

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	September 27, 2018 / 11:00 am / 6500 S. Ellis Ave., Chicago, IL 60637
Date/Time of COPA Notification:	September 28, 2018 / 10:55 am
Involved Sergeant #1:	Sgt. John Dal Ponte / Star #968 / Employee ID# [REDACTED] / DOA: [REDACTED] 1995 / Unit: 003 / Male / White.
Involved Sergeant #2:	Sgt. Jeremy Sikorski / Star #2026 / Employee ID# [REDACTED] / DOA: [REDACTED], 2003 / Unit: 003 / Male / White.
Involved Field Training Officer #1:	FTO Ebony Curl / Star#11705 / Employee ID# [REDACTED] / DOA: [REDACTED], 2010 / Unit: 003 / Female / Black.
Involved Officer #2:	Officer Maurice Anderson / Star #11348 / Employee ID# [REDACTED] / DOA: [REDACTED], 1997 / Unit: 003 / Male / Black.
Involved Officer #3:	Officer Servando Gomez <sup>1</sup> / Star #3058 / Employee ID# [REDACTED] / DOA: [REDACTED], 2018 / Male / Hispanic.
Involved Officer #4:	Officer Juan Rodriguez <sup>2</sup> / Star #3166 / Employee ID# [REDACTED] / DOA: [REDACTED], 2018 / Male / Hispanic.
Involved Individual #1:	[REDACTED] / Male / Black.
Case Type:	03D – Improper Arrest

I. ALLEGATIONS

Officer	Allegation	Finding
Sgt. John Dal Ponte	1. Failed to investigate the circumstances surrounding a request to tow a vehicle, prior to approving the vehicle tow report.	Unfounded.
Sgt. Jeremy Sikorski	1. Failed to activate his Body Worn Camera while responding to an incident involving [REDACTED].	Sustained / 2-day suspension.
FTO Ebony Curl	1. Arrested [REDACTED] for assault.	Exonerated.

<sup>1</sup> At the time of this incident Officer Gomez was a Probationary Police Officer who was completing cycles of Field Training.

<sup>2</sup>At the time of this incident Officer Rodriguez was a Probationary Police Officer who was completing cycles of Field Training.

	2. Failed to activate her Body Worn Camera while responding to an incident involving [REDACTED].	Sustained / Written Reprimand.
	3. Failed to report misconduct committed by Officer Anderson.	Unfounded.
Officer Maurice Anderson	1. Arrested [REDACTED] for assault.	Exonerated
	2. Failed to activate his Body Worn Camera while responding to an incident involving [REDACTED].	Sustained / 2-day suspension.
	3. Threatened [REDACTED] by stating words to the effect of "I'm going to beat you."	Not Sustained.
	4. Requested the tow of a 2002 Mitsubishi Mirage, owned by [REDACTED].	Not Sustained.
Officer Servando Gomez	1. Arrested [REDACTED] for assault.	Exonerated.
	2. Failed to activate his Body Worn Camera while responding to an incident involving [REDACTED].	Sustained / Written Reprimand.
	3. Failed to report misconduct committed by Officer Anderson.	Unfounded.
Officer Juan Rodriguez	1. Arrested [REDACTED] for assault.	Exonerated.
	2. Failed to activate his Body Worn Camera while responding to an incident involving [REDACTED].	Sustained / Written Reprimand.
	3. Failed to report misconduct committed by Officer Anderson.	Unfounded.
	4. Failed to accurately complete the arrest report for [REDACTED].	Unfounded.

## II. SUMMARY OF EVIDENCE<sup>3</sup>

Mr. [REDACTED] was working when he was stopped by Mr. [REDACTED]. As [REDACTED] began to speak with [REDACTED], [REDACTED] immediately began to yell, scream, and threaten to commit a

<sup>3</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation.

<sup>4</sup>[REDACTED] is Street Sweeper with the City of Chicago Department of Streets and Sanitation. Att. 80, pg. 4.

battery on ██████.<sup>5</sup> ██████ contacted the Department and requested a response. Officer Maurice Anderson responded, began to investigate, and learned ██████ had assaulted ██████ and ██████ was willing to complete a signed complaint. After ██████ was arrested and secured in Officer Anderson's vehicle, FTO Ebony Curl and Officers Servando Gomez and Juan Rodriguez arrived on scene and informed Officer Anderson they would complete the arrest report and related paperwork for training purposes. Officer Anderson transported ██████<sup>March 25,</sup> to the 003rd District Station and towed ██████'s vehicle.<sup>6</sup> Sgt. Dal Ponte reviewed and approved the paperwork for the towing of ██████'s vehicle.<sup>7</sup>

During his statement to COPA, ██████ alleged that as Officer Anderson was placing him in the Department vehicle, Officer Anderson threatened to batter him.<sup>8</sup> Additionally, ██████ alleged he was improperly arrested and that his vehicle was improperly towed. During our investigation COPA identified the procedural allegations detailed above.<sup>9</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

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<sup>5</sup> ██████ explained that ██████ was upset about receiving parking citations on previous days. Att. 80, pg. 5.

<sup>6</sup> Officer Anderson explained that ██████'s vehicle was towed in part because ██████ alleged ██████ was in the vehicle while the assault was committed. Att. 82, pg. 36.

<sup>7</sup> Sgt. Dal Ponte did not recall reviewing or approving the Tow Report but acknowledge he signed it and explained that during the normal course of paperwork approval he would have discussed the decision to tow the vehicle with Officer Anderson.

<sup>8</sup>Based on ██████'s own account of the event; ██████ was upset, yelling and spittle was leaving his mouth that landed on Officer Anderson, and that Officer Anderson's threat occurred after he was struck with the spittle. (Att. 85, pg 12.) Additionally, Officer Anderson had no recollection of spittle from ██████ striking him nor threatening ██████ in any manner. (Att. 82, pg 28.)

<sup>9</sup> During his statement, Sgt. Sikorski admitted to failing to activate his BWC and explained this failure was impart based on the absence of any people when he initially arrived on scene and once the other Department members arrived on scene he believed they had activated their BWC and his was not needed. (Att. 87, pg 7.) Additionally, during her statement, FTO Curl admitted to failing to activate her BWC and explained that this failure was based in part with her never exiting her vehicle on scene and having no interaction with ██████ until he was in the holding cell at the district station. (Att. 81, pgs. 37 to 39.) Further, during his statement, Officer Anderson did not admit failing to activate his BWC and explained that his BWC possibly had a malfunction but that any malfunction was not reported. (Att. 82, pgs. 48 and 49.) Additionally, during his statement, Officer Gomez explained that he did not activate his BWC because he never exited his vehicle on scene and had no contact with ██████ until inside the district station. (Att. 83, pgs. 20, 25, 39 and 40.) Finally, during his statement, Officer Rodriguez could not recall if he failed to activate his BWC and explained that he did not exit the vehicle on scene. (Att. 88, pg. 63.)

4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

#### IV. ANALYSIS AND CONCLUSION

##### a. Improper Arrest and Vehicle Towing Allegations

COPA finds that Allegation #1 against FTO Curl and Officers Anderson, Gomez, and Rodriguez is **exonerated**. An officer must have probable cause to arrest a subject.<sup>10</sup> "Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it."<sup>11</sup> The reasonable basis of any arrest "should be considered from the perspective of a reasonable officer at the time" of the arrest.<sup>12</sup> Here, it is undisputed that █████ was arrested on a signed criminal complaint for assault and that the complaint was reasonably supported by the facts learned during the Department member's investigation. Therefore, the decision to arrest █████ was reasonable and proper.

COPA finds that Allegation #4 against Officer Anderson is **not sustained**. While it is undisputed that █████ occupied his vehicle while committing the alleged assault, there is insufficient evidence to determine if the vehicle was parked on the roadway properly and legally; thus COPA is unable to determine if the towing of █████'s vehicle was proper.

##### b. Threats and Failing to Report Allegations

COPA finds Allegation #3 against Officer Anderson is **not sustained**. COPA was unable to locate any evidence, other than █████'s statement, to support the allegation. Additionally, COPA was unable to locate any evidence, other than Officer Anderson's statement, to refute the allegation.

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<sup>10</sup> *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

<sup>11</sup> S04-13-09 II(D).

<sup>12</sup> S04-13-09 II(D).

COPA finds Allegation #3 against FTO Curl and Officers Gomez and Rodriguez is **unfounded**. Based on ██████'s explanation that Officer Anderson threatened him as he was placed into the rear of Officer Anderson's vehicle and the accounts of ██████ and Department members that FTO Curl and Officers Gomez and Rodriguez arrived after ██████ was secured in Officer Anderson's vehicle, COPA determined that clear and convincing evidence exists to support a finding that FTO Curl and Officers Gomez and Rodriguez were not present for any possible threat Officer Anderson may have directed at ██████. Therefore; they had no obligation to report the threat, if one even occurred.

### c. Body Worn Camera Allegations

COPA finds that Allegation #1 against Sgt. Sikorski and Allegation #2 against FTO Curl and Officers Anderson, Gomez and Rodriguez are **sustained**. Department members who are issued and equipped are required to activate BWC "at the beginning of" or "as soon as practical" for "calls for service...."<sup>13</sup> Here, it is undisputed that Sgt. Sikorski, FTO Curl, and Officers Anderson, Gomez and Rodriguez were issued and equipped with BWCs that they failed to activate the BWC as they responded to the call for service involving ██████.

### d. Paperwork Allegations

COPA finds Allegation #1 against Sgt. Dal Ponte is **unfounded**. In this instance, Sgt. Dal Ponte approved the Vehicle Tow Report based on the information contained within the report. Additionally, Sgt. Dal Ponte explained that since ██████ was driving his vehicle when he assaulted Murphy and that the vehicle was readily identified during ██████'s arrest it was permissible for the vehicle to be towed to prevent damage to the vehicle. Finally, Sgt. Dal Ponte had no reason to doubt the contents of the Vehicle Tow Report or any information Officer Anderson may have conveyed to him; therefore, additional inquiry was not necessary.

COPA finds Allegation #4 against Officer Rodriguez is **unfounded**. There is no evidence to support a finding that Officer Rodriguez were aware that ██████'s vehicle was towed by Officer Anderson; therefore, the omission of ██████'s vehicle information on his arrest report is not improper.

## V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Sgt. Jeremy Sikorski

- i. **Complimentary History:** 1 Life Saving Award; 78 Honorable Mentions; 11 Department Commendations; 1 Problem Solving Award; 1 Special Commendation; 6 Complimentary Letters; 1 Honorable Mention Ribbon' 1 Unit Meritorious Service Award.
- ii. **Disciplinary History:** None

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<sup>13</sup> S03-14 III(A)(2)(a).

**iii. Recommended Penalty, by Allegation****1. Allegation No. 2 – 2-day suspension****b. FTO Ebony Curl**

**i. Complimentary History:** 3 Department Commendations; 17 Honorable Mentions; 3 Complimentary Letters; 1 Unit Meritorious Performance Award.

**ii. Disciplinary History:** None

**iii. Recommended Penalty, by Allegation****1. Allegation No. 2 – Written Reprimand****c. Officer Maurice Anderson**

**i. Complimentary History:** 2 Life Saving Awards; 1 Special Commendation; 92 Honorable Mentions; 12 Department Commendations; 12 Complimentary Letters; 1 Honorable Mention Ribbon; 1 Unit Meritorious Performance Award.

**ii. Disciplinary History:** 6-day Suspension – Neglect of Duty; 3-day Suspension – Insubordination.

**iii. Recommended Penalty, by Allegation****1. Allegation No. 2 – 2-day suspension.****d. Officer Servando Gomez**

**i. Complimentary History:** 7 Honorable Mentions; 1 Complimentary Letter.

**ii. Disciplinary History:** 1 Written Reprimand – Preventable Accident.

**iii. Recommended Penalty, by Allegation****1. Allegation No. 2 – Written Reprimand.****e. Officer Juan Rodriguez**

**i. Complimentary History:** 6 Honorable Mentions; 1 Complimentary Letter.

**ii. Disciplinary History:** None

**iii. Recommended Penalty, by Allegation**

**1. Allegation No. 2 – Written Reprimand**

In this instance all of the accused acknowledged their failure to capture the interaction with █████ on BWC. Sgt. Sikorki’s and Officer Anderson’s failure to capture the interaction with █████ directly impacted the ability of COPA to determine what occurred on scene prior to and during █████’s arrest. This direct impact is the basis for COPA’s higher penalty to recommendation. Conversely, FTO Curl’s and Officers Gomez’ and Rodriguez’ assertions that they never exited their vehicle while on scene and had no interaction with █████ until he was inside of the district station<sup>14</sup> was a reasonable, all bet-it still contrary to policy,<sup>15</sup> explanation as to why they failed to capture the interaction with █████, thus COPA has recommended a lesser penalty than the other accused members.

Approved:

████████████████████  
████████████████████  
████████████████████

10/5/20

James Murphy-Aguilu  
*Deputy Chief Investigator*

Date

**Appendix A**

Assigned Investigative Staff

<b>Squad#:</b>	2
<b>Investigator:</b>	████████████████
<b>Supervising Investigator:</b>	████████████████
<b>Deputy Chief Administrator:</b>	James Murphy-Aguilu

<sup>14</sup> These assertions were supported by Officer Anderson’s statement.

<sup>15</sup> FTO Curl and Officers Gomez and Rodriguez were required to activate their BWC “at the beginning of” the ”call for service.” See S03-14 III(A)(2)(a).