

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	June 24, 2020 / 8:35 pm / 1100 S. Plymouth Ct., Chicago, IL 60605.
Date/Time of COPA Notification:	June 25, 2020 / 1:00 pm.
Involved Officer #1:	Sergeant Paul Schmitz / Star#836 / Employee ID# [REDACTED] / DOA: August 2, 1999 / Unit: 002 (Assigned to 715) / Male / White.
Involved Individual #1:	[REDACTED].
Case Type:	Verbal Abuse; Unjustified Detention.

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Sgt. Paul Schmitz	<p>It is alleged that on or about June 24, 2020, at approximately 8:30 P.M., at or near 1124 S. Plymouth Ct., Sergeant Pal Schmitz committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> <li>1. Detained [REDACTED] without justification.</li> <li>2. Engaged in an unjustified verbal altercation with [REDACTED].</li> </ol> <p>It is alleged by COPA Deputy Chief Matthew Haynam that on or about June 24, 2020, and the days following at various times, Sgt. Paul Schmitz, committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>3. Failed to timely file an Investigative Stop Report by the end of his tour, in violation of Special Order S04-13-09.</li> </ol>	<p>Sustained / 10-Day Suspension and Training</p> <p>Sustained / 10-Day Suspension and Training</p> <p>Unfounded</p>

## II. SUMMARY OF EVIDENCE

On June 24<sup>th</sup>, 2020, Chicago Police Department (“CPD”) members, including Sergeant Paul Schmitz (“Sgt. Schmitz”), responded to service call originating from a individual who claimed a male individual threatened her with a firearm after she asked him and others to stop lighting fireworks.<sup>1</sup> In response, officers from the CPD’s 1<sup>st</sup> District stopped an individual near the location of the call for service and reported over the radio that more potential subjects were heading North on Plymouth Court, including a Black male wearing tan pants and a white shirt.<sup>2</sup> Responding Sgt. Schmitz saw an individual (now known as ██████████ (“██████████”)) matching this description nearby and ordered him to stop and show his hands. Sgt. Schmitz then detained and searched ██████████ for weapons. The search revealed that ██████████ was unarmed and did not appear to possess any fireworks. ██████████ told Sgt. Schmitz he was returning home from riding his bike by Lake Michigan with his friends and that he was not involved with any fireworks.<sup>3</sup>

Meanwhile, additional CPD officers from the 1<sup>st</sup> District arrived. Upon their arrival, ██████████ is standing upright, handcuffed and speaking with Sgt. Schmitz.<sup>4</sup> Approximately 30 seconds later, CPD radio broadcasts the following, “according to [the original complainant] there is no actual crime being committed here.”<sup>5</sup> The radio operator then repeats and confirms saying “okay so no actual crime being committed, 10-4.”<sup>6</sup> Sgt. Schmitz then asks the other officers present, “that’s this?” An officer responds, “yeah.”<sup>7</sup> Sgt. Schmitz then asks the other officers present, “How do you go from someone pointed a gun at me to now there’s no crime?”<sup>8</sup> An officer then asks ██████████ if he and his friends were shooting off fireworks or if he heard fireworks in the area, to which ██████████ responds no to both.<sup>9</sup> Officers then suggest to ██████████ that perhaps one of his neighbors does not like him and/or his friends, and that perhaps this neighbor called the police.<sup>10</sup> Sgt. Schmitz then attempts to explain to ██████████ why he detained him, stating, “somebody called and said a male Black with braids, a white t-shirt and tan pants...” Before Sgt. Schmitz finished, ██████████ interrupts, which appears to frustrate Sgt. Schmitz.<sup>11</sup> Sgt. Schmitz attempts again to explain the detention to ██████████ and seemingly argues with ██████████ regarding ██████████’ understanding of the law and the justification of ██████████’ detention.<sup>12</sup>

Later, nearly three minutes after officers and Sgt. Schmitz were notified that “no crime” was committed, Sgt. Schmitz hears over the radio that ██████████’ name check has returned clear with no warrants.<sup>13</sup> ██████████ then asks Sgt. Schmitz for his badge number. Sgt. Schmitz agrees to provide

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<sup>1</sup> Att. 5, OEMC Event Query Report

<sup>2</sup> Att. 6, Service Call Search Results, Event # ██████████

<sup>3</sup> Att. 11, Mr. ██████████ COPA Statement

<sup>4</sup> Att. 7, at 2m0s on BWC file name 2020-06-24-2039-(1). Note: Sgt. Schmitz was not equipped by the Department with BWC at the time of this incident.

<sup>5</sup> *Id.* at 2m35s.

<sup>6</sup> *Id.* at 2m40s.

<sup>7</sup> *Id.* at 2m45s.

<sup>8</sup> *Id.* at 2m50s.

<sup>9</sup> *Id.* at 3m.

<sup>10</sup> *Id.* at 3m20s.

<sup>11</sup> *Id.* at 3m35s.

<sup>12</sup> *Id.* at 4m.

<sup>13</sup> *Id.* at 5m30s.

the number, but warns ██████, “you’re not to talk to me in any type of way out here” and that ██████ has no reason to be rude because he (Sgt. Schmitz) has been nothing but professional.”<sup>14</sup> ██████ objects, stating upon other things, “that’s not true.” Sarcastically, Sgt. Schmitz then tells ██████ “he’s funny” and to “go watch some more TV.”<sup>15</sup> ██████ responds by telling Sgt. Schmitz he is “pathetic” and that he is a “joke.”<sup>16</sup> ██████ continues, stating “I really don’t care if you just gun me down right here.”

After being detained four minutes after Sgt. Schmitz received the radioed call of “no crime” being committed,” ██████ is uncuffed.<sup>17</sup> When ██████ reaches for his wallet, A frustrated Sgt. Schmitz, responds “can I help you?” and “I’m not done yet, when I’m done, you’ll get your stuff back.”<sup>18</sup>

At the end of Sgt. Schmitz’s interaction with ██████ it appears that Sgt. Schmitz takes a picture of ██████’ ID and tells him to “have a nice day.”<sup>19</sup> ██████ reacts telling Sgt. Schmitz “he can’t do that,” seemingly referring to the picture taken of his ID.<sup>20</sup> Another officer tells Mr. ██████ that Sgt. Schmitz has to do an Investigatory Stop Report to document the stop.<sup>21</sup> Officers then to ██████ why an Investigatory Stop Report has to be completed and why ██████’ ID information is needed.<sup>22</sup> Finally, the recorded interaction ends with officers offer to answer any other questions ██████ has, adding that ██████ is free to go.<sup>23</sup>

### III. 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.

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<sup>14</sup> *Id.* at 5m45s.

<sup>15</sup> *Id.* at 6m.

<sup>16</sup> *Id.* at 6m9s

<sup>17</sup> *Id.* at 6m20s.

<sup>18</sup> *Id.* at 6m22s

<sup>19</sup> *Id.* at 6m50s.

<sup>20</sup> *Id.* at 6m55s.

<sup>21</sup> *Id.* at 7m.

<sup>22</sup> *Id.* at 7m40s.

<sup>23</sup> *Id.* at 8m.

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>24</sup> 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. 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>25</sup>

#### IV. ANALYSIS AND CONCLUSION

COPA finds Allegation #1 against Sgt. Schmitz is **Sustained**. Department members may conduct an Investigatory Stop if the detention is based upon specific and articulable facts which, combined with rational inferences from these facts, gives rise to reasonable articulable suspicion that a crime has been or is about to be committed.<sup>26</sup> Furthermore, during an Investigatory Stop, Department members are permitted to “demand the name and address of the person and an explanation of their actions”<sup>27</sup> In fact, the Department rules outline that the sole purpose of a temporary detention in an Investigatory Stop is to “prove or disprove” reasonable suspicions of criminal activity.<sup>28</sup> Moreover, Section VIII (A)(6) of Special Order S04-13-09 states that during an Investigatory Stop, a “sworn member may only temporarily restrict a person’s freedom of movement as long as reasonably necessary to confirm the member’s Reasonable Articulable Suspicion of criminal activity. *[Furthermore] [t]he subject cannot continue to be detained solely for the purpose of obtaining the results of a name check of the subject or for the completion of required documentation when Reasonable Articulable Suspicion no longer exists.*”<sup>29</sup> Here, considering the description Sgt. Schmitz was provided, he was within policy when he initially approached ██████ and detained him to investigate whether or not ██████ was possibly the identified individual threatening with a firearm.<sup>30</sup> However, once Sgt. Schmitz was notified via the radio that “no crime” had been committed, thus dispelling any reasonable articulable suspicion, Sgt. Schmitz was required to immediately released ██████. Instead, ██████’ detention continues for approximately four additional minutes. When asked about this extended period of detention, Sgt. Schmitz told COPA investigators that ██████ remained detained “until the name check [for any warrants] was completed.”<sup>31</sup> As noted above, Special Order S04-13-09 prohibits such further

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<sup>24</sup> 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).

<sup>25</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

<sup>26</sup> 725 ILCS 5/107-14 delineating the authority for conducting an Investigatory Stop. And Chicago Police Special Order S04-13-09.

<sup>27</sup> 725 ILCS 5/107-14

<sup>28</sup> Att. 4, Investigatory Stop System Special Order, S04-13-09.

<sup>29</sup> *Id.*

<sup>30</sup> 725 ILCS 5/108-1.01 delineating the authority for conducting a protective pat down during an Investigative Stop states in part, “When a peace officer has stopped a person for temporary questioning . . . and reasonably suspects that he or another is in danger of attack, he may search the person for weapons.”

<sup>31</sup> Att. 3, Sgt. Schmitz Statement Transcript, Pg. 21, Ln. 2-5.

detainment. Accordingly, Allegation 1, that Sgt. Schmitz detained Mr. [REDACTED] without justification, is **Sustained**, as a violation of rules 2, 3, and 6.

COPA finds Allegation #2 against Sgt. Schmitz is **Sustained**. Department members are prohibited from engaging in “any action or conduct which impeded[s] the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”<sup>32</sup> Similarly, Department members are required to “treat all persons with courtesy and dignity [. . .]” and do so while “speak[ing] . . . in a professional manner and maintain[ing] a courteous attitude in all contacts with the public.”<sup>33</sup> Finally, Department policy prohibits members from engaging in [d]isrespect to or maltreatment of any person, while on or off duty.<sup>34</sup> Here, Sgt. Schmitz engaged in a verbal altercation with [REDACTED] (17 year old, a minor), thereby, failing to maintain a courteous attitude in all contacts with the public. Furthermore, Sgt. Schmitz was a public employee, acting in a public-facing capacity, in a position of authority. Sgt. Schmitz told COPA investigators that he was “frustrated” by the way [REDACTED] spoke/treated him. Specifically, Sgt. Schmitz was upset that [REDACTED] had interrupted him and called him a “joke.”<sup>35</sup>

Nevertheless, Sgt. Schmitz’s job is to seek professional contact with those he interacts with in his capacity as a public servant. Instead, Sgt. Schmitz chose to verbally argue with [REDACTED], without necessary. Sgt. Schmitz’s decision to argue with [REDACTED] brought discredit upon the Department, as such unnecessary verbal altercations result in unfavorable interactions with involved public civilians. As a result, COPA finds Allegation 2 **Sustained**, as a violation of rules 2, 3, 6, 8, and 9.

COPA finds Allegation #3 against Sgt. Schmitz is **Unfounded**. COPA further examined whether Sgt. Schmitz followed Department protocol for an Investigative Stop, including submission of proper paperwork. Department members are required to document the facts and circumstances of an Investigative Stop, including a statement of the facts establishing Reasonable Articulate Suspicion to stop an individual, and submit the Investigative Stop Report (ISR) by the end of their tour.<sup>36</sup> During COPA’s preliminary investigation it appeared Sgt. Schmitz had not created an ISR for the Investigative Stop of Mr. [REDACTED] until June 26, 2020, two days after the incident.<sup>37</sup> However, following Sgt. Schmitz’s statement to COPA where he was adamant that he remembered submitted the ISR on June 24<sup>th</sup>, the date required, COPA investigators discovered the preliminary CLEARNET search was erroneous.<sup>38</sup> As a result, COPA finds Allegation 3 against Sgt. Schmitz is **Unfounded**.

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<sup>32</sup> Article V, Rule 2 of the Rules and Regulations of the Chicago Police Department.

<sup>33</sup> Chicago Police General Orders G02-01 III (B); G02-04 II (C)

<sup>34</sup> Article V, Rule 8 of the Rules and Regulations of the Chicago Police Department.

<sup>35</sup> Att. 3, Sgt. Schmitz Statement Transcript, Pg. 15, Ln. 16-18; Pg 18, Ln. 17-24.

<sup>36</sup> Att. 4, Investigative Stop System Special Order, S04-13-09.

<sup>37</sup> Att. 9, CLEARNET Search incorrectly displaying “Created” date of June 26, 2020.

<sup>38</sup> Att. 3, Sgt. Schmitz Statement Transcript, Pg. 30, Ln. 2-24; Att. 8, CLEARNET ISR Officer Activity Search.

**V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Sgt Paul Schmitz**

**i. Complimentary and Disciplinary History**

Sgt. Schmitz has 119 Honorable Mention and No Applicable Complaint History.<sup>39</sup>

**ii. Recommended Penalty, by Allegation**

- 1. Allegation No. 1 – 10-Day Suspension.**
- 2. Allegation No. 2 – 10-Day Suspension**
- 3. Allegation No. 3 – None.**

In this case, Sgt. Schmitz appears to have allowed his emotions and frustration to supplant his training and experience. While the initial stop, detention, and questioning of [REDACTED] was within policy, [REDACTED] should have been released upon the confirmation that no crime had been committed. Instead, Mr. [REDACTED] we detained for nearly four more minutes. Furthermore, Sgt. Schmitz’s failure to maintain a professional demeanor is at odds with Department policy and goals. Therefore, COPA recommends that Sgt. Schmitz be Suspended from the Department for 5 days and receive additional training on procedural justice and detention protocols.

Approved:

[REDACTED]

8/30/2021

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Matthew Haynam  
*Deputy Chief Investigator*

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Date

<sup>39</sup> See Att. 10.

**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	2
<b>Investigator:</b>	David Barr
<b>Supervising Investigator:</b>	Bob Coleman
<b>Deputy Chief Administrator:</b>	Matthew Haynam