

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 3, 2019
Time of Incident:	2:08 a.m.
Location of Incident:	11 th District Chicago Police Department (CPD)
Date of COPA Notification:	February 4, 2019
Time of COPA Notification:	5:15 p.m.

██████████ Complainant, was arrested on February 1, 2019 by the CPD for various weapons-related offenses. Various firearms and body armor were confiscated from ██████████ and transported to, and subsequently inventoried at, the 11th District (CPD). On February 3, 2019, ██████████ had gone to the 11th District to retrieve his confiscated property. At that time, specifically when ██████████ body armor was being returned to him by Officer Nikolay Gantchev, Star #3261, the Accused, Sergeant David Rodriguez, allegedly pointed his finger at ██████████ and verbally abused ██████████ by stating words to the effect, “Next time I see you, I’ll put three in your head and shove that vest and the Marine Corps up your ass. Get the fuck out of my police station before I arrest you.”¹ ██████████ subsequently contacted COPA and provided an audio-recorded interview initiating this investigation. As this incident took place in the 11th District Police Station, the officers were either not wearing or did not activate their Body Worn Cameras (BWC).

II. INVOLVED PARTIES

Involved Officer #1:	David M. Rodriguez, Star#1015, Employee ID# ██████████, Date of Appointment: August 7, 1995, Rank: Sergeant, Unit of Assignment: 11 th District, DOB: ██████████ 1973, Male, Hispanic
Involved Individual #1:	██████████ DOB: ██████████ 1976, Male, Black

¹ Attachment #10 at 1634

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant David M. Rodriguez	<p>1. It is alleged that in violation of Rules 2, 3, 8 and 9 of the Chicago Police Department Rules and Regulations on February 3, 2019, at approximately 2:08 a.m., the Accused, Sergeant David M. Rodriguez, verbally abused ██████ at the 11th District of the Chicago Police Department (CPD) when ██████ had attempted to recover his inventoried property from an arrest which had occurred on February 1, 2019; in that the Accused, Sergeant David M. Rodriguez, pointed his finger at ██████ and stated words to the effect, “Next time I see you, I’ll put three (3) in your head and shove that vest and the Marine Corps up your ass. Get the fuck out of my police station before I arrest you.”</p>	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules
<ol style="list-style-type: none"> 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 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals. 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.

V. INVESTIGATION²

a. Interviews

Complainant ██████████ was initially interviewed by COPA on February 4, 2019, wherein he stated that he had gone to the 11th District (CPD) on February 3, 2019 to retrieve certain items which had been seized from him upon his arrest for weapons-related offenses on February 1, 2019 by the CPD. ██████████ had complained that at that time the Desk Sergeant, tentatively identified as David M. Rodriguez, Star# 1015, had verbally abused and threatened him. ██████████ stated that approximately four (4) other CPD officers had been present and had witnessed the event. Specifically, Sergeant Rodriguez had said, “Next time I see you, I’ll put three in your head and shove that vest and the Marine Corps up your ass. Get the fuck out of my police station before I arrest you.”³

██████████ was subsequently interviewed by COPA on September 24, 2019, wherein ██████████ identified potential witnesses (i.e. police officers) relative to this incident as follows: A white male, 6’0”-6’1” in height, weighing approximately two-hundred (200) pounds, having dark hair, and being in his early 30’s, who had returned to ██████████ his inventoried property (above); and five (5) to six (6) other uniformed police officers, including possibly two (2) female officers. ██████████ stated that one (1) of the male officers could have been Hispanic.⁴

Sergeant David M. Rodriguez, Star #1015, was interviewed at COPA on October 18, 2019 and denied the allegation made against him by ██████████ in this matter. Rodriguez confirmed that he was on duty on Watch 1, 11th District (CPD), on February 3, 2019, the date of the alleged incident, as a supervisor. Rodriguez stated, however, that he vaguely recalled ██████████ and that ██████████ was the individual who was belligerent at that time, and not himself. With respect to ██████████ obtaining his inventoried property (i.e. body armor), Rodriguez stated that he did not verbally abuse ██████████ in any manner.

Officer Selene Noriega, Star #6243, was interviewed at COPA on October 24, 2019 and acknowledged that she was on duty on Watch 1, 11th District (CPD), on February 3, 2019, the date of the alleged incident. She worked in an office away from, and behind, the front desk as a desk officer. She stated that she did not observe, nor overhear, the alleged incident of verbal abuse involving Sergeant David Rodriguez and ██████████. She could not identify ██████████ from his photograph contained on ██████████ CPD Arrest Report.⁵

Officer Nikolay Gantchev, Star #3261, was interviewed at COPA on October 28, 2019 and confirmed that he was on duty on Watch 1, 11th District (CPD), on February 3, 2019. At that time Gantchev was a Probationary Police Officer. Gantchev also identified his name on an e-Track Chain of Custody form⁶ for the return of body armor to ██████████ on February 3, 2019, at

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

³ Attachment #10 at 16:34

⁴ Attachment #34.

⁵ Attachment #6.

⁶ Attachment #8.

approximately 2:00 a.m. Gantchev vaguely recalled the incident, and could not positively identify [REDACTED] from the photograph on [REDACTED] CPD Arrest Report,⁷ but claimed that no verbal abuse took place between himself and [REDACTED]. Further, Gantchev stated that he observed no verbal abuse taking place between Sergeant David Rodriguez, his supervisor, and [REDACTED] at that time.

Officer Maureen Boyle, Star #5525, was interviewed at COPA on October 30, 2019 and was shown A&A Sheets for the 11th District CPD for February 3, 2019, Watch #1.⁸ Boyle identified her name as appearing on page one of the A&A Sheet. Boyle acknowledged that she was on duty at that time as a beat officer, mainly assigned to the front desk area, and under the supervision of Sergeant David Rodriguez, Star #1015, whose name she identified on page one of the A&A Sheet, and who was listed as being on duty at the 11th District CPD for Watch #1. Boyle was then shown a photograph of Complainant [REDACTED].⁹ Boyle stated that she did not recognize [REDACTED] and could provide no information about [REDACTED] being present at the 11th District CPD on February 3, 2019; nor could she provide any information concerning the alleged incident of verbal abuse in this matter involving Sergeant David Rodriguez and [REDACTED].

b. Digital Evidence

None

c. Physical Evidence

None.

d. Documentary Evidence

CPD Arrest Report (CB# 19762770) for the arrest of [REDACTED] on February 1, 2019.¹⁰

CPD Inventory Log for Item# 9337130 for property turnover (i.e. body armor) to recipient [REDACTED] on February 3, 2019 by Officer Nikolay Gantchev (Star# 3261); Turnover Approver – David Rodriguez (Star# 1015).¹¹

CPD Original Case Incident Report (RD# JC136384) for the arrest of [REDACTED] on February 3, 2019.¹²

CPD Case Supplementary Report (RD# JC136384) dated February 2, 2019.¹³

CPD A&A Sheet for Unit #011, Watch #1, for February 3, 2019.¹⁴

⁷ Attachment #6.

⁸ Attachment #13

⁹ Attachment #6

¹⁰ Attachment #6

¹¹ Attachment #8

¹² Attachment #9

¹³ Attachment #11

¹⁴ Attachment #13

Photograph of Complainant [REDACTED]¹⁵

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

COPA makes the following finding for the allegation of the alleged verbal abuse of Complainant [REDACTED] by Sergeant David Rodriguez: **Not Sustained.**

There is insufficient evidence to prove the allegation in question by a preponderance of the evidence. The Accused, Sergeant David Rodriguez, denied the allegation and specifically denied making any of the inappropriate statements alleged by the Complainant. Three CPD officers were called as witnesses who were assigned to the 11th District under the supervision of Sergeant David Rodriguez at the time the alleged incident occurred, and all of the witnesses denied observing and/or hearing the alleged verbal abuse taking place. As such, there has been no corroboration of Complainant [REDACTED] allegation identified.

¹⁵ Attachment #27

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

There are no sustained allegations in this investigation.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant David M. Rodriguez	1. It is alleged that in violation of Rules 2, 3, 8 and 9 of the Chicago Police Department Rules and Regulations on February 3, 2019, at approximately 2:08 a.m., the Accused, Sergeant David M. Rodriguez, verbally abused [REDACTED] at the 11 th District of the Chicago Police Department (CPD) when [REDACTED] had attempted to recover his inventoried property from an arrest which had occurred on February 1, 2019; in that the Accused, Sergeant David M. Rodriguez, pointed his finger at [REDACTED] and stated words to the effect, "Next time I see you, I'll put three (3) in your head and shove that vest and the Marine Corps up your ass. Get the fuck out of my police station before I arrest you."	Not Sustained

Approved:

[REDACTED SIGNATURE]

8-28-2020

Angela Hearts-Glass
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	James L. Whitmer
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass