

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 19, 2019
Time of Incident:	7:00 p.m.
Location of Incident:	████████████████████
Date of COPA Notification:	September 20, 2019
Time of COPA Notification:	3:10 p.m.

On September 19, 2019, at or around 7:00 p.m. ██████████ (“██████”) and ██████████ (“██████”), who were both 14 years old, were playing basketball in the alley running north-and-south between the 5600 blocks of South Rutherford Avenue and Oak Park Avenue. Off-duty Chicago Police Sergeant Timothy Gorzkowski (“Sergeant Gorzkowski”) drove by in his gray SUV when he saw ██████████ and ██████████ bounce their basketball against the block glass windows of the garage behind the home of ██████████ (“██████”), located at ██████████ ██████████, Chicago IL. He drove up to ██████████ and ██████████ and told them that they broke glass in the block windows and that they should tell the homeowner what they did. An exchange between Sergeant Gorzkowski and ██████████ and ██████████ occurred, during which ██████████, who is bi-racial, claims that Sergeant Gorzkowski called him a “██████.” ██████████ and ██████████ went home and told Maria Mascorro, ██████████’ mother and ██████████’s aunt, who is a Chicago Police Officer, what occurred. ██████████’s brother, ██████████ (“██████”) was also home and heard ██████████ and ██████████. ██████████, ██████████ and ██████████ left the house so that ██████████ and ██████████ could point out Sergeant Gorzkowski to ██████████. Officer Mascorro followed them in a car driven by a family friend.

Sergeant Gorzkowski saw ██████████ and ██████████ and pulled up to them at the intersection of 56th Street and Oak Park Avenue. Before Sergeant Gorzkowski exited his vehicle, ██████████ ran up to Sergeant Gorzkowski’s car and pushed the door to prevent Sergeant Gorzkowski from exiting. ██████████ moved back and Sergeant Gorzkowski exited the SUV. Upon exit Sergeant Gorzkowski announced his office and pulled out a gun. At roughly the same time, Sergeant Gorzkowski struck Officer Mascorro when she touched his arm to get his attention after approaching him from behind.

COPA conducted an investigation into the allegations that Sergeant Gorzkowski used a disparaging racial remark and unnecessarily displayed his weapon at ██████████ and concluded that the weapon was improperly displayed.

II. INVOLVED PARTIES

Involved Officer #1:	Timothy Gorzkowski, Star No. 1126, Employee ID No. ██████████, Date of Appointment: November 24, 2003,
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	Sergeant, Unit of Assignment 010, DOB: [REDACTED], 1981, male, White
Involved Officer #2:	Maria Mascorro, Star No. 14132, Employee ID No. [REDACTED], Date of Appointment: May 1, 2006, Police Officer, Unit of Assignment 008, DOB: [REDACTED], 1977, female, Hispanic
Involved Individual #1:	[REDACTED], DOB [REDACTED], 2005, male, Black
Involved Individual #2:	[REDACTED], DOB [REDACTED], 1996, male, Hispanic
Involved Individual #3:	[REDACTED], DOB [REDACTED], 2004, male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Timothy Gorzkowski	1. It is alleged by Officer Maria Mascorro that on or about September 19, 2019, at approximately between 6:00 pm and 7:20 pm at or near [REDACTED], Sergeant Timothy Gorzkowski, Star No. 1126, committed misconduct through the following acts or omission by: Stating words to the effect of “Who the fuck are you nigger?” at [REDACTED].	Not Sustained
	2. It is alleged by Officer Maria Mascorro that on or about September 19, 2019, at approximately 6:00 pm and 7:20 pm at or near the intersection of 56th Street and Oak Park, Sergeant Timothy Gorzkowski, Star No. 1126, committed misconduct through the following acts or omission by: Displaying his gun at or in the direction of the head of [REDACTED], without justification.	Sustained / 2-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 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

3. Rule 38: Unlawful or unnecessary use or display of a weapon.

General Orders

1. G02-01 Human Rights and Human Resources
 2. G03-02 Use of Force (effective October 16, 2017 – February 28, 2020)
 3. G03-02-01 Force Options (effective October 16, 2017 – February 28, 2020)
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State Law

1. 720 ILCS 5/12-1(a) Assault
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V. INVESTIGATION¹

a. Interviews²

██████████³ gave a digitally recorded statement to COPA on October 30, 2019. The following is a summary of his statement.

██████████ is 14 years old and lives with his mother, Maria Mascorro, his brother ██████████,⁴ his cousin ██████████ and other relatives at ██████████. On the date of the incident, ██████████ and ██████████ were playing basketball in the alley between Rutherford and Oak Park Avenue on 56th Street, where they had played basketball on previous occasions. While playing basketball, ██████████ and ██████████ bounced the ball against the brick of side of a garage. ██████████ said that he did not bounce the ball against the windows in the garage.

Sergeant Gorzkowski pulled up in a gray Jeep and yelled at ██████████ and ██████████, claiming that they broke a garage window. ██████████ knew that the garage window was already broken because ██████████ and ██████████ had played basketball days before and the window was broken at that time. Sergeant Gorzkowski told them to go tell the owners that they broke the window and ██████████ told him that it was already liked that. ██████████ stated that Sergeant Gorzkowski began yelling louder. ██████████ responded by asking Gorzkowski, “Who the ‘f’ are you?”⁵ Sergeant Gorzkowski then got out of his car and said, “Who the ‘f’ are you nigger?”⁶ ██████████ and ██████████ said nothing in response and walked away toward their home. ██████████ did not call Sergeant Gorzkowski a “nigger.” As he and ██████████ walked away, Sergeant Gorzkowski got back in his car and followed them

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

² COPA was unable to obtain the statement of ██████████, who is a minor and was present during the incident.

³ Att. 8, (Audio) statement of ██████████.

⁴ ██████████ is referred to as ██████████, which is his middle name.

⁵ Att. 8, 5:09.

⁶ Att. 8, 5:29.

out of the alley and onto the street. During the exchange in the alley, Sergeant Gorzkowski did not identify himself as police.

When [REDACTED] arrived home, he told his mother what happened and what Sergeant Gorzkowski said to them. [REDACTED] and his girlfriend were also home heard what [REDACTED] said. [REDACTED] and Officer Mascorro went outside to look for Sergeant Gorzkowski. [REDACTED] accompanied them outside to show his mother and brother who Sergeant Gorzkowski was.

[REDACTED] said that Sergeant Gorzkowski was driving around outside looking for him and [REDACTED]. When Sergeant Gorzkowski saw [REDACTED], he pulled over. [REDACTED] pointed out Sergeant Gorzkowski's car to his mother and [REDACTED]. Sergeant Gorzkowski attempted to get out of his car, but [REDACTED] held the door shut. [REDACTED] did not see Sergeant Gorzkowski's legs. [REDACTED] heard [REDACTED] say, "Why are you calling my brother a nigger?"⁷ Sergeant Gorzkowski tried to attack [REDACTED]. [REDACTED] further said that Sergeant Gorzkowski's was holding the gun, arms extended, aimed at [REDACTED]'s head. His mother tried to pull Sergeant Gorzkowski off [REDACTED] and Sergeant Gorzkowski hit her. [REDACTED] did not see Sergeant Gorzkowski with a gun until this time. [REDACTED] stated that Sergeant Gorzkowski identified himself as police after he pulled out his gun. After Sergeant Gorzkowski pulled out his gun, his mother explained to him that she is also a cop and Sergeant Gorzkowski then put his gun away.

Officer Maria Mascorro⁸ gave a digitally recorded statement to COPA on October 30, 2019. The following is a summary of her statement.

Officer Mascorro resides with her parents, her children, her nephew, and her niece. Officer Mascorro verified that [REDACTED] (who goes by his middle name "[REDACTED]"), [REDACTED], and [REDACTED] are her children and that [REDACTED] is her nephew. Prior to the incident, Officer Mascorro had never seen Sergeant Gorzkowski.

On the day of the incident, [REDACTED] and [REDACTED] had been playing basketball in the alley between Oak Park Avenue and Rutherford Avenue using a basketball hoop of a kid that they know. Officer Mascorro stated that [REDACTED] and [REDACTED] often played basketball in that alley.

[REDACTED] and [REDACTED] entered the house and [REDACTED] said a man in a gray Jeep called him a "nigger."⁹ When [REDACTED] and [REDACTED] entered the house, Officer Mascorro was in the kitchen with her eldest son, [REDACTED], and his girlfriend. [REDACTED] told her that when [REDACTED] and [REDACTED] were playing basketball, Sergeant Gorzkowski came up to them and said, "What the fuck are you guys doing in my alley,"¹⁰ to [REDACTED]. [REDACTED] then asked Sergeant Gorzkowski who he was, and Sergeant Gorzkowski responded, "You shut the fuck up, I'm not talking to you nigger."¹¹ [REDACTED] said that after they had words, he and [REDACTED] walked away and came home. Officer Mascorro stated that after [REDACTED] told them what happened, [REDACTED], [REDACTED] and [REDACTED] left the house to return to the alley where the confrontation with Sergeant Gorzkowski occurred. Officer Mascorro

⁷ Att. 8, 7:43.

⁸ Att. 12. (Audio), Statement of Officer Mascorro.

⁹ Att. 12, 5:08.

¹⁰ Att. 12, 9:12.

¹¹ Att. 12, 9:29.

followed them in a car driven by a friend of her son, named [REDACTED]. Officer Mascorro stated that when they arrived at the alley, no one was there.

As they were returning from the ally, with [REDACTED], [REDACTED] and [REDACTED] walking, they saw a Jeep travelling north on Oak Park Avenue. The Jeep pulled over at the corner. Officer Mascorro then heard [REDACTED] identify the man in the Jeep, and [REDACTED] ran to the Jeep. [REDACTED] pulled up behind Sergeant Gorzkowski's Jeep. As Officer Mascorro was getting out of the car, she saw [REDACTED] back away from the Jeep and saw Sergeant Gorzkowski pointing a gun at him. Officer Mascorro then ran towards [REDACTED] and Officer Gorzkowski. As she ran, Officer Mascorro heard [REDACTED] say, "my mom's the police too."¹² Officer Mascorro said that she saw that [REDACTED] had his hands up and that she heard Sergeant Gorzkowski say, "I'll lay you out"¹³ while pointing his gun at [REDACTED]. During the statement, Officer Mascorro demonstrated how Sergeant Gorzkowski pointed the gun by making a gun gesture with her fingers and holding her hands out at face-level.¹⁴ Officer Mascorro stated that she did not consider pointing a gun straight at face level to be in "low-ready" position. Officer Mascorro described "low-ready" as holding your gun at your chest, facing down. Officer Mascorro stated that [REDACTED] did not have a weapon. She further stated that [REDACTED] and [REDACTED] were standing near Sergeant Gorzkowski's car when Sergeant Gorzkowski was interacting with [REDACTED].

Officer Mascorro said that as she was running to get between [REDACTED] and Sergeant Gorzkowski, she was screaming, "Hey, I'm the police, I'm the police!"¹⁵ but with tunnel vision it was possible that Sergeant Gorzkowski did not hear her. When Officer Mascorro reached Sergeant Gorzkowski, she touched him and he then turned around and swung his left arm, hitting her near her nose. Officer Mascorro stated that everything happened fast and was intense. After she identified herself, Sergeant Gorzkowski put his gun away and said, "let's talk."¹⁶

After the incident with [REDACTED], Officer Mascorro stated that she confronted Sergeant Gorzkowski about calling [REDACTED] a "nigger" and that Sergeant Gorzkowski calmly denied it and instead claimed that [REDACTED] called him a "nigger."¹⁷ Officer Mascorro stated that Sergeant Gorzkowski told her that he saw [REDACTED] and [REDACTED] throwing a basketball at his neighbor's window and break the window. Sergeant Gorzkowski told her that all he did was tell [REDACTED] and [REDACTED] that they need to knock on the door of the owner of the garage and let her know that they broke her window.

Officer Mascorro did not believe her kids broke the windows because the windows looked like they had been previously broken. The windows were block glass and she did not think a basketball could break block glass windows. She also said that a neighbor who lives across the alley from the garage said that the windows had been broken "forever."¹⁸ However, Officer Mascorro did agree to pay for damage to the window. Officer Mascorro went with Sergeant Gorzkowski to speak with the garage owner, but she was not home. Officer Mascorro said that

¹² Att. 12, 6:58.

¹³ Att. 12, 7:10.

¹⁴ Att. 12, 14:45.

¹⁵ Att. 12, 7:45.

¹⁶ Att. 12, 7:50.

¹⁷ Att. 12, 17:15.

¹⁸ Att. 12, 18:20.

later, Sergeant Gorzkowski spoke with the owner separately and then called Officer Mascorro to tell her that owner was home and to ask Officer Mascorro to come speak with her. Officer Mascorro, Sergeant Gorzkowski and the owner spoke about paying for the windows.

Officer Mascorro stated that the night of the incident, Sergeant Gorzkowski asked her if she wanted to “get paper or are we good on this?”¹⁹ At that moment, because everyone was fine, Officer Mascorro said “let’s just leave it alone.”²⁰ Officer Mascorro stated that later she spoke with a friend of hers about what happened, and they advised her to report the incident to cover herself.

██████████²¹ gave a digitally recorded statement to COPA on October 30, 2019. The following is a summary of his statement.

██████████ confirmed that he lived with family, including his mother, ██████████ and ██████████. On the day of the incident, ██████████ recalled being at home when ██████████ and ██████████ came running in, scared and out of breath. They said that a man, now known to be Sergeant Gorzkowski, said to them “what the fuck are you doing in my alley”²² and began addressing ██████████ as a “nigger.” ██████████, Officer Mascorro, ██████████ and ██████████ went to the alley where ██████████ and ██████████ had been playing basketball, but they did not see Sergeant Gorzkowski. As they were walking back home, ██████████ and ██████████ said that they saw Sergeant Gorzkowski’s Jeep at 56th Street and Oak Park Avenue.

██████████ was on the west side of the street in front of his house when he saw the Jeep, and he ran over and pushed the driver side door when he saw Sergeant Gorzkowski opened it to get out. Sergeant Gorzkowski looked angry was “trying to get out his car with a purpose, like he was looking at my brother and my cousin.”²³ ██████████ said that he did not let Sergeant Gorzkowski out of the car because he knew that Sergeant Gorzkowski was going to go after his cousin and brother. ██████████ stated that he and Sergeant Gorzkowski were “tussling”²⁴ because Sergeant Gorzkowski was trying to get out of the car and ██████████ was trying to keep him in. ██████████ said at the time he did not know that Sergeant Gorzkowski was a sergeant and for all ██████████ knew Sergeant Gorzkowski was trying to kidnap ██████████ and ██████████. ██████████ confronted Sergeant Gorzkowski in an aggressive manner about what ██████████ and ██████████ told ██████████. ██████████ stated that while he was pushing the Jeep door, he was asking Sergeant Gorzkowski if he called his brother a “nigger.” ██████████ did not recall Sergeant Gorzkowski’s leg being caught in the door when ██████████ pushed the Jeep door.

██████████ said that Sergeant Gorzkowski reached for his gun when ██████████ was pushing the car door, but he did not know at the time that was what the sergeant was reaching for. When Sergeant Gorzkowski got his gun out, he put it in ██████████’s face and began pushing ██████████ and yelling that he was an off duty-sergeant. Sergeant Gorzkowski had not identified his office to ██████████ until he had a gun in ██████████’s face. ██████████ put his hands up when he saw the gun and

¹⁹ Att. 12, 20:00.

²⁰ Att. 12, 20:10.

²¹ Att. 16, (Audio) Statement of ██████████.

²² Att. 16, 3:27.

²³ Att. 16, 4:50.

²⁴ Att. 16, 5:00.

told Sergeant Gorzkowski that his mom was a police officer too. His mother yelled to stop and announced that she was an officer. Sergeant Gorzkowski's back was to his mother and when she approached Sergeant Gorzkowski, the sergeant placed an open hand on her face and pushed. ██████ stated that he did not have a weapon.

Accused **Sergeant Gorzkowski**²⁵ provided a digitally recorded statement to COPA on December 4, 2019. Prior to providing a statement Sergeant Gorzkowski reviewed case reports, the notification of charges and allegations and BWC video. The following is a summary of his statement.

Sergeant Gorzkowski was off-duty at the time of the incident. He had just finished cutting his lawn and got in his truck, a silver Jeep Grand Cherokee. Sergeant Gorzkowski drove into the alley behind his street to put the truck in his garage. While at the south-end of the alley, Sergeant Gorzkowski saw ██████ and ██████ in the alley toward the north end of the alley. As he got closer, he saw one of them was throwing a basketball with great force against something. Sergeant Gorzkowski described the motion as a "crow hop" throwing motion (running start, hop, overhand throw), like a baseball outfielder would make. Sergeant Gorzkowski's garage was toward the middle of the block and as he approached his garage, he was able to observe ██████ and ██████ more closely. Sergeant Gorzkowski saw between four to six throws. Initially he could not see what the boys were hitting in the alley, but as he got closer, he saw them break the glass window of ██████'s garage, which was approximately three houses from the north end of the alley. Sergeant Gorzkowski saw the glass fall from the wall onto the pavement. Sergeant Gorzkowski stated that the ball was absorbed into the glass. Sergeant Gorzkowski drove up parallel to ██████ and ██████ and rolled down the passenger-side window. The driver-side window was already down.

Sergeant Gorzkowski told ██████, that he thought it would be a good idea if he knocked on the homeowner's door and tell her that they broke the window. ██████ did not respond, so Sergeant Gorzkowski repeated the suggestion. Sergeant Gorzkowski did not recall exactly what ██████ said in response, but recalled that his response included words to the effect of "what are you talking about nigger."²⁶ Sergeant Gorzkowski stated that this stuck out in his mind because of the boy's age and because he was speaking back to an adult. Sergeant Gorzkowski stated that he did not direct the word "nigger" at either boy or use the word at all during the incident.²⁷ Sergeant Gorzkowski then asked the boy where he lived, and the boy did not respond. Sergeant Gorzkowski asked the boy again where he lived. Sergeant Gorzkowski's intention was to find out where the boys lived and talk to their parents. He explained that there had been problems in the at alley with kids before and that kids would use the basketball hoop across from ██████'s garage as a ruse to hang out and not to play basketball. Sergeant Gorzkowski's initial thought was that ██████ and ██████ may live where the basketball hoop was located. Sergeant Gorzkowski stated that he identified himself as an officer to ██████ and ██████ after ██████ made a remark to him.

Sergeant Gorzkowski stated that the boys then began to run north. He drove his truck north to the mouth of the alley but stated that the boys were nowhere in sight. Sergeant Gorzkowski then

²⁵ Att. 5, (Audio) Statement of Sergeant Gorzkowski.

²⁶ Att. 5, 12:54.

²⁷ Att. 5, 15:15.

made a left onto 56th Street, planning to knock on the door of the house where the basketball hoop was located. However, because Oak Park Avenue runs north, Sergeant Gorzkowski could not turn south onto the block. He had to travel about three blocks before he was able to turn southbound to 57th Street back to Oak Park Avenue, and pull up in front of the house with the basketball hoop. Sergeant Gorzkowski estimated that it took about a minute and a half to arrive at the house after leaving the alley.

As Sergeant Gorzkowski was preparing to exit his car to ring the bell of the house with the basketball hoop, he saw [REDACTED] and [REDACTED] walking west on 56th Street, approaching Oak Park Avenue. Sergeant Gorzkowski stated that the boys then made a right turn toward 55th Street and Oak Park Avenue. Sergeant Gorzkowski lost sight of [REDACTED] but stopped [REDACTED] as he walked down Oak Park Avenue. Sergeant Gorzkowski parked, rolled down his passenger-side window and asked [REDACTED] again where he lived as [REDACTED] continued to walk. Sergeant Gorzkowski then heard screaming to his left and saw [REDACTED] running across the street charging toward his car.

[REDACTED] was flailing his arms in a manner that caused Sergeant Gorzkowski to believe that [REDACTED] was trying to make contact with Gorzkowski's face. Sergeant Gorzkowski attempted to exit his car and placed his left foot down on the ground while his right foot was still in the car. Sergeant Gorzkowski had cracked the door half-way open when [REDACTED] began reaching through the driver-side window to make contact with Gorzkowski's upper body. In response, Sergeant Gorzkowski leaned to his right to avoid contact. [REDACTED] was pushing the door hard against Sergeant Gorzkowski's leg. Sergeant Gorzkowski could not recall what [REDACTED] was saying while this was happening but remembered that [REDACTED] was screaming. Sergeant Gorzkowski was also scanning for [REDACTED] and [REDACTED]. Sergeant Gorzkowski said that he repeatedly stated to [REDACTED] that he was an off-duty police officer and directed [REDACTED] to "back the fuck off my vehicle."²⁸

Sergeant Gorzkowski got out of the truck and [REDACTED] took a fighting stance making two fists and said words to the effect of, "let's go motherfucker."²⁹ Sergeant Gorzkowski then identified his office at least two more times. Sergeant Gorzkowski told [REDACTED] to back up but [REDACTED] did not retreat. Sergeant Gorzkowski then pulled his gun out and held it in the direction of [REDACTED] and said "Back the fuck off my vehicle, I'm a police officer."³⁰ Sergeant Gorzkowski said he was still seated in the car when he first put his hand on the gun. Sergeant Gorzkowski could not recall how high he held his gun when he held it in the direction of [REDACTED] but stated that the gun was still holstered. Sergeant Gorzkowski said he realized the gun was still holstered, "when I looked out in front of me, I noticed that the holster was still on the gun because it's meant to wear with a belt and I didn't have a belt on."³¹

Sergeant Gorzkowski said that he told the responding officers that "at the very least I knew I had it [his gun] at the low-ready position."³² Sergeant Gorzkowski described low-ready as

²⁸ Att. 5, 24:05

²⁹ Att. 5, 24:42

³⁰ Att. 5, 25:22.

³¹ Att. 5, 31:00.

³² Att. 5, 39:45.

pointed in someone's direction but at less than 90 degrees and not looking down the sights. Sergeant Gorzkowski demonstrated low-ready during his statement by standing with his right and left arms extend from his body and holding pointed fingers around his mid-abdomen. Sergeant Gorzkowski stated that his arm was extended from his body when he displayed his gun at [REDACTED].

While holding the gun, Sergeant Gorzkowski felt someone grab his left arm and his first thought was that it was either [REDACTED] or [REDACTED] trying to attack him from behind. Sergeant Gorzkowski stuck out his hand and stepped forward to create distance between him and whoever was grabbing him. He turned around and saw Officer Mascorro. Sergeant Gorzkowski stated that he made contact with Officer Mascorro, not with force, but to create distance. He identified himself as an off-duty police officer and told Officer Mascorro to back away from him. Officer Mascorro then identified herself as an off-duty officer too. Sergeant Gorzkowski stated that he then tried to deescalate and that Officer Mascorro told him that she was [REDACTED]'s mother. Sergeant Gorzkowski told Officer Mascorro to tell [REDACTED] to retreat. Officer Mascorro called off [REDACTED].

Sergeant Gorzkowski and Officer Mascorro then had a conversation. Sergeant Gorzkowski stated that Officer Mascorro denied that [REDACTED] and [REDACTED] broke the window and Sergeant Gorzkowski suggested he and Officer Mascorro go to the alley to have a look.

Sergeant Gorzkowski knocked on [REDACTED]'s door but [REDACTED] did not answer. Sergeant Gorzkowski then called [REDACTED] and told her what happened and asked her when she would be home. During this conversation, [REDACTED] asked Sergeant Gorzkowski if he could be present during the conversation between [REDACTED] and Officer Mascorro. Sergeant Gorzkowski and Mascorro exchanged numbers and agreed to speak with [REDACTED] when she came home. When [REDACTED] came home fifteen minutes later, Sergeant Gorzkowski called Officer Mascorro and they walked over to [REDACTED]'s house. Sergeant Gorzkowski, [REDACTED] and Officer Mascorro met in the alley behind [REDACTED]'s house and had a conversation about what happened. [REDACTED] and Officer Mascorro came to an agreement that Officer Mascorro would partially pay for the windows.

Sergeant Gorzkowski asked Officer Mascorro several times on the night of the incident if she wanted to file a police report and Officer Mascorro said no. The next day, Sergeant Gorzkowski filed a police report after he received a text from Officer Mascorro stating that she spoke to a commander friend that suggested she should "make paper." Sergeant Gorzkowski called the 008th District and requested someone come to scene for a report. Sergeant Gorzkowski thought it would be best for transparency sake to document the Criminal Damage to Property and the Aggravated Battery and Assault to Sergeant Gorzkowski. Sergeant Gorzkowski and Officer Mascorro had a conversation while waiting for officers to arrive on scene. Sergeant Gorzkowski asked Officer Mascorro the identity of her commander friend. In response, Officer Mascorro told Sergeant Gorzkowski that because she works at headquarters, she had close relationships with high ranking members and would not be found at fault for the incident. Sergeant Gorzkowski believed Officer Mascorro told him this information as an intimidation tactic. Sergeant Gorzkowski also wanted a log number initiated after learning that Officer Mascorro had a log number initiated. Sergeant Gorzkowski stated he wanted a log number to record Officer Mascorro impeding his investigation by grabbing Sergeant Gorzkowski's arm when he was with [REDACTED] and for trying to intimidate him by making comments that she had relationships with high ranking officers.

Sergeant Gorzkowski provided investigators with a copy of a text Officer Mascorro sent to Sergeant Gorzkowski.

b. Digital Evidence

Video³³ from a private home video camera mounted on a garage in the alley located at [REDACTED]³⁴ was submitted by Officer Mascorro. The camera is pointing north, looking towards 56th Street. Officer Mascorro said in her statement that the footage was given to her by a neighbor. The video is approximately 5:00 minutes long. The video shows [REDACTED], holding a basketball, and [REDACTED] walking north down the alley and turning left onto 56th Street. Thirty seconds later, a gray Jeep appears also heading north, with only the driver's arm (presumably Sergeant Gorzkowski's) visible. It pauses and then also turns left. About a minute later, a gray Jeep passes the alley heading east on 56th Street. Three minutes into the video, a man in shorts and a white shirt, believed to be [REDACTED], points east while walk eastbound on 56th Street. A dark-colored car then drives into the alley from the north and stops in the mouth of the alley. [REDACTED] runs past the car and the driver of the car appears to say something to him. [REDACTED], [REDACTED] and Officer Mascorro then appear and climb into the car. [REDACTED] comes back in to view and climbs into the car. Seconds later, [REDACTED] jumps out of the car and runs west on 56th Street, followed by [REDACTED] and [REDACTED].

Body Worn Camera³⁵ (BWC) video from the cameras of members called to the scene the day after the incident by Sergeant Gorzkowski record Sergeant Gorzkowski's and Officer Mascorro's conversation with Sergeant James Gallagher ("Sergeant Gallagher") as well as the responding officers' investigation of the damage to the block glass windows of [REDACTED]'s garage.

Sergeant Gorzkowski and Officer Mascorro are standing on the corner of Oak Park Avenue and 56th Street speaking with Sergeant Gallagher. Sergeant Gorzkowski is wearing a green tee shirt and black shorts. Officer Mascorro is wearing a striped tee shirt and denim shorts. Sergeant Gorzkowski relays to Sergeant Gallagher his version of the events involved in the incident. What Sergeant Gorzkowski tells Sergeant Gallagher is largely consistent with what he told COPA in his statement.

Of note in the BWC, Sergeant Gorzkowski demonstrates a boxing stance that he states [REDACTED] took, with two fists placed near his face. Sergeant Gorzkowski states that [REDACTED] did not know that he was the police when he closed the door on his leg but that when Sergeant Gorzkowski gets out of the car he states, "Back the fuck off, I'm the police."³⁶ Sergeant Gorzkowski then states that when [REDACTED] began to close in on him, Sergeant Gorzkowski grabbed his gun and repeated the command to "back the fuck off." When Sergeant Gorzkowski states he grabbed his gun, he gestures holding his gun close to his body and mid-level on his chest with his right hand. He then states that he was holding his gun, which was still holstered, in "low-ready" position. He tells Sergeant Gallagher that he pulled his gun out when [REDACTED] refused to back off after Sergeant Gorzkowski told [REDACTED] that he was police. Officer Mascorro interjects that what Sergeant

³³ Att. 39, Garage security camera video clip.

³⁴ The exact address was determined after a review of the video and using Google Maps Street View.

³⁵ Atts. 19 – 24.

³⁶ Att. 22, T22:04:35Z.

Gorzkowski described is not what she saw happen. Sergeant Gorzkowski states that when Officer Mascorro approached him, he thought it was one of the kids and demonstrates a shoulder-height shoving motion with his right hand that he used on Officer Mascorro. Sergeant Gorzkowski also states that he did not know why Officer Mascorro got involved. In response, Officer Mascorro becomes agitated and states, “You had your gun on him!”³⁷

Sergeant Gorzkowski admits that there was preexisting damage to ██████’s garage windows that was cemented over but states that after talking to ██████ he believed two windows were broken by ██████ and ██████.

Sergeant Gorzkowski also relays to Sergeant Gallagher the actions taken by himself, Officer Mascorro and ██████ to resolve the matter. Sergeant Gorzkowski’s statements on this matter are consistent with what he stated to COPA.

As Sergeant Gallagher takes a statement from Sergeant Gorzkowski, responding Officers Sankovich and Thiry stand to the side. Sergeant Gallagher asks for ██████’s address and directs Officer Sankovich and Officer Thiry to look at the damage to ██████’s garage. The officers walk to ██████’s garage and examine the damage to the block glass. They conclude some damage could have been caused by ██████ and ██████ and some damage that was old and that appeared to be the result of the windows being shot with something. The officers then walk to the front of ██████’s home to speak with her, but no one answers. Moments later, the officers return to the garage with Sergeant Gallagher to examine the damage. Sergeant Gallagher and the officers return to the corner where Sergeant Gorzkowski and Officer Mascorro are standing. Sergeant Gallagher tells Sergeant Gorzkowski that it is difficult to tell if there is fresh damage to the glass block windows. Sergeant Gallagher states that the report would state that Sergeant Gorzkowski was examining a potential Criminal Damage to Property and someone later slams a door on his leg. Sergeant Gorzkowski adds that Officer Mascorro grabbed his arm. Sergeant Gallagher asks Officer Mascorro if she grabbed Sergeant Gorzkowski’s arm and she admits that she did. She said she did so while yelling, “Stop! Stop!” because Sergeant Gorzkowski had a gun pointed at ██████’s face. Officer Mascorro demonstrates how Sergeant Gorzkowski was holding the gun by holding her right arm straight out at chest level.³⁸

Sergeant Gorzkowski calls ██████ to get her permission to include her name and number for a report for Criminal Damage to Property and she agrees. Sergeant Gallagher also calls ██████ to verify that she gave permission for the report.³⁹ Sergeant Gorzkowski tells Sergeant Gallagher that he was filing a report because Officer Mascorro got a commander involved. Sergeant Gallagher confirms with Sergeant Gorzkowski that he wants to report that Officer Mascorro interfered with his investigation of Criminal Damage to Property and for Officer Mascorro to be listed as a witness.

Photographs of the broken block glass window were submitted by Officer Mascorro.⁴⁰ Four blocks of glass in the window in a square pattern are shown. The top right block has been

³⁷ Att. 22, T22:16:10Z.

³⁸ Att. 19, T22:24:27Z.

³⁹ Att. 23, T22:52:36Z.

⁴⁰ Atts. 33-38.

cemented over, the top left and bottom right blocks are cracked, and the bottom left block is broken. Also, photographs of an injury to Officer Mascorro's nose⁴¹ were taken on September 20, 2019, by a Department evidence technician and are included in the record.

c. Documentary Evidence

An **Original Case Incident Report**⁴² was completed on September 20, 2019. It lists Sergeant Gorzkowski as a victim of Simple Battery and Aggravated Assault to a Police Officer. The report lists [REDACTED], as a victim of Criminal Damage to Property. The suspects listed are [REDACTED], [REDACTED] and [REDACTED]. The report's narrative contains a summarized version of the statement Sergeant Gorzkowski gave to Sergeant Gallagher captured by BWC.

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 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

⁴¹ Att. 4

⁴² Att. 6.

Allegation 1, that Sergeant Gorzkowski committed misconduct by stating words to the effect of “Who the fuck are you nigger?” at ██████████ is **Not Sustained**.

██████████, who is of African American and Hispanic descent, alleges that Sergeant Gorzkowski leveled the racial slur, “nigger” in his direction. The slur is generally understood to disparage African Americans. Directing race-based, verbally abusive language toward a citizen violates Rule 2 of the Department’s Rules and Regulations which prohibits “any action or conduct that impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”⁴³ Directing such language at citizens also violates Rule 9 of the Department’s Rules and Regulations which prohibits “engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”⁴⁴

Sergeant Gorzkowski denies directing the slur at ██████████ and indicates that it was in fact ██████████ who used the slur. There is no verifiable evidence to prove what was said. All things being equal, COPA finds that Sergeant Gorzkowski and ██████████ are equally credible in their accounts of this allegation. Therefore, COPA is unable to determine that Sergeant Gorzkowski directed the racial slur in the direction of ██████████. COPA finds this allegation is **Not Sustained**.

Allegation 2, that Sergeant Gorzkowski committed misconduct by displaying his gun at or in the direction of the head of ██████████, without justification, is **Sustained**.

Department members are authorized to use force that is objectively reasonable, necessary under the circumstances and proportional to the threat.⁴⁵ Consistent with this directive, Rule 38 forbids CPD members from using or displaying their weapons unnecessarily. The available evidence indicates that it is more likely than not that Sergeant Gorzkowski displayed his gun at or in the direction of ██████████’s head and that Sergeant Gorzkowski’s actions were not justified.

██████████’s claim that the gun was pointed at him is corroborated by ██████████ and Officer Mascorro, who were present during this portion of the incident. In her statement to COPA, Officer Mascorro demonstrated how she recalled Sergeant Gorzkowski holding the gun (straight, with arms extended from the chest), in the same manner she demonstrated it to Sergeant Gallagher the day after the event. The allegation is also substantially corroborated by Sergeant Gorzkowski, who demonstrated to COPA holding the gun with his arms extended. Conversely, he demonstrated to Sergeant Gallagher that he held the gun with his arms close to his body and with his finger pointed down. Officer Mascorro also distinguished the low-ready posture from the pointing posture she stated she saw Sergeant Gorzkowski take. Further, Sergeant Gorzkowski told COPA that he held his gun “*at the very least*” at low-ready thus implying the possibility that he was pointed the gun at ██████████ head in the ready position. For these reasons, there is sufficient evidence to conclude that Sergeant Gorzkowski displayed his gun at or in the direction of the head of ██████████.

With respect to whether Sergeant Gorzkowski was justified in displaying his gun, the evidence shows that Sergeant Gorzkowski was not justified. There is no indication or claim that ██████████ (or ██████████ and ██████████ for that matter) possessed any weapon during this incident. It is

⁴³ Chicago Police Department, Rules of Conduct, Rule 2.

⁴⁴ Chicago Police Department, Rules of Conduct, Rule 9.

⁴⁵ G03-02.

undisputed that █████ pressed Sergeant Gorzkowski's car door to keep Sergeant Gorzkowski from exiting the car and that █████ confronted Sergeant Gorzkowski in an aggressive manner about the alleged racial slur. █████ also admits to tussling with Sergeant Gorzkowski to keep him in the car. However, █████ states that he was unaware that Sergeant Gorzkowski's leg was in the door and that Sergeant Gorzkowski did not announce his office until Sergeant Gorzkowski had his gun in █████'s face. Sergeant Gorzkowski told COPA that he announced his office to █████ repeatedly while in his car. However, BWC video records Sergeant Gorzkowski stating to Sergeant Gallagher that █████ did not know that Sergeant Gorzkowski was an officer until Sergeant Gorzkowski exited his car.

In any event, Sergeant Gorzkowski, who was in a car when the confrontation with █████ began, could have chosen to deescalate the situation in a manner that made his decision to display his firearm in the direction of █████'s head unnecessary and inappropriate. Once Sergeant Gorzkowski freed his leg from the door, he could have stayed in the car, shut the door, rolled up the window and spoke to █████ from inside instead of choosing to increase the level of confrontation by stepping out of his vehicle to engage █████. If necessary, he could have driven away. Even if shutting the door and talking from within the car was not an available option, Sergeant Gorzkowski could have also chosen not to display his gun at all, let alone in the direction of █████'s head. The fact that the gun may have been holstered is of no consequence, as Sergeant Gorzkowski did not realize that until after he had displayed the gun at █████. Nothing in the available evidence indicates that the descriptions of how Sergeant Gorzkowski pointed his gun at █████ by █████, █████ and Officer Mascorro is less credible than that of Sergeant Gorzkowski's description. On the other hand, Sergeant Gorzkowski's inconsistent statements and demonstrations about how he held the gun and when he identified himself as a Department member render him less credible on this issue. COPA finds this allegation is **Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant Timothy Gorzkowski

i. Complimentary and Disciplinary History

Sergeant Gorzkowski has been a member of the Chicago Police Department since November 24, 2003. Since that time, he has received one Special Commendation; one Life Saving Award; 11 Department Commendations; two Problem Solving Awards; one Honorable Mention Ribbon Award; 144 Honorable Mentions; two Complimentary Letters; two Joint Operations Awards; one Unit Meritorious Performance Award; four Attendance Recognition Awards; three Crime Reduction Awards (2004, 2009, 2019); one NATO Summit Service Award; one Presidential Election Deployment Award (2008); one Recognition / Outside Governmental Agency Award; six Emblems of Recognition – Physical Fitness; and one Other Award. Sergeant Gorzkowski does not have any history of sustained complaints or SPARs.

ii. Recommended Penalty

COPA recommends that Sergeant Gorzkowski receive a 2-day Suspension. COPA has considered his significant complimentary history and the lack of any disciplinary history in

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	Vanessa McClinton-Jackson
Supervising Investigator:	Loren Seidner
Deputy Chief Investigator:	Angela Hearts-Glass