

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	September 26, 2019
Time of Incident:	4:40 P.M.
Location of Incident:	██████████ Ave., Chicago, IL, 60611
Date of COPA Notification:	September 30, 2019
Time of COPA Notification:	1:00 P.M.

██████████ alleged, on September 26<sup>th</sup>, 2019, at or around 4:40 P.M., he was unlawfully harassed by police officers threatening to arrest him for protesting with a bullhorn outside the AT&T Store at ██████████ Ave. During his protest, Mr. ██████████ approached a table of iPads that were part of an AT&T promotion, prompting employees ask him to back away. Mr. ██████████ responded aggressively with one of the employees including the alleged use of profanity and racial epithets. Officer ██████████ and Officer ██████████ were first to the scene after being flagged down in the street to the ongoing incident. Officer ██████████ from the ██████████ District then responded to the OEMC call for assistance. Officer ██████████ took statements from the AT&T employees and obtained signed complaints charging Mr. ██████████ with Disorderly Conduct – Breach of Peace. Officers on the scene were wearing and utilizing their Body Worn Cameras, which showed they operated within protocol in response to a call for service.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████ Star # ██████████ Employee ID # ██████████ Date of Appointment: ██████████, 2006, PO, Unit ██████████ Detailed to ██████████ DOB: ██████████, 1983, Male, Black.
Involved Officer #2:	██████████ Star # ██████████ Employee ID # ██████████ Date of Appointment: ██████████ 2007, PO, Unit ██████████ Detailed to ██████████ DOB: ██████████, 1971, Female, White.
Involved Officer #3:	██████████ Star # ██████████ Employee ID # ██████████ Date of Appointment: ██████████, 1995, PO, Unit ██████████ DOB: ██████████, 1962, Male, White
Involved Individual #2:	██████████ DOB: ██████████, 1984, Male, Black.

<sup>1</sup> 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. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] engaged in a pattern of disrespect and/or maltreatment against [REDACTED] by operating outside of his appointed district, in violation of Rules 2 and 8.	Exonerated
Officer [REDACTED]	1. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] engaged in a pattern of disrespect and/or maltreatment against [REDACTED] by encouraging AT&T employees to file complaints, in violation of Rules 2 and 8.	Exonerated
Officer [REDACTED]	1. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] arrested [REDACTED] without justification, in violation of Rules 2 and 8.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 2 – Prohibits an officer from engaging in any action or conduct which impedes the Department’s policy and goals or brings discredit upon the Department.
2. Rule 8 – Prohibits disrespect to or maltreatment of any person, while on or off duty.

## V. INVESTIGATION<sup>2</sup>

### a. Interviews<sup>3</sup>

COPA interviewed the complainant, ██████████, on September 30<sup>th</sup>, 2019. During the interview, Mr. ██████████ alleged that on September 26<sup>th</sup>, at or around 4:40 P.M., he was harassed by Officer ██████████. Mr. ██████████ told COPA investigators that on September 26<sup>th</sup>, he was protesting outside of an AT&T store located at or near ██████████ when he was approached by two uniformed Chicago Police officers. Mr. ██████████ identified the two officers who approached him as Officer ██████████ (Star # ██████████) and Officer ██████████ (Star # ██████████) both of whom he claimed did not work in the area.<sup>5</sup> According to Mr. ██████████, Officer ██████████ and Officer ██████████ instructed him he could not protest because he was on a public way. In response, Mr. ██████████ began recording the interaction with his mobile phone.<sup>6</sup>

Mr. ██████████ further claims that Officer ██████████ after telling him he could not protest outside, went inside the AT&T store to encourage employees to file complaints against Mr. ██████████.<sup>7</sup> According to Mr. ██████████ it was after Officer ██████████ went inside to allegedly encourage official complaints against him that he was arrested for disorderly conduct.<sup>8</sup> Regarding his arrest, Mr. ██████████ told COPA Investigators that he asked Officer ██████████ the arresting officer, why he was being arrested and was not initially given an answer. Mr. ██████████ then witnessed Officer ██████████ and a Sergeant<sup>9</sup> discussing the incident (Mr. ██████████ asserts Officer ██████████ and the Sergeant were plotting against him however Mr. ██████████ told COPA he could not hear the conversation). Mr. ██████████ said Officer ██████████ soon returned to inform him that he had been charged with disorderly conduct. Mr. ██████████ was then taken to the ██████████ District Police Station for processing.

Prior to the police showing up, Mr. ██████████ alleged no AT&T security personnel or security guard approached him to ask him to leave. Mr. ██████████ admitted to using profanity in the direction of the AT&T employees but insisted he never threatened an employee.

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> COPA did not serve Officer ██████████, Officer ██████████ or Officer ██████████ with an allegation nor COPA interview Officer ██████████ or Officer ██████████ as the facts alleged were not sufficiently supported by Body Worn Camera and other available evidence.

<sup>4</sup> Attachment #1, ██████████ Statement to COPA on September 30, 2019.

<sup>5</sup> Officer ██████████ is assigned to the ██████████ District and Officer ██████████ the ██████████ District but both were detailed at the time to ██████████ identified as Summer Mobile Patrol. See Attachment #2 and #5.

<sup>6</sup> COPA attempted to retrieve this recording from Mr. ██████████ phone but was unsuccessful. Mr. ██████████ refused to sign COPA's Material Submission Consent form. See Attachment #3

<sup>7</sup> Following a review of the evidence, COPA believes Officer ██████████ not Officer ██████████ went inside to take statements from AT&T employees for a complaint against Mr. ██████████

<sup>8</sup> Officer ██████████ (Star # ██████████) from the ██████████ District was the Arresting Officer.

<sup>9</sup> COPA later identified this Sergeant as Sergeant ██████████ (Star # ██████████)

**b. Digital Evidence**

On **Sergeant [REDACTED] Body Warn Camera**,<sup>10</sup> AT&T employees tell responding officers that Mr. [REDACTED] used his bullhorn to call them “pussy ass bitches”<sup>11</sup> through the window of the store during his alleged protest. AT&T employees told officers that Mr. [REDACTED] was warned to step away from the Apple iPads that were being used as part of a store promotion and in response to this request, Mr. [REDACTED] called the employee a “Pussy ass n-word” several times with a megaphone.<sup>12</sup> The body worn camera depicts Officer [REDACTED] and Officer [REDACTED] tell Sergeant [REDACTED] that they are detailed to [REDACTED] Mobile Patrol,<sup>13</sup> were originally flagged down on the street to respond to the incident outside of the AT&T store. Sergeant [REDACTED] then asks Officer [REDACTED] from the [REDACTED] District, to relieve Officer [REDACTED] and Officer [REDACTED] who were on their lunch break. Officer [REDACTED] after consulting with Sergeant [REDACTED] turns to Mr. [REDACTED] to inform him that he is under arrest for disorderly conduct. Mr. [REDACTED] immediately responds with “I’ll be back AT&T,” and exclaims “Yes! Now I can sue!”<sup>14</sup>

On **Officer [REDACTED] Body Warn Camera**,<sup>15</sup> Officer [REDACTED] is explaining to Officer [REDACTED] that he was flagged down for assistance by AT&T employees because of Mr. [REDACTED] actions and use of a bullhorn. AT&T employees then share with officers that Mr. [REDACTED] called the employees “pussy ass bitches” several times and called one of the employees, a man of Indian decent, a “pussy ass nigger.”<sup>16</sup> Officer [REDACTED] informs the AT&T employees that there is Sergeant on the way and that he will inform the Sergeant the employees are willing to file complaints. Following his conversation with the AT&T employees, Officer [REDACTED] tells Mr. [REDACTED] that he is “not free to leave” and that he is being detained.<sup>17</sup> When Mr. [REDACTED] asks if he is being detained for protesting Officer [REDACTED] tells him that is not reason he is being detained and that the officers are still investigating the factual event.<sup>18</sup>

As Sergeant [REDACTED] arrives, Officer [REDACTED] tells him that Officer [REDACTED] and Officer [REDACTED] were flagged down and that Mr. [REDACTED] was using racial epithets and yelling into the AT&T store. Officer [REDACTED] tells Sergeant [REDACTED] that Mr. [REDACTED] was allegedly calling customers inside the AT&T store “pussy ass bitches” through the window.<sup>19</sup> After discussing the facts with Sergeant [REDACTED] Officer [REDACTED] returns to Mr. [REDACTED] to charge him with Disorderly Conduct.<sup>20</sup> Mr. [REDACTED] responds by telling Officer [REDACTED] that he is harassing him and will be going on desk duty. Officer [REDACTED] informs Mr. [REDACTED] that police were answering a call for assistance and are not harassing Mr. [REDACTED]. Mr. [REDACTED] ends the conversation by stating “I will be suing.”<sup>21</sup>

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<sup>10</sup> Sergeant [REDACTED] BWC – Attachment #4

<sup>11</sup> Sergeant [REDACTED] BWC recording AT&T employees explain what Mr. [REDACTED] said to them, Time Stamp: 3m 45s; Attachment #4

<sup>12</sup> *Id.* Time Stamp 4m 45s

<sup>13</sup> Officer [REDACTED] and Officer [REDACTED] A&A Sheet – Attachment #2 and #5

<sup>14</sup> Sergeant [REDACTED] BWC – Attachment #4

<sup>15</sup> Officer [REDACTED] BWC – Attachment #6

<sup>16</sup> *Id.* Officer [REDACTED] BWC recording AT&T employees explain what Mr. [REDACTED] said to them, Time Stamp 1m 5s

<sup>17</sup> *Id.* Officer [REDACTED] BWC, Time Stamp 1m 40s

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* Officer [REDACTED] repeating what he was told by AT&T employees to the Sergeant, Time Stamp 3m 30s.

<sup>20</sup> Attachment #6

<sup>21</sup> *Id.* [REDACTED] responds to being charged with Disorderly Conduct, Time Stamp 5m 28s.

After placing Mr. ██████ in a squad car, Officer ██████ returned to take the statement of the AT&T employee pressing charges. The employee tells Officer ██████ that the incident began when he asked Mr. ██████ who was already outside protesting AT&T, to step away from the iPads that were on display outside the store, pursuant to the instruction his boss had given him. Mr. ██████ allegedly responded by using his bullhorn to instruct passing individuals to not take the flyers the AT&T employee was supposed to be handing out as part of his job. Mr. ██████ then allegedly approached the AT&T employee, getting within an inch away from his face, and began yelling in the AT&T employee's face. It was at this point the AT&T employee alleges Mr. ██████ called him a "pussy ass bitch," and a "pussy ass n-word."<sup>22</sup> Officer ██████ then tells the AT&T employee that he must say the whole statement for the record, at which point, the AT&T employee clarifies that Mr. ██████ called him a "pussy ass nigger."<sup>23</sup>

Officer ██████ then asks the AT&T employee if at any point when Mr. ██████ was within an inch away from his face did he fear Mr. ██████ would strike him, to which the employee said, yes. Officer ██████ concluded the interaction with the AT&T employee by informing him that personally he believes Mr. ██████ is using a ruse of freedom of speech to incite violent behavior.<sup>24</sup>

### c. Documentary Evidence

An **Arrest Report (RD# ██████<sup>25</sup>** for ██████ indicates that Officer ██████ arrested Mr. ██████ on September 26, 2019 for Disorderly Conduct – Breach of Peace. The report states that Mr. ██████ stood approximately one inch away from victim's face and stated inciteful language. The report further states that Mr. ██████ "increasingly offensive language" and physical stance breached the victim's peace and that "of passing pedestrians and public."<sup>26</sup> Mr. ██████ was taken into custody and transported to the ██████ District for processing.

An **Original Case Incident Report (RD# ██████<sup>27</sup>** for ██████ indicates that officers answered an OEMC call for assistance at or near the AT&T store on ██████ Ave. It further shows that responding Officer ██████ spoke with beat Officer ██████ who stated he was approached by AT&T store employees who told him an individual had caused a disturbance at or near the store. The report detailed that Officer ██████ was told by AT&T employees that a man, later identified as Mr. ██████ approached the store with a bullhorn and started yelling into the bullhorn to boycott AT&T. The AT&T employees told Officer ██████ they asked Mr. ██████ to back away from the iPads on display for the promotion and he responded by getting within one of the employee's faces and shouting "hateful, inciteful language."<sup>28</sup> Mr. ██████ was taken into custody, charged with Disorderly Conduct – Breach of Peace (720 ILCS 5/26-1-A-1).

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<sup>22</sup> Attachment #6 – Officer ██████ taking the statement of an AT&T employee, Time Stamp 26m 30s

<sup>23</sup> *Id.* Time Stamp 28m 40s

<sup>24</sup> *Id.* Time Stamp 35m

<sup>25</sup> Attachment #7

<sup>26</sup> *Id.*

<sup>27</sup> Attachment #8

<sup>28</sup> *Id.* Alleged language included: "Pussy ass bitch" and "Pussy ass nigger"

An **OEMC Event Query Report**<sup>29</sup> indicates that Beat [REDACTED] (Officer [REDACTED] responded to a dispatch call for assistance as did Beat [REDACTED] (Sergeant [REDACTED] in the area of [REDACTED] on September 26, 2019, at or around 4:47 P.M.

An **Assignment and Attendance Report**<sup>30</sup> shows Officer [REDACTED] was assigned to Beat # [REDACTED] and the [REDACTED] District on September 26, 2019 and began his shift at 3:30 P.M.

An **Assignment and Attendance Report**<sup>31</sup> shows Officer [REDACTED] was detailed to Unit [REDACTED] Summer Mobile Patrol, on September 26, 2019 and began his shift at 10:00 A.M.

An **Assignment and Attendance Report**<sup>32</sup> shows Officer [REDACTED] was detailed to Unit [REDACTED] Summer Mobile Patrol, on September 26, 2019 and began his shift at 10:00 A.M.

An **Assignment and Attendance Report**<sup>33</sup> shows Sergeant [REDACTED] was assigned to Unit [REDACTED] the [REDACTED] District, and Beat # [REDACTED] on September 26, 2019 and began his shift at 2:00 P.M.

A **Civilian Office of Police Accountability Material Submission/Consent Form**<sup>34</sup> shows that Mr. [REDACTED] did not sign nor consent to having his cell phone video submitted for this investigation.

## 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 reviewed complied with 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

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<sup>29</sup> Attachment #9

<sup>30</sup> Attachment #10

<sup>31</sup> Attachment #2

<sup>32</sup> Attachment #5

<sup>33</sup> Attachment #11

<sup>34</sup> Attachment #3

investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, 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

COPA finds by clear and convincing evidence that the CPD Officers involved in the detention and eventual arrest of Mr. ██████ did not harass nor unlawfully detain and arrest Mr. ██████. Rather, Officers ██████ and ██████ acted appropriately and within protocol when they responded to a call for assistance regarding a disturbance outside of the AT&T store located at ██████ Ave. While Mr. ██████ claims Officer ██████ and Officer ██████ harassed him by: (1) operating outside of their assigned district; and (2) encouraging AT&T employees to file complaints against him – these allegations, even if taken as true, do not merit discipline and are unsupported by available evidence, including video. Ignoring the flawed premise that police officers may only respond to calls for service in their district, a review of CPD's Assignment and Attendance Sheet shows both Officer ██████ and Officer ██████ were detailed to Unit ██████ – Mobile Patrol on September 26, 2019.<sup>35</sup> Moreover, Officer ██████ and Officer ██████ were not in breach of protocol by informing AT&T employees that they must file a complaint against Mr. ██████ for the police to intervene.<sup>36</sup>

Similarly, Mr. ██████ claim that Officer ██████ unlawfully arrested him for protesting outside of the AT&T store located at ██████ Ave., is unsupported by the evidence and disproven by body worn camera footage. Officer ██████ lawfully detained and arrested Mr. ██████ in response to AT&T employees signing formal complaints against Mr. ██████ for Disorderly Conduct. As body worn camera confirms, Officer ██████ responded to an OEMC call for assistance regarding a disturbance outside of ██████ and acted within protocol when he arrested Mr. ██████ for disorderly conduct – breach of peace.<sup>37</sup>

In sum, the available evidence so overwhelming weighed in the favor of the accused officers that COPA did not serve the officers with any allegations nor interview the involved officers regarding the incident.

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<sup>35</sup> Unit ██████ Mobile Patrol is a seasonal assignment allowing for CPD to detail members at its discretion. See Attachments #2 and #5

<sup>36</sup> Releasing Arrestees without Charging, Special Order S06-01-01, Section III

<sup>37</sup> Field Arrest Procedures, General Order G06-01-01.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] engaged in a pattern of disrespect and/or maltreatment against [REDACTED] in violation of Rules 2 and 8.	Exonerated
Officer [REDACTED]	1. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] engaged in a pattern of disrespect and/or maltreatment against [REDACTED] in violation of Rules 2 and 8.	Exonerated
Officer [REDACTED]	1. It is alleged that on September 26 <sup>th</sup> , 2019, at approximately 4:40 P.M., in the vicinity of [REDACTED] Ave., Officer [REDACTED] arrested [REDACTED] without justification, in violation of Rules 2 and 8.	Exonerated

Approved:

[REDACTED]

January 28, 2020

\_\_\_\_\_  
 Andrea Kersten  
 Deputy Chief Administrator

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 Date

Appendix A

Assigned Investigative Staff

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**Squad#:**

**Investigator:**

**Supervising Investigator:**

**Deputy Chief Administrator:**



Andrea Kersten