

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	June 26, 2015
Time of Incident:	1:20pm
Location of Incident:	6600 S. Union Avenue
Date of COPA Notification:	June 26, 2015
Time of COPA Notification:	1:30pm

On June 26, 2016, Sgt. Richard Salvador<sup>2</sup> and Officer Eleazar Maldonado conducted an investigatory stop of [REDACTED] and [REDACTED]. During the stop, [REDACTED] was placed into handcuffs and searched, prior to being released without charges. Later that afternoon, [REDACTED] reported the incident to IPRA, alleging that Sgt. Salvador stopped him without justification, used profane language, threatened him and used excessive force during this encounter. IPRA subsequently obtained a video recording of a portion of the incident, which partially corroborates [REDACTED] version of events. COPA finds there is sufficient evidence to sustain multiple allegations against Sgt. Salvador.

## II. INVOLVED PARTIES

Involved Officer #1:	Richard Salvador, Star #964, Employee # [REDACTED], Date of Appointment: November 29, 2004; Chicago Police Sergeant, Date of Birth: [REDACTED] 1981, Asian male
Involved Officer #2:	Eleazar Maldonado, Star #3484, Employee # [REDACTED], Date of Appointment: October 29, 2007; Chicago Police Officer,
Involved Officer #3:	Date of Birth: [REDACTED], 1970, Hispanic male
	Kevin Rake, Star #2015, <sup>3</sup> Employee # [REDACTED], Date of Appointment October 25, 2004; Chicago Police Sergeant, Date of Birth: [REDACTED], 1977, White male
Subject #1:	[REDACTED] Date of Birth: [REDACTED], 1991, Black male

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> As of the date and time of the incident Officer Richard Salvador had not been promoted to a sergeant.

<sup>3</sup> As of the date and time of the incident Officer Kevin Rake had not been promoted to a sergeant.

## III. ALLEGATIONS

Officer	Allegation	Finding
Sgt. Richard Salvador	<p>1). Stopped [REDACTED] without justification, in violation of Rule 6.</p> <p>2). Referred to [REDACTED] as a "pussy," in violation of Rule 2 and Rule 9.</p> <p>3). Stated words to the effect of "stop bitching," in violation of Rule 2 and Rule 9.</p> <p>4). Handcuffed [REDACTED] too tightly, in violation of Rule 2 and Rule 8.</p> <p>5). Pushed [REDACTED] against a vehicle without justification, in violation of Rule 2 and Rule 8.</p> <p>6). Directed profanities towards [REDACTED] in violation of Rule 2 and Rule 9.</p> <p>7). Threatened to falsely arrest [REDACTED] in violation of Rule 2.</p> <p>8). Threatened to plant drugs on [REDACTED] in violation of Rule 2.</p> <p>9). Threatened [REDACTED] with additional physical force, in violation of Rule 2.</p>	<p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
Off. Eleazar Maldonado	<p>1). Stopped [REDACTED] without justification, in violation of Rule 6.</p> <p>2). Observed Sgt. Richard Salvador verbally abuse Jackson and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.</p> <p>3). Observed Sgt. Salvador handcuff [REDACTED] too tightly and failed to report it in, violation of Rule 6; G.O. 08-01-02, and Rule 10.</p> <p>4). Observed Sgt. Salvador push [REDACTED] against a vehicle without justification and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.</p> <p>5). Observed Sgt. Salvador threaten [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.</p>	<p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
Sgt. Kevin Rake	<p>1). Stopped [REDACTED] without justification, in violation of Rule 6.</p> <p>2). Observed Sgt. Richard Salvador verbally abuse [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.</p> <p>3). Observed Sgt. Salvador handcuff [REDACTED] too tightly and failed to report it in, violation of Rule 6; G.O. 08-01-02, and Rule 10.</p> <p>4). Observed Sgt. Salvador push [REDACTED] against a vehicle without justification and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p>

5). Observed Sgt. Salvador threaten [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.	Unfounded
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#### IV. APPLICABLE RULES AND LAWS

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##### Rules

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and

goals or brings discredit upon the Department.

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

Rule 9: Engaging in any unjustified verbal or physical altercation with any person.

Rule 10: Inattention to duty.

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##### General Orders

1. Chicago Police Department General Order 02-02; The First Amendment and Police Actions
  2. Chicago Police Department General Order 08-01-02; Specific Responsibilities Regarding Allegations of Misconduct.
  3. Chicago Police Department General Order 06-01-02; Restraining Arrestees.
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#### V. INVESTIGATION<sup>4</sup>

##### a. Interviews

**Complainant** [REDACTED] - In his interview with IPRA on August 4, 2015, [REDACTED] stated that on the date and time of the incident, he was walking home from a gas station located at 6700 S. Halsted with his friends, [REDACTED] and [REDACTED] and his friends were walking eastbound through an alley between Union Avenue and Lowe Avenue when an unmarked Ford Explorer pulled into the alley. [REDACTED] related that a male Hispanic plainclothes officer, now known as Sgt. Ricard Salvador, instructed him and his friends to place their hands on the unmarked Ford Explorer.

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<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

█████ questioned Sgt. Salvador as to why they were being stopped and Sgt. Salvador told him that it was illegal to walk through the alley. █████ stated that Sgt. Salvador referred to him as a smartass and handcuffed █████ complained that the handcuffs were too tight and Sgt. Salvador stated words to the effect of, "Shut up, you're acting like a pussy, you're acting like a bitch."

█████ stated that Sgt. Salvador then intentionally tightened the handcuffs on his wrists. █████ made a sound with his mouth because of the pain that the handcuffs were causing. █████ related that Sgt. Salvador grabbed him and pushed him up onto the hood of the vehicle. █████ stated that Sgt. Salvador threatened him and stated, "You know what I can do to you?"

Additionally, █████ stated that Officer Salvador threatened to plant drugs and guns on him and falsify reports. █████ sustained wrist and arm pain from the incident. █████ stated that he obtained medical treatment at St. Bernard Hospital. Finally, █████ stated that his friend █████ captured the incident on video with his cellular phone. (Att. 17, 20, 24)

█████ and █████ - Attempts to contact witnesses █████ and █████ were made via letter and personal visits, all of which were met with negative results. (Att. 15, 30, 31)

**Witness Sgt. Kevin Rake** - During his IPRA interview on August 7, 2017, Sgt. Rake stated that he was not assigned to work with Officers Maldonado and Salvador on the date and time of the incident. Sgt. Rake stated that the information on the A & A Sheets were incorrect. Sgt. Rake denied having any contact with █████ and █████ (Att. 36)

**Accused Officer Eleazar Maldonado** - In his interview with IPRA on August 08, 2017, Officer Maldonado stated that on the date and time of the incident he was assigned to Beat 767D along with Officer Richard Salvador. Officer Maldonado related that Sgt. Kevin Rake was not assigned to work with him and Officer Salvador on the date and time of the incident. Officer Maldonado confirmed that he and Officer Salvador conducted a street stop that involved █████ and █████ in an alley near 66<sup>th</sup> and Union.

Officer Maldonado explained that near the incident there are two conflicting gangs, Black Disciples and Gangster Disciples, who have been shooting at each other. Officer Maldonado continued that he and Officer Salvador were assigned to focus on the high crime area on the date and time of the incident.

Officer Maldonado stated that he could not recall his position inside his assigned unmarked vehicle on the date and time in question. However, Officer Maldonado recalled observing █████ and █████ loitering in a vacant lot before going into an alley. Officer Maldonado stated that he and Sgt. Salvador exited their assigned vehicle to conduct an interview with █████ and █████ Officer Maldonado approached █████ and █████ then detained them by handcuffing them to each other. Officer Maldonado added that he was standing approximately three to five feet away from Sgt. Salvador and █████ when he heard movement. Officer Maldonado looked in the direction of Sgt. Salvador and observed █████ attempting to headbutt Sgt. Salvador.

Officer Maldonado stated that he observed Sgt. Salvador move away from █████ and "slam" █████ against his assigned vehicle as a control tactic. Officer Maldonado related that he heard the handcuffs clicking as Sgt. Salvador "slammed" █████ against his assigned vehicle. Officer Maldonado continued that he heard Officer Salvador state words to the effect of, "Go ahead, I dare you, do it again, try it, try to head butt me again, motherfucker do it again, do it again."

Officer Maldonado stated that he heard [REDACTED] complain that the handcuffs were too tight. Officer Maldonado explained that the handcuffs were not removed and/or loosened because [REDACTED] was agitated. Officer Maldonado related that he conducted a name check on all three men. Officer Maldonado stated that once the names were cleared, [REDACTED] and [REDACTED] were given a dispersal and allowed to leave. Officer Maldonado defined a dispersal as an individual could not return to the vicinity of the location within the next 24 hours. If the individual did return to the vicinity of the location the individual could be arrested. Officer Maldonado further explained that a dispersal was only given in high crime areas known in the district.

Officer Maldonado stated that he did not hear any conversations between [REDACTED] and Sgt. Salvador before [REDACTED] attempted to headbutt Sgt. Salvador. Officer Maldonado related that he never observed Sgt. Salvador's hands on the handcuffs while [REDACTED] was handcuffed. Officer Maldonado described Sgt. Salvador as being agitated. Officer Maldonado stated that [REDACTED] was not arrested because he was a juvenile and that [REDACTED] would not have received a punishment for his actions.

Officer Maldonado described Sgt. Salvador as being upset after [REDACTED] attempted to headbutt him. Officer Maldonado stated that he did not have any physical contact with [REDACTED]. Officer Maldonado related that he did not think that Sgt. Salvador's actions or language towards [REDACTED] was excessive. Officer Maldonado stated that he believed that it was okay for Sgt. Salvador to refer to [REDACTED] as a motherfucker because of [REDACTED] actions.

Officer Maldonado denied hearing Sgt. Salvador refer to [REDACTED] as a "pussy." Officer Maldonado denied hearing Sgt. Salvador threaten to falsely arrest [REDACTED] and plant drugs on [REDACTED]. Officer Maldonado denied committing the acts alleged against him.

Officer Maldonado initially stated that he reported the incident that day or the next day. However, he later stated that the report was made after seeing a video of the incident on social media. (Att. 42)

**Accused Sgt. Richard Salvador** - In his interview with IPRA on August 09, 2017, Sgt. Salvador stated that on the date and time of the incident he was assigned to Beat 767D along with Officer Maldonado. Sgt. Salvador related that Sgt. Kevin Rake was not assigned to work with him and Officer Maldonado on the date and time of the incident. Sgt. Salvador confirmed that he and Officer Maldonado conducted a street stop of [REDACTED] and [REDACTED] in an alley near 66<sup>th</sup> and Union.

Sgt. Salvador related similar information as Officer Maldonado regarding the initiation of contact with [REDACTED] and [REDACTED]. Sgt. Salvador added that as he exited his assigned vehicle [REDACTED] was being confrontational, specifically that [REDACTED] flailed his arms and walked away from Sgt. Salvador. Sgt. Salvador explained that he felt as if [REDACTED] was in possession of either something that could harm him or contraband.

Sgt. Salvador related that [REDACTED] became irate, but eventually complied physically. Sgt. Salvador placed a handcuff on one of [REDACTED] wrist. As Sgt. Salvador attempted to place the second handcuff on [REDACTED] other wrist, [REDACTED] turned around and attempted to headbutt Sgt. Salvador.

Sgt. Salvador stated that he pulled back a little and pushed [REDACTED] on his assigned vehicle to ensure that he did not receive a battery. Sgt. Salvador admitted that he used vulgar language towards [REDACTED] because he was upset about [REDACTED] attempt to headbutt him. Sgt. Salvador added that his vulgar language

towards ██████ did not include any racial slurs nor threats of physical harm. Sgt. Salvador related that he held ██████ down with his hand on the handcuffs to ensure that ██████ would not attempt to stand up and batter him.

Sgt. Salvador related that he did not stop ██████ without justification and denied threatening to falsely arrest ██████. Sgt. Salvador stated that he did not recall stating words to the effect of, "Stop bitching," nor did he refer to ██████ as a "pussy." Sgt. Salvador denied handcuffing ██████ too tightly. Sgt. Salvador explained that when ██████ turned in an attempt to headbutt him, the handcuffed tighten up on his wrist. Sgt. Salvador added that he directed profanities towards ██████ because he was angry. (Att. #47, 48)

### **b. Digital Evidence**

**Facebook video** - A cellphone video of the incident was captured and subsequently posted to Facebook. In the video, ██████ can be seen with his torso on top of the hood of the unmarked police vehicle with his feet on the ground and his hands behind his back with handcuffs on his wrists. Sgt. Salvador is seen standing behind ██████ with his left hand placed on ██████ wrist area. Sgt. Salvador is heard stating, "Did you just make a fucking move towards me? Did you just make a fucking move towards me motherfucker?" ██████ is heard pleading with Sgt. Salvador that the cuffs are causing him pain. Sgt. Salvador says, "You made a motherfucking move toward me, motherfucker. Do that shit again." He then says, "I am not fucking with you, do you understand?" and "make a move towards me like that again, I will fucking show you exactly what I can do."

At some point in the video, Sgt. Salvador raised ██████ arms at a high level behind his back and escorted ██████ to the front of the Department vehicle. ██████ was bent over forward, walking backwards and complying. Sgt. Salvador is heard directing profanities towards ██████. Officer Salvador stated words to the effect of, "Go ahead fucking threaten me again. Do that shit again. I wish you fucking would." He repeatedly tells ██████ to "do that shit again" as he appears to lean into ██████.

The video further depicts Sgt. Salvador state, "You're getting dispersed. I see you around, I'm locking you up. I ain't giving you no fucking second chances. I don't give a fuck if you are in front of the house, if you walking to the corner store. I don't give a fuck if you just walking. I don't give a fuck, Imma lock you up if I see you again today. Make another fucking move like that towards me again. You start it motherfucker and I'll finish it." (Att. 12, 32)

### **c. Physical Evidence**

**Contact Cards** – One June 26, 2015, during this encounter, Officer Eleazar Maldonado and Sgt. Richard Salvador created Contact Cards for all three subjects, ██████ and ██████. The narrative of each contact card reads identically. The narrative section states, officers "observed the subject(s) loitering in the alley of mention location and knowing that the area is high on gang/narcotic activity, exited their unmarked vehicle to conduct a field interview. Above subject became irate towards r/o's. name check clear and released with a dispersal." Richard Alvarez was the approving supervisor for all three reports. (Att. 7, 8, 9).

**Medical Records** – Per the records obtained from St. Bernard Hospital, [REDACTED] was admitted to the emergency room on June 26, 2015 with a complaint of wrist pain. [REDACTED] informed the medical staff that the wrist pain began after the officer twisted his left wrist and handcuffed him. [REDACTED] stated that the handcuffs were too tight. Both edema, swelling caused by injury or inflammation; and erythema, redness caused by the dilation of capillaries associated with injury or irritation were noted. [REDACTED] was ultimately diagnosed with a wrist strain and prescribed Ibuprofen. (Att. 23)

#### d. Documentary Evidence

**Attendance and Assignment Sheets** – CPD records indicate that for the 007<sup>th</sup> District, 4<sup>th</sup> Watch, dated 26 June 2015, Officer Eleazar Maldonado, Sgt. Kevin Rake and Sgt. Richard Salvador were assigned to vehicle number 4536 and Beats 767D and 763D. (Att. 36)

**Initiation Report** - On July 10, 2015, Lt. Eric Olsen telephoned IPRA to initiate a log number (1076085) against Sgt. Salvador. In an Initiation Report Lt. Olsen reported that on July 10, 2015 at approximately 6:00 pm, Sgt. Salvador informed Lt. Olsen that he had recently become aware of a link on social media which appeared to depict a street stop that Sgt. Salvador conducted on June 26, 2015. The video appeared to depict the usage of foul language by Sgt. Salvador. Lt. Olsen suggested that Sgt. Salvador's behavior be addressed with participation in a Non-disciplinary Intervention Program. (Att. 13, 14)

## VI. ANALYSIS

<b>Accused 1:</b>	<b>Sergeant Richard Salvador, #964</b>
<b>Allegations #1, 6, 7, 9:</b>	<b>Sustained</b>
<b>Allegations #:2 – 5, &amp; 8:</b>	<b>Not Sustained</b>

COPA recommends a finding of **Sustained** for **Allegation 1** against Sgt. Salvador that he stopped [REDACTED] without justification, in violation of Rule 6 of the Chicago Police Department Rules. In their statements to IPRA Sgt. Salvador and Officer Maldonado stated that they conducted a field interview with [REDACTED] and [REDACTED] because they observed them loitering in an area that is known to have high gang/narcotic activity. However, all three men were immediately handcuffed before the officers released them without charges.

Thus, the first step in the analysis is to determine whether Sgt. Salvador and Officer Maldonado's detention of [REDACTED] was a seizure under the 4<sup>th</sup> amendment. In this case, the interaction between Sgt. Salvador and Officer Maldonado and [REDACTED] and [REDACTED] clearly went beyond a consensual encounter, as it is undisputed that the officers handcuffed all three men. *See People v. Almond*, 2015 IL 113817, ¶ 57 (a person is seized within the meaning of the Fourth Amendment when, considering the totality of the circumstances, a reasonable person would believe he is not free to leave). While the officers in the instant case defined the stop as a field interview, handcuffing the individuals ensured their inability to simply walk away; thus, the men were, at a minimum, seized as defined by *Terry*.

Accordingly, we must consider whether the officers possessed a reasonable, articulable suspicion that [REDACTED] was engaged in criminal activity such that Sergeant Salvador and Officer Maldonado were entitled to perform a *Terry* stop. *Terry v. Ohio*, 392 U.S.1 (1968); codified in 725 ILCS 5/107-14. The contact cards assert that the officers observed the subject(s) loitering in the alley and, knowing that the area

was high on gang/narcotic activity, exited their unmarked vehicle to conduct a field interview. It is well settled that mere presence in a high-crime area is insufficient to support a reasonable, articulable suspicion. *Illinois v. Wardlow*, 528 U.S. 119, 145 (2000).

Sgt. Salvador and Officer Maldonado never articulated a specific crime for which [REDACTED] and [REDACTED] were being investigated. Instead, as justification for the stop, Sgt. Salvador simply pointed to the three individuals' presence in a high crime area, their known gang membership, their presence on a porch where they did not live, and their walking away from the officers after seeing the officers. Sgt. Salvador also said that the individuals were using "vulgarity," which Sgt. Salvador perceived as the individuals being defensive in nature. Officer Maldonado said he stopped the individuals because they were in a high-crime area in which recent shootings had occurred and because the individuals were loitering in an alley. These facts were not specific enough to support a reasonable, articulable suspicion that the three individuals were engaged in criminal activity.

The officers did cite loitering as a justification for the stop, and under the gang loitering ordinance, Section 8-4-015 of the Chicago Municipal Code, an officer may be justified in a brief detention and the issuance of a dispersal. However, the ordinance describes gang loitering as remaining in one place under circumstances that would warrant a reasonable person to believe the purpose was to enable the street gang to establish control over the area, intimidate others or conceal illegal activity. The officers never articulated any factors that supported investigation based on these elements. Moreover, while Sgt. Salvador described recent gang violence in the area, the facts articulated by Sgt. Salvador were certainly not specific enough to justify the detention of these individuals.

In addition to the *Terry* stop being unjustified, there is no evidence that Sgt. Salvador was justified in handcuffing [REDACTED]. "[T]he propriety of handcuffing during a *Terry* stop depends on the circumstances of each case" and handcuffing does not automatically transform a *Terry* stop into an illegal arrest. *People v. Colyar*, 2013 IL 111835, ¶ 46. Whether handcuffs or other forms of restraint were reasonable and necessary must be based on the totality of the circumstances actually confronting the officer, not simply on generalizations or remote possibilities. *Id.* ¶ 47. Legitimate interests in using handcuffs during a *Terry* stop include protecting police officers, the public, or the suspect from the undue risk of harm. *People v. Fields*, 2014 IL App (1st) 130209, ¶ 27.

The officers admittedly handcuffed the subjects immediately. Sgt. Salvador stated that he handcuffed [REDACTED] because of [REDACTED] body language and "irate nature" in yelling obscenities. Sgt. Salvador said he knew his safety was in danger because of [REDACTED] irate nature. He further said that [REDACTED] was tensing up, and the officers were outnumbered. He also said that prior to the handcuffing of [REDACTED] attempted to walk away and was flailing his arms, causing Sgt. Salvador to believe [REDACTED] possessed a weapon or contraband. Despite his fears, Sgt. Salvador asserted that [REDACTED] was compliant with the first handcuff and then attempted to headbutt to the officer. The video is not helpful on this point. In any event, whether [REDACTED] ever attempted a headbutt or not is irrelevant because Sgt. Salvador admits that the handcuffing preceded the purported attempted battery.

We find that Sgt. Salvador's use of handcuffs was not reasonable or necessary based on the reasons Sgt. Salvador gave for using the handcuffs. Sgt. Salvador's use of handcuffs was based on the remote possibility that [REDACTED] was a danger because he tensed up, used obscenities, and was part of a group of three individuals who outnumbered the two officers. Under these circumstances, the use of handcuffs was



unreasonable. See, e.g., *Colyar*, 2013 IL 111835, ¶ 47 (handcuffing was reasonable and necessary where the officers were outnumbered, it was dusk, and they could reasonably suspect one or more of the individuals in the defendant's car, in which the officers observed a plastic bag with a bullet "sticking up" inside, possessed a gun or would be able to access a gun in the car if they were not handcuffed). Because it was unnecessary for Sgt. Salvador to handcuff [REDACTED] based on safety concerns, Sgt. Salvador's use of handcuffs had the effect of turning the *Terry* stop into an arrest. Compare *People v. Delaware*, 314 Ill. App. 3d 363, 370 (1st Dist. 2000) (handcuffing the subject was part of an arrest because at the time of handcuffing, the officers had no specific and legitimate basis to continue to detain the defendant) with *People v. Starks*, 190 Ill. App. 3d 503, 509 (2d Dist. 1989) (handcuffing did not convert a *Terry* stop into an arrest where it was reasonable for an officer to believe a man, who matched a description of an armed robbery suspect, might still be armed). To effectuate an arrest, Sgt. Salvador was required to have probable cause. *People v. McDonough*, 239 Ill. 2d 260, 268 (2010). As Sgt. Salvador did not have a reasonable, articulable suspicion that [REDACTED] had committed a crime, it follows that Sgt. Salvador did not have probable cause to believe that [REDACTED] had committed a crime.

Therefore, by a preponderance of the evidence, COPA finds that Sgt. Salvador and Officer Maldonado stopped and detained [REDACTED] based only on his presence in a high crime area and without reasonable articulable suspicion that a crime had or was about to be committed, in violation of the 4<sup>th</sup> Amendment. Additionally, Sgt. Salvador's handcuffing of [REDACTED] was without justification and therefore even if the initial detention would have been justified as a *Terry* stop, the handcuffing converted the stop into an arrest, for which there was no probable cause, and therefore violated [REDACTED] constitutional rights.

COPA recommends a finding of **Not Sustained** for **Allegation 2** against Sgt. Salvador that he referred to [REDACTED] as a "pussy," in violation of Rules 2 and 9 of the Chicago Police Department Rules. In his statement to IPRA Officer Maldonado denied hearing Sgt. Salvador refer to [REDACTED] as a "pussy." In his statement to IPRA Sgt. Salvador admitted to directing profanities towards [REDACTED] but stated that he did not recall referring to [REDACTED] as a "pussy." In the video footage obtained from [REDACTED] Sgt. Salvador is not heard referring to [REDACTED] as a "pussy." There is insufficient evidence to prove or disprove the allegation.

COPA recommends a finding of **Not Sustained** for **Allegation 3** against Sgt. Salvador that he stated words to the effect of, "Stop bitching," in violation of Rules 2 and 9 of the Chicago Police Department Rules. In his statement to IPRA Officer Maldonado denied hearing Sgt. Salvador state words to the effect of, "Stop bitching." In his statement to IPRA Sgt. Salvador admitted to directing profanities towards [REDACTED] but related that he did not recall stating words to the effect of, "Stop bitching." In the video footage obtained from [REDACTED] Sgt. Salvador is not heard stating words to the effect of, "Stop bitching." There is insufficient evidence to prove or disprove the allegation.

COPA recommends a finding of **Not Sustained** for **Allegation 4** against Sgt. Salvador that he handcuffed [REDACTED] too tightly, in violation of Rule 2 and 8 of the Chicago Police Department Rules. In his statement to IPRA Officer Maldonado denied observing Sgt. Salvador handcuff [REDACTED] too tightly. In his statement to IPRA Sgt. Salvador denied handcuffing [REDACTED] too tightly. Sgt. Salvador explained that as he handcuffed [REDACTED] [REDACTED] turned in his direction and attempted to headbutt him prior to Sgt. Salvador having the opportunity to double lock the handcuffs. Sgt. Salvador added that as [REDACTED] turned in his direction, he heard the handcuffs click. The medical records corroborate [REDACTED] complaints.

Although in the video footage [REDACTED] clearly complained about the handcuffs being too tight, there is insufficient evidence to prove or disprove that the handcuffs were intentionally tightened on [REDACTED] wrist by Sgt. Salvador or if the tightening resulted from [REDACTED] own actions.

COPA recommends a finding of **Not Sustained** for **Allegation 5** against Sgt. Salvador that he pushed [REDACTED] against a vehicle without justification, in violation to Rules 2 and 8 of the Chicago Police Department Rules. In his statement to IPRA [REDACTED] stated that when Sgt. Salvador placed the second handcuff on his wrist, he felt pain, made a sound and Sgt. Salvador pushed him against the hood of a vehicle. In his statement to IPRA Officer Maldonado stated that Sgt. Salvador was justified in pushing [REDACTED] against a vehicle because [REDACTED] attempted to headbutt Sgt. Salvador. In his statement to IPRA Sgt. Salvador stated that after [REDACTED] turned in his direction and attempted to headbutt him, he pushed [REDACTED] against his assigned vehicle. Sgt. Salvador explained that he pushed [REDACTED] against his assigned vehicle to protect himself from receiving a physical battery from [REDACTED]. The video footage obtained from [REDACTED] does not depict the actions of [REDACTED] or Sgt. Salvador prior to Sgt. Salvador holding [REDACTED] down on the hood of his assigned vehicle. While the video depicts a clearly agitated and aggressive Sgt. Salvador, the force used would be permissible had [REDACTED] attempted a battery on Sgt. Salvador as asserted by the officers. While the officers assert the attempted battery occurred, they failed to document that in their contact cards, they did not arrest [REDACTED] for the attempted battery, and no independent evidence exists to show the attempted battery occurred. Therefore, absent evidence the force was unjustified or justified by the attempted battery we recommend a finding of not sustained.

COPA recommends a finding of **Sustained** for **Allegation 6** against Sgt. Salvador that he directed profanities towards [REDACTED] in violation of Rules 2 and 9 of the Chicago Police Department Rules. In his statement to IPRA Sgt. Salvador stated that he directed profanities towards [REDACTED] after [REDACTED] attempted to headbutt him. In the video footage obtained from [REDACTED] Sgt. Salvador is seen and heard directing profanities towards [REDACTED]. Sgt. Salvador violated the Department's policy with his actions against [REDACTED].

COPA recommends a finding of **Sustained** for **Allegation 7** against Sgt. Salvador that he threatened to falsely arrest [REDACTED] in violation of Rule 2 of the Chicago Police Department Rules. In their statements to IPRA Sgt. Salvador and Officer Maldonado stated they informed [REDACTED] that if they had seen him in the same area later during the day, that they were going to arrest them. Observing someone standing and/or walking in a high gang/narcotics area alone is not a justifiable reason to arrest anyone. In the video footage obtained from [REDACTED] Sgt. Salvador is heard stating words to the effect of, "I see you around, I'm locking you up. I don't give a fuck if you are in front of the house, if you walking to the corner store. I don't give a fuck if you just walking. I don't give a fuck, Imma lock you up if I see you again today."

COPA recommends a finding of **Not Sustained** for **Allegation 8** against Sgt. Salvador that he threatened to plant drugs on [REDACTED] in violation of Rule 2 of the Chicago Police Department Rules. In his statement to IPRA Officer Maldonado denied hearing Sgt. Salvador threaten to plant drugs on [REDACTED]. In his statement to IPRA Sgt. Salvador denied threatening to plant drugs on [REDACTED]. In the video obtained from [REDACTED] Sgt. Salvador is not heard threatening to plant drugs on [REDACTED]. There may have been conversations between Sgt. Salvador and [REDACTED] before or after the video recording. There is insufficient evidence to prove and/or disprove the allegation.

COPA recommends a finding of **Sustained** for **Allegation 9** against Sgt. Salvador that he threatened [REDACTED] with additional physical force, in violation of Rule 2 of the Chicago Police Department Rules. In his statement to IPRA, Officer Maldonado denied hearing Sgt. Salvador threaten [REDACTED] with physical force. In his statement to IPRA, Sgt. Salvador denied threatening [REDACTED] with physical force. Upon inquiry Sgt. Salvador related that when he stated, "Make another fucking move like that towards me again. You start it motherfucker and I'll finish it," he was informing [REDACTED] that he would arrest him if [REDACTED] attempted to headbutt him again. However, having viewed the video evidence, we find it clear that Sgt. Salvador's comments were threats to engage in physical force. Specifically, we note that Sgt. Salvador said to [REDACTED] "[m]ake a move towards me like that again, I will fucking show you exactly what I can do" and "Go ahead fucking threaten me again. Do that shit again. I wish you fucking would." Based on both the comments themselves and the tone and body language Sgt. Salvador used while making them, we find it more probable than not that Sgt. Salvador was threatening to use physical bodily harm against [REDACTED] and that a reasonable person would interpret Sgt. Salvador's statements as threats to engage in physical bodily harm. Accordingly, Allegation 9 is Sustained.

In closing, we wish to emphasize that Sgt. Salvador's actions in this case, as captured by the video evidence, were disturbing and inexcusable. Perhaps [REDACTED] did attempt to headbutt Sgt. Salvador, as Sgt. Salvador claimed, and perhaps Sgt. Salvador was angry with [REDACTED] for this attempt. Yet, police officers are not entitled to take out their anger in the manner that Sgt. Salvador did, nor could Sgt. Salvador's anger in any way have justified his continued behavior toward [REDACTED]. Sgt. Salvador cursed at [REDACTED] for over a minute, repeatedly encouraging [REDACTED] to "do that shit again" while leaning into [REDACTED] face in what seemed to be an attempt to goad [REDACTED] into a physical fight and to flex his power as a police officer over [REDACTED] who was handcuffed. Even after initially turning away and addressing [REDACTED] and [REDACTED] Sgt. Salvador then turned back toward [REDACTED] and continued to curse at him, telling [REDACTED] "you started it mother fucker, I'll finish it." At the end of the video, [REDACTED] can be seen bent over with his handcuffs removed, seemingly in pain, and Sgt. Salvador can be heard saying, "Walk. Get the fuck out of here." In short, Sgt. Salvador failed to treat [REDACTED] with any type of respect throughout his entire interaction with [REDACTED].

By treating [REDACTED] in the inhumane way that he did, Sgt. Salvador caused harm not only to [REDACTED] but to the Chicago community as a whole. As CPD's orders recognize, "[t]he daily interaction of Department members with citizens presents a unique opportunity to strengthen police-community relations."

<b>Accused 2:</b>	<b>Officer Eleazar Maldonado, 3484</b>
<b>Allegations #1,2, 5:</b>	<b>Sustained</b>
<b>Allegations #3-4:</b>	<b>Not Sustained</b>

COPA recommends a finding of **Sustained** for **Allegation 1** against Officer Maldonado that he stopped [REDACTED] without justification, in violation of Rule 6 of the Chicago Police Department Rules. The reasoning follows that outlined in allegation 1 against Sgt. Salvador. In sum, the officers lacked reasonable, articulable suspicion to stop [REDACTED] and [REDACTED] and further, had no justification under *Terry* to handcuff [REDACTED].

COPA recommends a finding of **Sustained** for **Allegation 2** against Officer Maldonado that he observed Sgt. Richard Salvador verbally abuse [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10. As articulated above, the video clearly depicts Sgt. Salvador use abusive and profane language toward [REDACTED]. During his interview, Officer Maldonado initially indicated that he reported the incident on the day it occurred or the day after. However, subsequently Officer Maldonado admitted that he reported the conduct after he was made aware of the Facebook video which captured the incident. Lt. Olson's memo also suggests that the social media attention was what caused the misconduct to be reported. Furthermore, there is no documentary evidence to support that Officer Maldonado made a timely report. Accordingly, COPA finds that Officer Maldonado was present during this occurrence and failed to timely report the misconduct.

COPA recommends a finding of **Sustained** for **Allegation 5** against Officer Maldonado that he observed Sgt. Salvador threaten [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10. As articulated above, the video clearly depicts Sgt. Salvador make threatening statements toward [REDACTED] and there is no evidence that Officer Maldonado reported same in a timely manner. Accordingly, COPA finds that Officer Maldonado was present during this occurrence and failed to timely report the misconduct.

COPA recommends a finding of **Not Sustained** for **Allegations 3 and 4** against Officer Maldonado that he observed Sgt. Salvador handcuff [REDACTED] too tightly, in violation of Rule 2 and Rule 8 or pushed [REDACTED] against a vehicle without justification, in violation of Rule 2 and Rule 8 and failed to report the misconduct. As articulated above, we lack sufficient evidence to determine if the actions described were justified or not, therefore we cannot conclude whether Officer Maldonado had a duty to report the conduct and failed to do so.

**Accused 3:** **Sgt. Kevin Rake, 2015**  
**Allegations #1 – 5:** **Unfounded**

COPA recommends a finding of unfounded for all allegations against Sgt. Kevin Rake. Sgt. Rake was identified via A&A sheets as working the same beat as Officer Maldonado and Sgt. Salvador, however all involved parties agree that the records were incorrect and Sgt. Rake was not present for any of the described actions. Therefore, allegations 1-5 against Sgt. Rake are **Unfounded**.

## VII. CONCLUSION

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

Officer	Allegation	Finding
Sgt. Richard Salvador	1). Stopped [REDACTED] without justification, in violation of Rule 6. 2). Referred to [REDACTED] as a "pussy," in violation of Rule 2 and Rule 9. 3). Stated words to the effect of "stop bitching," in violation of Rule 2 and Rule 9. 4). Handcuffed [REDACTED] too tightly, in violation of Rule 2 and Rule 8. 5). Pushed [REDACTED] against a vehicle without justification, in violation of Rule 2 and Rule 8. 6). Directed profanities towards [REDACTED] in violation of Rule 2 and Rule 9. 7). Threatened to falsely arrest [REDACTED] in violation of Rule 2. 8). Threatened to plant drugs on [REDACTED] in violation of Rule 2. 9). Threatened [REDACTED] with additional physical force, in violation of Rule 2.	Sustained  Not Sustained Not Sustained Not Sustained Not Sustained Sustained Sustained Sustained Not Sustained Sustained
P.O. Eleazar Maldonado	1). Stopped [REDACTED] without justification, in violation of Rule 6. 2). Observed Sgt. Richard Salvador verbally abuse [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10. 3). Observed Sgt. Salvador handcuff [REDACTED] too tightly and failed to report it in, violation of Rule 6; G.O. 08-01-02, and Rule 10. 4). Observed Sgt. Salvador push [REDACTED] against a vehicle without justification and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10. 5). Observed Sgt. Salvador threaten [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.	Sustained Sustained Not Sustained Not Sustained Sustained
Sgt. Kevin Rake	1). Stopped [REDACTED] without justification, in violation of Rule 6. 2). Observed Sgt. Richard Salvador verbally abuse [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10. 3). Observed Sgt. Salvador handcuff [REDACTED] too tightly and failed to report it in, violation of Rule 6; G.O. 08-01-02, and Rule 10.	Unfounded Unfounded Unfounded

- 4). Observed Sgt. Salvador push [REDACTED] against a vehicle without justification and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.
- 5). Observed Sgt. Salvador threaten [REDACTED] and failed to report it, in violation of Rule 6; G.O. 08-01-02, and Rule 10.

Unfounded

Unfounded

Approved:

[REDACTED]  
Andrea Kersten

Deputy Chief Administrator – Chief Investigator

Date

4/16/18

[REDACTED]  
Judge Patricia Banks

Interim Chief Administrator

Date

4-16-18

Appendix A

## Assigned Investigative Staff

<b>Squad#:</b>	
<b>Investigator:</b>	Lakeisha Davis
<b>Supervising Investigator:</b>	James Murphy-Aguilu
<b>Deputy Chief Administrator:</b>	Andrea Kersten

