

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 20, 2017
Time of Incident:	9:20 pm
Location of Incident:	████████████████████ Chicago, Illinois 60608
Date of COPA Notification:	September 21, 2017
Time of COPA Notification:	12:10 pm

On September 20, 2017, officers responded to a street gathering for a memorial service. As Chicago Police Officers tried to disperse the crowd, several officers attempted to place ██████████ (████████████████████) into custody for drinking alcohol on the public way. After he was restrained in handcuffs, ██████████ spit on Chicago Police Sergeant ██████████ (“Sgt. ██████████”) who then punched ██████████ in the face. COPA finds that Sgt. ██████████ used excessive force in punching ██████████ while he was handcuffed.

II. INVOLVED PARTIES

Involved Sergeant #1:	████████████████████ Star # ██████████ Employee ID # ██████████, DOA ██████████, 1999, Sergeant, Unit ██████████, DOB: ██████████, 1970, Male, Hispanic
Involved Individual #1:	████████████████████ DOB: ██████████, 1993, Male, Hispanic

III. ALLEGATIONS

¹ COPA served an allegation on Sgt. ██████████ (Att. 26 and 28) which contained the date, time and nature of the complaint, as well as the name of the complainant. The allegation also contained the address “at or near ██████████ Place”. This street number is actually the number (but not the street name) listed on the police reports as ██████████ residence (████████████████████ Pl.), rather than ██████████ Pl., the address of the incident. The “Request for Interviews/Statement/Report” notifying Sgt. ██████████ of his scheduled statement as an “accused” included the correct RD No. and CB No. associated with this incident (Att. 26). Prior to giving and during his statement to COPA, Sgt. ██████████ reviewed the correct reports, as well as his and another officer’s body worn camera videos regarding this incident. Sgt. ██████████ then stated he was prepared to give a statement regarding this incident. Sgt. ██████████ answers and comments were responsive to the questions asked regarding this incident and neither expressed nor displayed any confusion about the incident alleged. COPA notes that the correct location of ██████████ Place, is three blocks from the address listed in the allegation and determines that ██████████ Pl. is in fact “at or near” ██████████ Place. Based on all of these circumstances, Sgt. ██████████ was clearly provided adequate notice of the allegations and that the scrivener’s error with the street number did not prejudice him.

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	1. It is alleged, that on September 20, 2017, at approximately 9:10 p.m., at or near [REDACTED] Place, the accused Sergeant [REDACTED] struck [REDACTED] with a closed-fist while [REDACTED] was handcuffed in violation of Rules 2, 6, 8 and 9.	Sustained / 30-day suspension

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral.
3. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders²

1. G03-02 Use of Force (eff. 10/1/02 – 10/15/17)
2. G03-02-01 The Use of Force Model (eff. 5/16/12 – 10/15/17)
3. G03-02-02 Force Options (eff. 1/1/16 – 10/15/17)

V. INVESTIGATION³

a. Interviews

Witness Chicago Police Officer [REDACTED] (“PO [REDACTED]⁴ star # [REDACTED] reported to COPA on July 5, 2018, for an in-person interview. PO [REDACTED] related that on September 20, 2017, he responded to a call at a gang member’s funeral and observed multiple people drinking alcohol on the public way. [REDACTED] was one of the people drinking on the public way and officers asked him to leave. [REDACTED] did not comply and was handcuffed. Once he was handcuffed, he was in secure custody, but he was still stiffening and pulling away. [REDACTED] then took in a deep breath and spat on Sgt. [REDACTED] which struck him on the face near his mouth. Sgt. [REDACTED] responded with a “tactical strike”⁵ to the face of [REDACTED] in order “to stop a further

² All references to CPD Policies (eg. General Orders, Special Orders, etc) are to the ones in effect at the time of this incident.

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Att. 23.

⁵ Att. 23, at 7:09.

battery”, spitting. As he was handcuffed, he was in secure custody, but he was still pulling away. After spitting, █████ continued to pull away and needed to be further restrained by officers. █████ was eventually compliant and placed into a squad car for transporting. PO █████ not see spit hit Sgt. █████

Officer █████ opined that the way to protect an officer from being further spit on is to either place the subject in a caged car or to move his head away or change his direction somehow to prevent him from spitting.

Witness Chicago Police Officer █████ (“PO █████⁶ star # █████ reported to COPA on July 16, 2018, for an in-person interview. PO █████ related that on September 20, 2017, he responded to a repass of a fallen gang member, of which several known Satan Disciple gang members were attending. He observed multiple people drinking alcohol on the public way. As officers attempted to disperse the group, several subjects became unruly, including █████. As █████ was being arrested and cuffed by Sgt. █████ and PO █████ for drinking on the public way, █████ turned his body and spat in the face of Sgt. █████ PO █████ did not recall whether both of █████ hands were cuffed or just one at the time of the spitting. PO █████ also did not recall if he saw the saliva hit Sgt. █████ Sgt. █████ then struck █████ in the face to prevent further battering. █████ was then removed from the scene, placed into a squad car, and transported. PO █████ believes that there is always a concern for safety in a large crowd such as the one that night, especially when civilians start surrounding officers, and safety is always paramount. He believes there were 10-12 officers on scene and well over 20 civilians, so the officers were outnumbered.

Officer █████ believes that a spitting subject such as █████ is an “active resistor.” To the best of his knowledge, delivering a mechanical strike to the face is an acceptable response to an active resistor under CPD policy.

Accused Sergeant █████ (“Sgt. █████⁷ star # █████ reported to COPA on August 21, 2018, for an in-person interview. Prior to giving his statement, Sgt. █████ reviewed his body camera footage and that of PO █████ as well as the arrest report, incident report, and tactical response report written regarding this incident. Sgt. █████ related that he responded to a call to assist another unit in dispersing a memorial for a deceased gang member. Sgt. █████ said he saw multiple people drinking on the street when he arrived. He then approached the drinking crowd and placed █████ into handcuffs for drinking on the public way. At that time, several gang members approached and took a fighting stance with other officers who were on the scene. During this time, a sergeant’s body camera was taken, and Sgt. █████ went toward the crowd to help retrieve the body camera, telling them to give the body camera back.

Sgt. █████ then went back to █████ who appeared to be intoxicated and was yelling about his friend having died. He estimates that he returned to █████ within about a minute of initially placing █████ in cuffs. █████ then spat in the face of Sgt. █████ which landed on the left cheek of Sgt. █████ face. Sgt. █████ already had his hand on █████ arm and felt him pulling away, then he struck █████ He believes it was a closed-hand strike to the left

⁶ Att. 25.

⁷ Att. 27.

side of [REDACTED] face or head. Sgt. [REDACTED] did not recall whether it was open-handed or closed-handed because it happened so fast, and it was just a reaction.⁸ He reported it as a closed-hand strike because there were a lot of witnesses to the strike and he did not want “to get caught lying.”⁹ To the best of his knowledge at the time of his interview on August 21, 2018, he believes he used a closed hand strike.¹⁰

Sgt. [REDACTED] explained his reasons for striking [REDACTED]. He said that the incident happened so fast that he just reacted. He justified the strike to the face saying he was acting in self-defense and to prevent another battery—spitting. Sgt. [REDACTED] added that he did not want [REDACTED] to get away or to spit on him again.¹¹

Sgt. [REDACTED] confirmed that the allegation “that you, Sgt. [REDACTED] struck [REDACTED] with a closed fist while [REDACTED] was handcuffed” is an accurate statement.¹²

After summarizing what he recalled, COPA provided Sgt. [REDACTED] an opportunity to review Chicago Police Department’s use of force policies in effect at the time of the incident: CPD G03-02, G03-02-01, G03-02-02. Sgt. [REDACTED] relayed that he was familiar with the policies at the time of the incident and that he was within the use of force policy in his response to the closed-fist strike. He stated that a CPD Lieutenant reviewed the incident and determined that he was within the use of force policy.¹³

COPA made several attempts to contact [REDACTED]¹⁴, On May 11, 2018, Reporting Investigator called [REDACTED] and he reported he did not want to participate in COPA’s investigation.¹⁵

b. Digital Evidence

The review of involved CPD members **body worn camera footage**¹⁶ is as follows:

The **body-worn camera (“BWC”) video from Officer [REDACTED] Star # [REDACTED]** (video length 13:24), contains the clearest view of the incident in question. The footage initially shows a large group of people standing in front of a residence. There appears to be a party being broken up. There are many people yelling and lights coming from various cell phones as the

⁸ He also believes that under the use of force policy there is no difference between whether he used an open hand or a closed hand.

⁹ Att. 27, at 12:00.

¹⁰ Att. 27, at 20:20.

¹¹ Att. 27, at 12:30.

¹² Att. 27, at 15:42.

¹³ See Att. 10, Tactical Response Report, at p. 3.

¹⁴ Attempts to contact Mr. [REDACTED] included, United States Postal Service letters, two home visits on March 13, 2018, and May 2, 2018, and a court visit on May 7, 2018. At the court visit, [REDACTED] stated he would be willing to participate in COPA’s investigation. He asked investigators to go to his house later that afternoon for an interview but when investigators went to his home, he was at work. The initial two home visits were unsuccessful due to COPA having the wrong address for Mr. [REDACTED]. See Att. 16 – 20.

¹⁵ Att. 20.

¹⁶ Att. 29. This disc contains BWC from several officers. Only material videos are summarized here. BWC Videos #1 - 5 show some of the struggle and arrest but repeat different angles of the above-mentioned footage.

occupants emerge onto the sidewalk. Officers can be heard directing the partygoers to disperse. [REDACTED] is seen twice with a clear bottle partially filled with liquid in his hand. The first time (approximately 1:01 into the video), he is in the street walking towards and then past Officer [REDACTED] with the bottle in his left hand. [REDACTED] is then seen (approximately 1:33) on the sidewalk behind Sgt. [REDACTED] right shoulder, taking a drink from the bottle before bending over (presumably to put the bottle down).

Sgt. [REDACTED] can be seen taking the hands of [REDACTED] at approximately the 1:43 mark of the video and attempting to handcuff him. [REDACTED] can be heard stating, "What the fuck?" and several other inaudible protests. Sgt. [REDACTED] instructs him to give him his other hand. [REDACTED] keeps turning toward Sgt. [REDACTED] and making statements that are too loud and muffled to understand from the footage.



Exhibit Screenshot 1 is from PO [REDACTED] BWC showing Sgt. [REDACTED] (left) placing the first handcuff on [REDACTED] (foreground) right wrist.



Exhibit Screenshot 2 is from PO [REDACTED] BWC showing Sgt. [REDACTED] (right) completing the handcuffing of [REDACTED] (left) left wrist behind [REDACTED] back.

At one point, you can hear [REDACTED] turn and yell "Fuck you, N*****" toward multiple officers. A woman in the background can be heard telling [REDACTED] to calm down. The footage becomes very shaky as [REDACTED] appears to struggle with the officers and multiple other people yell in the background. At 2:20 into the video, Sgt. [REDACTED] walks toward [REDACTED]. An officer can be heard stating "He's going to jail." What appears to be a spitting noise can then be heard, and this appears to be when [REDACTED] spits at Sgt. [REDACTED]. The incident can be seen around the 2:23 mark of the video.

In response, Sgt. [REDACTED] can be seen quickly rearing back with his right hand and striking toward [REDACTED]. Because [REDACTED] is only partially visible in the video at this time, the actual contact between Sgt. [REDACTED] hand and [REDACTED] is not seen. However, Sgt. [REDACTED] hand does move in the direction of above [REDACTED] shoulders from within arms' reach distance and the visible portions of [REDACTED] head and body move in the same direction as Sgt. [REDACTED] hand and arm.

<p>Exhibit Screenshot 3 is from PO [REDACTED] BWC showing Sgt. [REDACTED] approaching [REDACTED] (whose left shoulder appears on the far right).</p>	<p>Exhibit Screenshot 4 is from PO [REDACTED] BWC showing Sgt. [REDACTED] right arm extended at [REDACTED]</p>

BWC video from Sgt. [REDACTED] Star # [REDACTED] (video #6 on the disc, length 11:56), shows him grabbing [REDACTED] to arrest him and then the two have a verbal exchange about [REDACTED] drinking and setting down a beer. Around the 1:14 mark, the body camera of Sgt. [REDACTED] falls to the ground and lands with the lens pointing straight up. While the body camera was on the ground, it continued to record. The incident under investigation appears to take place around 2:03 into the video. Sgt. [REDACTED] can be seen making a striking motion with his right arm toward [REDACTED]. A civilian can be heard stating, "We're recording" and an officer replies, "I'm recording too. You're not going to spit at me." Someone, presumed to be Sgt. [REDACTED] picks the camera back up around 2:18 and the remaining footage is just him searching the area and encouraging various partygoers to disperse from the location.

BWC video from Officer [REDACTED] Star # [REDACTED] (video #7 on the disc, length 9:02), shows people in the street and [REDACTED] being restrained but it is initially unclear what is happening. Around 1:44, Sgt. [REDACTED] can be seen approaching [REDACTED] can be seen struggling against the restraint and frequently turning toward officers. However, Officer [REDACTED] subsequently turns in a different direction before the altercation takes place.

c. Documentary Evidence

The **Original Case Incident Report**¹⁷ (RD # [REDACTED]) completed by PO [REDACTED] star [REDACTED] reports that a gang-related incident with 5 offenders occurred on September 20, 2017, at 9:10 p.m. at [REDACTED] Place Chicago, IL. The suspects included [REDACTED] a Satan Disciple gang member.

The narrative states that due to the increased number of gang disturbances, officers were aware of a gang member memorial at the address. As officers responded, they observed several known gang members drinking alcohol, amplifying music, yelling gang slogans, and attempting to incite the crowd. Officers then observed [REDACTED] drinking beer in the public way. As officers

¹⁷ Att. 12.

were placing ██████ into custody, he began to stiffen his body to pull away from Sgt. ██████. Sgt. ██████ then gave verbal orders and directions to comply at which point while in custody, he turned in Sgt. ██████ direction and spit onto the left cheek / upper mouth of Sgt. ██████. Sgt. ██████ then delivered a closed-handed strike to ██████ left cheek area. ██████ along with co-offenders were then transported to 10th district for further processing.

The **Arrest Report**¹⁸(CB# ██████) completed by PO ██████ star # ██████ reports that on September 20, 2017, at 9:10 p.m. at ██████ Place Chicago, IL, ██████ was arrested for aggravated battery of a peace officer, resisting a peace officer, and drinking alcohol on the public way.

The narrative states that officers responded to the address and witnessed a large group gathered in the street and on the sidewalk for a repass of a fallen Satan Disciple gang member. Officers observed ██████ drinking alcohol on the public way and attempted to place him into custody. ██████ then stiffened his body and pulled away from officers. Officers secured ██████ at which point he spat on the left side of Sgt. ██████ face, near his mouth. Sgt. ██████ responded with a closed-handed strike to ██████ “in order to deter any further battery and regain control of the subject who was still actively resisting.” ██████ was then transported to the 10th district for processing without further incident.

The **Tactical Response Report**¹⁹ completed by Sgt. ██████ states that on September 20, 2017, at 9:10 p.m. at ██████ Place Chicago, IL, ██████ was an assailant. Sgt. ██████ reported he was in imminent threat of battery and delivered a closed-hand strike/punch. ██████ was also reported as an active and passive resister due to not following verbal direction, stiffening his body, and pulling away, to which Sgt. ██████ responded by member presence, verbal commands, and take down/emergency cuffing. Lieutenant ██████ commented on the report that she had reviewed reports and BWC related to the incident and determined that “the department members followed department policy as it pertains to the use of force when confronted with an assailant.”

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 allegation 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

¹⁸ Att. 13.

¹⁹ Att. 11.

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

The standard for analyzing use of force issues is found in General Order G03-02 Use of Force Guidelines. This policy, citing the United States Supreme Court case *Graham v. Connor* (490 U.S. 386 (1989)), states that "the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer."²⁰ Reasonableness cannot be defined, but rather is viewed in light of the circumstances, including (a) the severity of the crime at issue; (b) whether there is an immediate threat posed by the individual to the officers or others; and (c) whether the individual is attempting to evade arrest by flight or actively resisting arrest.²¹ The totality of circumstances when viewed from the perspective of a reasonable officer on the scene will determine whether a particular use of force was reasonable.²² Further, the directive on Force Options sets forth the policy of *using the least amount of appropriate force*.²³

Analyzing this incident employing these standards, COPA finds the totality of circumstances weighs against the force used by Sgt. [REDACTED]. The severity of the crime at issue is minimal. Here, [REDACTED] was initially arrested for a minor offense, a violation of the Municipal Code of Chicago for Drinking on the Public Way.²⁴ After a brief struggle, Sgt. [REDACTED] and other officers were able to successfully handcuff [REDACTED] in a matter of seconds, so any threat posed by him was minimized. At this point, [REDACTED] was not trying to flee, but may have continued to resist. He then spit on Sgt. [REDACTED] a battery for making physical contact of an insulting or provoking nature.²⁵

Sgt. [REDACTED] response to this spitting is undisputed. It is undisputed that Sgt. [REDACTED] struck [REDACTED] with a closed hand. It is also undisputed that when Sgt. [REDACTED] struck [REDACTED] it was

²⁰ G03-02(III)(C).

²¹ G03-02(III)(C)(1).

²² G03-02(III)(C)(2).

²³ G03-02-02(II)(B) (emphasis added.)

²⁴ MCC 8-4-030.

²⁵ 720 ILCS 5/12-3(a)(2).

to the face. It is further undisputed that at the time Sgt. ██████ struck ██████ in the face, ██████ had both of his hands cuffed behind his back. It is undisputed that Sgt. ██████ was aware that ██████ was handcuffed, as he personally was the officer who placed him in cuffs. And finally, it is undisputed that at the time Sgt. ██████ struck ██████ in the face, ██████ had neither caused bodily harm to Sgt. ██████ (or anybody else) nor attempted to do so.

This force that Sgt. ██████ used is classified by the Chicago Police Department as a “direct mechanical strike.”²⁶ Sgt. ██████ and Officer ██████ both classified the punch as such. Pursuant to CPD Directives, direct mechanical strikes may only be used against a subject who is labeled as an “assailant”. An assailant is “a subject who is using or threatening the imminent use of force against himself/herself or another person.”²⁷ There are three categories of assailants: (1) one is who aggressively offensive without weapons; (2) one whose actions will likely cause physical injury; or (3) one whose actions will likely cause death or great bodily harm.²⁸

████████ actions did not rise to any of these categories. Sgt. ██████ and both witness officers referred to ██████ spitting as a “battery” and believed that Sgt. ██████ conduct was permitted to prevent further battery. However, the “battery” committed by ██████ was not a use of force or threatened use of force which would render ██████ an “assailant” as defined by policy. At most, ██████ caused a contact by spitting, which would be physical contact of an insulting or provoking nature.²⁹ However, no force was employed by ██████

Instead, ██████ should have been classified as an “active resister,” which is the classification for “a person whose actions attempt to create distance between that person and the member’s reach with the intent to avoid physical control and/or defeat the arrest. In fact, PO ██████ stated that ██████ should have been considered an active resister.

Not even Sgt. ██████ own statement gives reason to think force was used by ██████ At the time he delivered the punch, Sgt. ██████ described himself as reacting and not wanting to be spit on by ██████ as well as feeling ██████ pulling away. This is the description of someone who is uncooperative, i.e. a resister.³⁰ Someone who attempts to create distance between himself and an officer intending to avoid physical control, or who uses evasive movements is considered an active resister.³¹ In such a case, a diffused-pressure strike or slap may be appropriate, but a direct mechanical strike is not permitted.

However, assuming *arguendo*, that ██████ act of spitting would be deemed to be force sufficient to categorize him as an assailant, it would certainly be the category of one who is “aggressively offensive without weapons.” Policy dictates that the response be reasonably necessary to effect an arrest, overcome resistance, control a subject, or protect from injury.³² The

²⁶ Defined as “hard, concentrating, striking movements such as punching . . .” (G03-02-02(IV)(C)(1)(a)).

²⁷ General Order G03-02-02(IV)(C).

²⁸ *Id.*

²⁹ 720 ILCS 5/12-3(a)(2) Battery. Indeed, ██████ subsequently pleaded guilty to misdemeanor battery under the theory of making physical contact of an insulting or provoking nature as opposed to a theory that he had caused bodily harm. (Circuit Court of Cook County, Case No. 17 CR-15132).

³⁰ General Order G03-02-02(IV)(B).

³¹ *Id.*

³² General Order G03-02(III)(B).

force administered may not be retaliatory or punishment. *See, e.g. Gilbert v. Cook*, 512 F.3d 899, 901 (7th Cir. 2008) (upholding excessive force claim where officer broke the arm of a subject who had punched him stating “One major function of the due process clause is to ensure that a wrongdoer's punishment comes after a hearing, rather than being meted out on the spot by a public official's fists or weapons”); *Ramos v. Drews*, 2018 U.S. Dist. Lexis 178033, at *41-43 (N.D. Ill. Oct. 16, 2018) (upholding claim for excessive force where officer punched a handcuffed subject because the court found it could be seen as retaliatory for previously pushing the officer). [REDACTED] was not described as being a physical threat of bodily harm to Sgt. [REDACTED] or anyone else. He was fully restrained and surrounded by armed Chicago Police Officers. Sgt. [REDACTED] response is most fairly categorized as retaliation against [REDACTED] for the offensive spitting.

Based on the totality of circumstances regarding this incident, the force that Sgt. [REDACTED] used in delivering the closed-fist, direct mechanical strike to the face of a handcuffed [REDACTED] was excessive. Besides being in handcuffs, [REDACTED] was secured by at least one other officer in addition to Sgt. [REDACTED]. Sgt. [REDACTED] did sustain a battery when [REDACTED] spit on him, but it was a contact that was “insulting and provoking” rather than one that caused any degree of bodily harm. Given that [REDACTED] was handcuffed and secured by the police, he was not a realistic threat of being an assailant likely to cause physical injury. Moreover, Sgt. [REDACTED] did not subjectively perceive [REDACTED] as being a threat to cause bodily harm or injury. To avoid further battery by [REDACTED] Sgt. [REDACTED] could have availed himself of any of several possibilities consistent with the Department’s policies, including creating more time and distance between himself and [REDACTED] by letting the officers who were holding [REDACTED] maintain control of him as Sgt. [REDACTED] removed himself from being in the path of [REDACTED] spitting or by using a lower amount of force such as holding or pain compliance techniques. Officer [REDACTED] a “reasonable officer on the scene,” described that the proper method for dealing with a spitting subject such as [REDACTED] is to place him in a caged car or to change his direction. He recognized this lesser use of force despite being less experienced and subordinate in rank to Sgt. [REDACTED]

COPA will not endeavor to speculate here if or when a direct mechanical strike may ever be an appropriate response to a subject who is handcuffed behind the back. However, this is not such an instance.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant [REDACTED]

i. Complimentary and Disciplinary History

Sgt. [REDACTED] has been a CPD member since [REDACTED], 1999. Notably, he has received one (1) Superintendent’s Award of Merit, four (4) Special Commendations; 32 Department Commendations; 240 Honorable Mentions; eight Complimentary Letters; and two (2) Police Officer of the Month Awards. Sgt. [REDACTED] has received two (2) SPARs in past year: one for Conduct Unbecoming and the other for Failure to Perform Assigned Tasks.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1

In this case, Sgt. [REDACTED] punched a handcuffed individual in the face as retribution for being spat on. He did so not in fear of injury to himself or others, but rather to prevent the possibility of being spat on again. He exhibited poor skills and judgment and ignored any knowledge of use of force policy and training. Moreover, his actions were a poor example of leadership to the many other officers who were present at the time. It is worth noting that one of the officers on scene (Off. [REDACTED]) recognized that the appropriate responses would essentially entail getting out of the way of any potential further spitting. Sgt. [REDACTED] actions served no law enforcement purpose.

Recommended Penalty: 30-days Suspension.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	1. It is alleged, that on September 20, 2017, at approximately 9:10 p.m., at or near [REDACTED] Place, the accused Sergeant [REDACTED] struck [REDACTED] with a closed-fist while [REDACTED] was handcuffed in violation of Rules 2, 6, 8 and 9.	Sustained / 30-day suspension

Approved:

[REDACTED Signature]

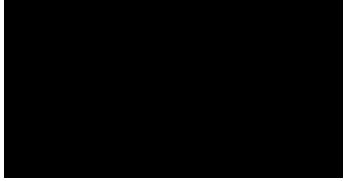
10-30-19

Date

Deputy Chief Administrator – Chief Investigator

Appendix A

Assigned Investigative Staff

Squad#:	5
Major Case Specialist:	
Supervising Investigator:	
Deputy Chief Administrator:	