

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date / Time of Incident:	May 9, 2018 / 8:18 am
Location of Incident 1:	3707 W. Lexington St., Chicago, IL 60624
Location of Incident 2:	3151 W. Harrison St., Chicago, IL 60612
Date / Time of COPA Notification:	May 9, 2018 / 11:51 am

On May 9, 2018, Mr. [REDACTED] was arrested for armed robbery under the alias “John Doe.” [REDACTED] alleged that once at the 11<sup>th</sup> District Station, Officer Robert Rimsky used excessive force while Officer Michael Renkosiak watched. [REDACTED] reported the abuse to Sergeant Brian Schnier, who submitted an Initiation Report. After reviewing Body Worn Camera (BWC) and available evidence, COPA also alleged that Officer Rimsky engaged in verbal abuse and Sergeant Schnier did not appropriately complete the Initiation Report.

**II. INVOLVED PARTIES**

Involved Member #1:	Sergeant Brian Schnier / Star#1273 / Employee ID#[REDACTED] / DOA: November 30, 1988 / Unit 011 / Male / White.
Involved Member #2:	Officer Robert Rimsky / Star#4583 / Employee ID#[REDACTED] / DOA: June 29, 2015 / Unit 011 / Male / White.
Involved Member #3:	Officer Michael Penkosiak / Star#11579 / Employee ID#[REDACTED] / DOA: June 29, 2015 / Unit 011 / Male / White.
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1990, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Incident 1		
Officer Rimsky	1. Called [REDACTED] words to the effect of a, “fucking retard,” in violation of Rules 2, 3, 6 and 8.	Sustained / 60-day suspension.
	2. Described [REDACTED] with words to the effect of, “female as hell,” in violation of Rules 2,3, 6 and 8.	Sustained / 60-day suspension.

Incident 2		
Officer Rimsky	3. Pulled ██████████ to the ground, in violation of Rules 6 and 9. 4. Knead ██████████ in the face, in violation of Rules 6 and 9. 5. Refused to identify yourself to ██████████ ██████████ in violation of Rule 37. 6. Failed to complete a Tactical Response Report (TRR) for the use of force against ██████████ ██████████ in violation of Rule 6.	Not Sustained Not Sustained Not Sustained Not Sustained
Officer Renkosiak	1. Failed to report excessive force you observed Officer Robert Rimsky (Star #4583) use against ██████████ in violation of Rules 6 and 22.	Not Sustained
Sergeant Schnier	1. Failed to fully include all available facts known to Sergeant Schnier in the completion of the Initiation Report for Log #1089400. Specifically, Sergeant Schnier did not include the name of the accused: Officer Robert Rimsky, Star #4583, in violation of Rules 2, 3 and 6.  2. Failed to ensure that Officer Robert Rimsky, Star #4583, completed a Tactical Response Report (TRR) following Officer Rimsky's use of force against ██████████ in violation of Rules 2, 3 and 6.	Sustained / 3-day suspension.  Not Sustained

#### IV. INVESTIGATION<sup>1</sup>

##### a. Interviews

COPA interviewed ██████████ on July 1, 2019.<sup>2</sup> On May 9, 2018, ██████████ was in a room at CPD's 11<sup>th</sup> District, with his right hand handcuffed to a bench. Officer Robert Rimsky and Michael Penkosiak (collectively "the Officers") entered the room, asked ██████████ questions to determine his identity. ██████████ refused to answer questions. The Officers did this about three more times and on the last occasion, Officer Rimsky asked ██████████ to lift his up his jacket sleeve; however, ██████████ ignored the request. Officer Rimsky forcefully pulled a handcuffed ██████████ from the bench and kned him in the face before looking at his tattoos. Officer Rimsky then left the room. ██████████ explained that Officer Penkosiak witnessed the use of force while he stood by the door. After approximately 15 minutes, ██████████ asked for medical care. ██████████ alleged that his nose was bleeding, and his wrist was dripping blood. ██████████ informed Sergeant Brian

<sup>1</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>2</sup> Att. 32.

Schnier of the incident. [REDACTED] was taken to Mt. Sinai Hospital, where he was told he had a nose fracture and abrasions on his right wrist. [REDACTED] clothing and shoes were removed when he was at the hospital, and he was not allowed to put his shoes back on when he was leaving the hospital. [REDACTED] returned to the police station and while he was being escorted back inside, [REDACTED] saw Officer Rimsky and asked his name, but Officer Rimsky ignored the request. [REDACTED] related he was processed as John Doe because he refused to give his name to either the police or medical staff.

COPA interviewed **Officer Robert Rimsky**<sup>3</sup> December 10, 2019. After watching his own BWC, Officer Rimsky stated [REDACTED] jeopardized his own life and the life of others, and he called [REDACTED] behavior retarded. When asked if understood the term could be derogatory to individuals with cognitive and mental disabilities, Officer Rimsky relayed that he was remarking about [REDACTED] behavior.<sup>4</sup> When asked why he described [REDACTED] as “female as hell,” Officer Rimsky could not recall. After conferring with his attorney, Officer Rimsky relayed that he used a poor choice of words.<sup>5</sup> Officer Rimsky apologized for his unprofessional comments.

Once at the station, Officer Rimsky could not recall his exact role in processing [REDACTED] arrest. Officer Rimsky denied being in a processing room with [REDACTED] Officer Rimsky did not recall having either a verbal or physical interaction with [REDACTED] at the station. Officer Rimsky did not believe he looked at [REDACTED] arms for tattoos. Officer Rimsky did not know how [REDACTED] got onto the floor of a processing room and denied pulling [REDACTED] or otherwise causing [REDACTED] to end up on the floor. Officer Rimsky denied kneeling [REDACTED] face. After watching a portion of Officer Aguilar’s BWC, Officer Rimsky did not know how [REDACTED] coat came partially off, and Officer Rimsky denied interacting with [REDACTED] during the timeframe in which [REDACTED] injuries allegedly occurred. Officer Rimsky did not observe any injuries to [REDACTED] When showed an ET photo of [REDACTED] wrist, Officer Rimsky did not know how [REDACTED] wrist was injured and denied seeing it in that condition.<sup>6</sup> Officer Rimsky did not go to the hospital and did not know what happened to [REDACTED] shoes. Officer Rimsky denied seeing [REDACTED] upon [REDACTED] return from the hospital and denied that he refused to identify himself to [REDACTED] Officer Rimsky did not complete a Tactical Response Report (“TRR”), because he did not use force while interacting with [REDACTED]

COPA interviewed **Sergeant Brian Schnier**<sup>7</sup> on September 18, 2019. While Sgt. Schnier was doing paperwork at the police station, an officer told him [REDACTED] was not providing his name and wanted to speak with a sergeant. Based on his own BWC, Sgt. Schnier was in a processing room with [REDACTED] and read [REDACTED] his Miranda Rights. [REDACTED] informed Sgt. Schnier that he was brutalized by an officer while he was in the processing room. After moving [REDACTED] handcuffs, Sgt. Schnier saw a gash on [REDACTED] wrist. Sgt. Schnier did not observe anything wrong with [REDACTED] nose. Sgt. Schnier asked officers if they knew anything. No one did, and Sgt. Schnier had officers bring [REDACTED] to the hospital. Sgt. Schnier asserted it was his job to take [REDACTED] complaint, not to identify the accused. Sgt. Schnier was unaware of Officer

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<sup>3</sup> Att. 51.

<sup>4</sup> Att. 51 at 06:40.

<sup>5</sup> Att. 51 at 08:14.

<sup>6</sup> Att. 57.

<sup>7</sup> Att. 45.

Rimsky attempting to document [REDACTED] tattoos. Sgt. Schnier denied seeing Officer Rimsky use force against [REDACTED]. Sgt. Schnier related Officer Rimsky did not complete a TRR because Officer Rimsky never told him he used force and because the force alleged was not related to a valid law enforcement purpose. Sgt. Schnier related that, as seen in Officer Renkosiak's BWC, he told [REDACTED] the name Rimsky while [REDACTED] was leaving the hospital. Sgt. Schnier elaborated that [REDACTED] said a name like "Rimsky" to Sgt. Schnier and was naming the accused officer. Sgt. Schnier related he made an error in his Initiation Report by not including Officer Rimsky. Sgt. Schnier denied engaging in a cover up and admitted he made a mistake. Sgt. Schnier suspected Beat 1164D reported problems with the district when [REDACTED] was being difficult at the hospital.<sup>8</sup> Sgt. Schnier did not know why [REDACTED] did not have his shoes on while leaving the hospital.

COPA interviewed **Officer Michael Renkosiak**<sup>9</sup> on August 26, 2019. Officer Renkosiak was dispatched to an armed robbery call and participated in the foot chase that resulted in [REDACTED] arrest. Officer Renkosiak did not recall being in a processing room with [REDACTED] before escorting [REDACTED] to the hospital. Officer Renkosiak recalled [REDACTED] accused an officer of injuring him, but Officer Renkosiak denied knowing it was Officer Rimsky. Officer Renkosiak did not recall seeing Officer Rimsky touching [REDACTED] and denied seeing Officer Rimsky pull [REDACTED] to the floor or knee [REDACTED] in the face. Officer Renkosiak relayed that [REDACTED] told officers he wanted to go to the hospital. Those officers then told a sergeant. Officer Renkosiak recalled bringing [REDACTED] to the hospital, along with Officer Freller. Officer Renkosiak did not remember seeing any visible injuries on [REDACTED] before going to the hospital.

COPA interviewed **Officer Hector Albizurez**<sup>10</sup> on July 25, 2019. After watching part of Officer Aguilar's BWC, Officer Albizurez believed he was with [REDACTED] in a processing room and searched [REDACTED]. However, Officer Albizurez did not independently recall being in the processing room with [REDACTED]. Officer Albizurez asserted Officer Rimsky was at the station following [REDACTED] arrest, but he did not recall seeing Officer Rimsky with [REDACTED]. After Officer Albizurez was notified for his COPA interview and spoke with a colleague, and he recalled learning from Sgt. Schnier that [REDACTED] alleged a broken his nose. Officer Albizurez denied knowing Officer Rimsky was the accused. Officer Albizurez denied observing the alleged force against [REDACTED] or seeing injuries on [REDACTED].

COPA interviewed **Officer Joseph Freller**<sup>11</sup> on July 25, 2019. Officer Freller did not recall if he saw [REDACTED] at the police station before [REDACTED] went to the hospital. Officer Freller did not recall seeing [REDACTED] with Officer Rimsky or if [REDACTED] complained that an officer used force used against him. Officer Freller denied seeing any officers use force against [REDACTED]. When asked why Beat 1164D reported problems at the district, Officer Freller could not recall what this referred to.<sup>12</sup> Officer Freller did not recall seeing any blood or injuries on [REDACTED]. Officer Freller did not remember hearing [REDACTED] ask Officer Rimsky for his name.

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<sup>8</sup> Att. 7.

<sup>9</sup> Att. 40.

<sup>10</sup> Att. 38.

<sup>11</sup> Att. 36.

<sup>12</sup> Att. 7.

**b. Digital Evidence**<sup>13</sup>

CPD Evidence Technician photos<sup>14</sup> included pictures of ██████████ had a laceration on his right wrist and no signs of injury to his face.

**Body Worn Camera**<sup>15</sup> (BWC) footage depict officers pursuing and ultimately detaining an armed ██████████. Once ██████████ was detained, Officer Rimsky approached and called ██████████ a “fucking retard.”<sup>16</sup> Once ██████████ is secured, officers search the area for discarded evidence. Once the search was complete, members escort ██████████ to a Department vehicle. During the escort, Officer Rimsky remarks that ██████████ is “female as hell.”<sup>17</sup>

Upon arrival at the district station, ██████████ was placed in a holding cell, searched, and handcuffed to a bench.<sup>18</sup> Once ██████████ was secured in the holding cell, Sgt. Schnier entered the cell and provided ██████████ his Miranda Warnings.<sup>19</sup> ██████████ informs Sgt. Schnier that he will not provide his name or any other information until he is given the identity of the members who pulled him from the bench and kned him in the face. Sgt. Schnier asked ██████████ for a description of the member; however, ██████████ did not provide a description but rather requested to see every member that was involved in his incident. Sgt. Schnier then left the room.

After several minutes, Sgt. Schnier returned to the room and informed ██████████ that he would be transported to the hospital. After receiving treatment at Mt. Sinai Hospital, ██████████ complained that his nose was broken, and his shoes were taken. As ██████████ was being escorted to the Department vehicle, he asked Sgt. Schnier what the name of the involved member was again, and Sgt. Schnier responded Rimsky while indicating he had provided the information to ██████████ at least two times prior.<sup>20</sup>

**c. Documentary Evidence**

██████████ Arrest Report,<sup>21</sup> an Original Case Incident Report<sup>22</sup> and Event Query<sup>23</sup> detail that members responded to reports of an armed robbery committed by a black male wearing a white jacket with colored designs who fled towards Polk St.<sup>24</sup> Upon arrival, members located the victim and confirmed the description of the suspect. Members then patrolled the area where they observed a male, ██████████ matching the description of the suspect.<sup>25</sup> Upon observing the members, ██████████ fled on foot. The members pursued ██████████. During the pursuit, ██████████

<sup>13</sup> Atts. 14, 15.

<sup>14</sup> Atts. 8, 9.

<sup>15</sup> Att. 26.

<sup>16</sup> *Id.*, file Rimsky\_2018-05-09\_0816 (1) at 02:58.

<sup>17</sup> *Id.*, file Rimsky\_2018-05-09\_0823 (1) at 01:35.

<sup>18</sup> *Id.*, file Aguilar\_2018-05-09\_0840 from 02:30.

<sup>19</sup> *Id.*, file Schnier\_2018-05-09\_0853 from 01:00.

<sup>20</sup> *Id.*, file Renkosiak\_2018-05-09\_1127 at 01:50. When ██████████ asks for the name, he specifically uses the word “again.”

<sup>21</sup> Att. 4. Since ██████████ refused to provide his name, he is listed on this report as John Doe.

<sup>22</sup> Att. 5.

<sup>23</sup> Att. 7.

<sup>24</sup> Att. 7, pg. 4.

<sup>25</sup> Att. 4, pg. 3.

the stolen discarded a wallet and firearm. ██████ was apprehended<sup>26</sup> and the discarded items were recovered. A show up was conducted, and ██████ was positively identified as the offender. ██████ was then transported to the district station.

**Sgt. Schnier's Initiation Report**<sup>27</sup> details that as Sgt. Schnier was attempted to complete his use of force review for Officer Boyle's TRR, ██████ alleged that an unknown member threw him to the ground injuring his handcuffed wrist. Sgt. Schnier detailed that he observed abrasions to ██████ handcuffed wrist. Sgt. Schnier requested medical treatment for ██████ who was eventually transported by the Chicago Fire Department to Mt. Sinai Hospital. Upon ██████ return from the hospital, he alleged that he suffered a broken nose by the same member who forcefully pulled him from the bench.

██████ **Medical Records**<sup>28</sup> detail that he was uncooperative with CFD personnel as he was transported to Mt. Sinai Hospital and that he only complained of an injured wrist.<sup>29</sup> Additionally, ██████ presented to the hospital emergency room with a complaint of wrist and nose pain.<sup>30</sup> ██████ was diagnosed and treated for comminuted nasal bone fracture with minimal deviation of the nasal septum to the left and abrasions to his right wrist.<sup>31</sup> ██████ medical records also detail that he was unwilling to provide his name to any medical staff.

## V. 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.<sup>32</sup> If the evidence gathered in

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<sup>26</sup> ██████ apprehension was made by Officer Nicholas Boyle using an emergency takedown.

<sup>27</sup> Att. 13.

<sup>28</sup> Atts. 24 and 27.

<sup>29</sup> Att. 24.

<sup>30</sup> Att. 27, pg. 5.

<sup>31</sup> Att. 27, pg. 6 and 7.

<sup>32</sup> *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).

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.<sup>33</sup> 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."<sup>34</sup>

## VI. ANALYSIS AND CONCLUSION

### a. Sgt. Schnier

COPA finds the allegation that Sgt. Schnier failed to fully include all available facts known to him in the completion of the Initiation Report is **sustained**. Supervisory members are required to report "all facts related to the incident known or reported to the member."<sup>35</sup> During his statement, Sgt. Schnier he believed [REDACTED] was referring to Officer Rimsky as the accused member. Additionally, Officer Renkosiak's BWC footage captured Sgt. Schnier provided [REDACTED] with Rimsky's name in response to a request for the identity of the accused member. Finally, Sgt. Schnier admitted to his failure and explained that it was inadvertent. Sgt. Schnier's failure was in violation of Rules 2, 3, and 6.

COPA find that allegation that Sgt. Schnier, that he failed to ensure that Officer Robert Rimsky completed a TRR, is **Not Sustained**. As discussed below, COPA was unable to determine if Officer Rimsky used the alleged force; therefore, COPA cannot determine if a TRR was required to be completed.

### b. Officer Rimsky

COPA finds that the allegations that Officer Rimsky, that he called [REDACTED] "fucking retard" and "female as hell," are **sustained**. Department members are required to "act, speak and conduct themselves in a professional manner" while "maintain[ing] a courteous, professional attitude in all contacts with public."<sup>36</sup> Additionally, members are prohibited from exhibiting a "condescending attitude or direct[ing] any derogatory terms toward any person in any manner."<sup>37</sup> Here, it is undisputed that Officer Rimsky directed derogatory terms to [REDACTED] in violation of Rules 2, 3, 6 and 8.

COPA finds that the allegations related to Officer Rimsky's alleged use of force are **not sustained**. There is not enough evidence to determine if Officer Rimsky did, in fact, used force against [REDACTED] While [REDACTED] did have injuries, the source of those injuries is undetermined.

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<sup>33</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>34</sup> *Id.* at ¶ 28.

<sup>35</sup> G08-01-02, Complaint Initiation and Log Number Investigation Assignment.

<sup>36</sup> G02-01 III(B), Human Rights and Human Resources – effective October 5, 2017, to current.

<sup>37</sup> G02-01 III(D).

Additionally, these an overall lack of evidence corroborating ██████ assertions and the member's; therefore, COPA is unable to determine if the alleged misconduct occurred.

**c. Officer Renkosiak**

COPA finds that the allegation against Officer Renkosiak is **not sustained**. As discussed above, COPA was unable to determine if ██████ was subjected to excessive force by any members. Since COPA cannot determine if ██████ was subjected to any excessive force, COPA cannot determine if Officer Renkosiak had an obligation to report any observations.

**VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Sergeant Schnier**

**i. Complimentary and Disciplinary History**

Sgt. Schnier has received 178 various awards. Additionally, Sgt. Schnier received a 15-day suspension for a 2017 off-duty domestic incident and a reprimand for failing to activate his BWC during a 2019 incident.

**ii. Recommended Penalty**

Here it is undisputed that Sgt. Schnier failed to properly document all the known information in his Initiation Report. While it does appear that Sgt. Schnier's failure was not intentional and more likely a lack of attention to detail, the failure resulted in COPA expending additional resources to identify the accused member, despite the identity being known to the Department. For these reasons, combined with the Sgt. Schnier's history, COPA recommends a **3-day suspension**.

**b. Officer Rimsky**

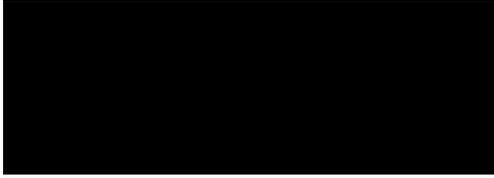
**i. Complimentary and Disciplinary History**

Officer Rimsky has received 45 various awards and has no disciplinary history in the last 5-years.

**ii. Recommended Penalty, by Allegation**

Here it is undisputed that Officer Rimsky used derogatory language directed towards ██████ While Officer Rimsky explained his language as a mistake, it served no purpose other than to insult ██████ Further, Officer Rimsky's language likely inflamed the already adversarial interaction with ██████ and likely contributed to ██████ overall lack of cooperation. For these reasons, combined with Officer Rimsky's history, COPA recommends a **60-day suspension**.

Approved:



1/28/2022

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date