. ██████ conduct concerning allegation 2 much more troubling and not a mistake or misunderstanding. Though her own conduct Sgt. ██████ caused ██████ to take possession of his personal belongings only to force him to abandon them upon his arrest. ██████ pleaded with Sgt. ██████ to secure his belongings. Her choice to ignore ██████ pleadings showed complete lack of empathy and disregard for ██████ and his current situation. ██████ belongings could have easily been placed back into the residence just as easily as they were removed, and we are lost at to why they were not. In the alternative, Sgt. ██████ could have inventoried the items or let ██████ walk off with them, something he was about to do anyway. For these reasons, COPA recommends a 10-day suspension for allegation 2.

**VIII. CONCLUSION**

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

Member	Allegation	Finding/ Recommendation
Sgt. ██████	1. On September 11, 2018, at approximately 7:13 a.m., at or near ██████ Chicago, Illinois, the accused arrested the Complainant without having probable cause to believe that he had committed an offense, in violation of Rule 1 of the CPD Rules of Conduct.  2. At the same time and place, the accused failed to secure and/or inventory the personal property that was in the Complainant’s possession at the time of his above-referenced arrest, in violation of Rule 6 of the CPD Rules of Conduct.	Sustained / Violation Noted  Sustained / 10 Day Suspension

Approved:



*Deputy Chief Administrator – Chief Investigator*

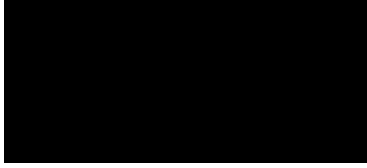
April 29, 2019

Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Squad 3
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	