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David O. Brown
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Andrea Kersten
Interim Chief Administrator
Civilian Office of Police Accountability
1615 West Chicago Avenue, 4th Floor
Chicago, IL 60622

RE: Superintendent's Partial Non-Concurrence with COPA's Findings and Proposed Penalties
Complaint Register Number: #2020-0000630
Sergeant William Spyker, #1930

Dear Interim Chief Administrator:

After a careful review of the recommendation made by the Investigator in this matter, the Chicago Police Department (CPD) concurs in part and non-concurs in part. As set forth more fully below, CPD concurs with the sustained findings for Allegations #1, #2, and #5 in full and Allegations #6 and #7 in part. CPD does not concur with the sustained findings for Allegations #3 and #4.

Relevant Facts

The complainant, [REDACTED] (" [REDACTED] was a CTA supervisor, and on February 4, 2020, she responded to a stabbing at the Jackson Red Line station. At the scene, she alleged that an officer (later determined to be Officer Haran¹) grabbed her and pushed her. When she saw Sgt. Spyker on the scene, she wanted to address her allegations about the officer, but she ended up being handcuffed and detained. As a result, Complainant [REDACTED] and COPA have made multiple allegations against the accused Sergeant.

An Original Incident Case Report with RD No. JD-139781 provided the following information: Officers received a call of a person calling for help on the CTA platform at Jackson and State. Upon arrival, an individual told the officers that he had been stabbed and he pointed out the offender. The offender was taken into custody and the victim was transported to the hospital. While establishing and protecting the crime scene, Officer Haran observed CTA supervisor [REDACTED] walk through the scene at which time the officer ordered [REDACTED] to stop walking through the scene. When [REDACTED] did not comply, the officer escorted [REDACTED] from the scene. [REDACTED] "became irate and was momentarily detained." An Investigative Stop Report ("ISR") was generated to document the stop. The crime scene was later processed by an Evidence Technician.

The ISR stated that [REDACTED] was "detained" for an investigation after Officer Haran informed the accused sergeant that [REDACTED] had ignored all verbal commands/multiple lawful orders to exit the crime scene. It stated that

¹ In its Summary Report of Investigation COPA found that two of the four allegations against Officer Haran were Unfounded and the remaining two allegations were Exonerated.

because she disobeyed the verbal direction, [REDACTED] was physically escorted from the crime scene and that [REDACTED] was "irate and upset" that she was touched/escorted out of the scene. The report also stated that after a full investigation, Officer Haran and the accused sergeant determined that it was possible that [REDACTED] may not have heard the verbal commands because she was talking on her cell phone. The report concluded by stating that [REDACTED] was allowed to leave. (Att. 5).

The complainant, [REDACTED] told COPA, in summary, the following: She had been a supervisor for the CTA for four years. On the above date, she responded as a supervisor to a stabbing at the Jackson Red Line station. Her job was to assess the situation to determine if trains could still stop at the station – or if they had to bypass it. [REDACTED] complained that as she was assessing the situation, an officer came up behind her, grabbed her, and pushed her. She told the officer not to put his hands on her. She walked away, and the police officers on scene eventually blocked off the area with yellow crime scene tape. She then saw a "white shirt" and asked if he could address why one of his officers put his hands on her. He asked what she did and stated that if she did something wrong, they would arrest her. He called the officer over and asked if she was obstructing the crime scene and the officer stated "yes". He then instructed the officer to handcuff [REDACTED] which the officer did. She was handcuffed for 10-15 minutes. In the end, the "white shirt" stated that there was a misunderstanding, and she was released. She stated that no one ever told her that it was a crime scene and that the officer never said anything to her prior to pushing her. She further stated that she had been communicating over her radio during a lot of this incident. She stated that other people, not the police, were also walking in this area and that she did not see the police stop them. (Att. 3).

Officer Haran told COPA, in summary, the following: On the above date, he and his partner responded to a call of a person stabbed. Upon arrival, he located the victim. The Chicago Fire Department arrived on the scene and they worked with CPD to set up a perimeter for the crime scene. He first encountered [REDACTED] when she walked past him inside the crime scene perimeter. When asked how that perimeter was established, he stated that they were in the process of setting up the tape and they had officers lining the platform around the area that needed to be secured. Haran initially approached [REDACTED] from behind and said, "Excuse me, ma'am, ma'am," but she kept walking. Haran then tapped her on the shoulder at which time she spun around and said, "Don't touch me." Haran said, "You're walking through a crime scene. You have to get out of the crime scene." [REDACTED] turned around and continued to walk towards the blood spatter at which time Haran escorted her by her shoulder and arm outside of the crime scene. When asked, Haran denied pushing [REDACTED]. After being escorted out, [REDACTED] said, "Don't ever put your hands on me again," and "I got a job to do." [REDACTED] was very hostile at this point, but she walked away. Later, the accused sergeant waved Haran over and asked him if she was obstructing the crime scene. Haran explained to him what happened. When asked why he handcuffed [REDACTED] Haran stated that it was because he was given an order from the sergeant. When asked why [REDACTED] wasn't arrested at the time when she committed the crime, Haran stated that he used his discretion. Haran denied that the arrest was retaliatory because she complained about him. Haran stated that the sergeant decided to release her. Regarding the ISR, Haran stated that it was a summary of what happened and that he believes that it accurately documented [REDACTED] interactions with CPD on the above date. (Att. 22).

In his statement to COPA, Sgt. Spyker stated, in summary, the following: There was a call of someone stabbed on the Red Line so he responded to assist with the call. The complainant, [REDACTED] eventually approached him and stated that she wanted something done. She told him that Officer Haran grabbed her and pushed her. The accused sergeant thought that maybe it was a misunderstanding of what they were trying to accomplish at the scene. He believed that he told her that if that's your complaint, there is no complaint. He spoke to Officer Haran to determine if there was probable cause to arrest - if she ignored his orders. [REDACTED] was handcuffed

because the officer told the accused sergeant that the officer told [REDACTED] several times to exit the crime scene and she ignored him – so the accused sergeant believed that there was probable cause for an arrest. When the accused sergeant received additional information - that she may have been on her phone or radio so she may not have heard the officer's orders, she was released. Regarding the ISR and the Original Case Incident Report, the accused sergeant did not author them, but he did approve them. He believes that they accurately represent [REDACTED] interactions with CPD on the above date. (Att. 34).

COPA further asked the accused sergeant about the probable cause that he had developed to arrest [REDACTED]. He stated that there is an interference charge and that he believes that someone can interfere with the duties of an officer even without crime scene tape being erected. He believed that he had probable cause to arrest [REDACTED] for interfering/resistance/obstructing the crime scene. (Att. 34).

In his statement, the accused sergeant acknowledged that he should have taken her complaint. He stated that he made a mistake. He further stated that Department policy dictates that he should have taken the complaint. He denied arresting [REDACTED] because he was annoyed with her or because she was pushing the issue. (Att. 34)

There are multiple body camera videos of this incident. Officer Haran's video and the accused sergeant's video captured most of what happened during this incident. Summaries of their body camera videos are below:

Officer Haran's video shows, in summary, the following: The officer started keeping people outside of the crime scene (there is no crime scene tape up yet). As he was stating that everyone has to go on the outside because of the crime scene, a CTA worker (later identified as [REDACTED]) started walking in the crime scene. The officer said, "Watch-out, Ma'am, Ma'am, come out here." The CTA worker ignored the officer. It appears that the officer then tapped the CTA worker at which time she turned suddenly, appeared to be upset that she was being bothered, and stated something about talking (she was talking on a radio). The CTA worker then continued to walk through the crime scene at which time the officer stated that she needed to get out of the crime scene. The CTA worker continued to ignore the officer so he escorted her out of it. Later, Officer Haran started walking towards a sergeant and the CTA worker. The sergeant asked if she was obstructing the crime scene and the officer stated "Yes." The CTA worker stated that she was not done with this. The sergeant asked the officer if he wanted to have her arrested for obstructing the crime scene. There's further discussion and then the sergeant tells the officer to arrest the CTA worker, who is, at that point, placed in handcuffs. She is in handcuffs for several minutes while there are further discussions between the CTA worker, a CTA manager, the officer, and the sergeant. The sergeant stated that he was trying to do a full investigation. After these discussions, the sergeant concluded that the CTA worker may not have heard the officer's direction about the crime scene so she was released, on scene, without charging.

Analysis and Superintendent Determined Penalty

CPD concurs with COPA's findings for Allegations #1, #2, and #5 in their entirety and Allegations #6 and #7 in part.

CPD agrees with the Investigator that Allegation #1 – that the accused sergeant failed to report [REDACTED] complaint of misconduct against a Department member, Allegation #2 – that the accused sergeant threatened to arrest [REDACTED] for making a complaint of misconduct and Allegation #5 - that the accused sergeant engaged in an

unnecessary verbal altercation with ██████ should be sustained.

CPD further agrees that Allegations #6 and #7 should be sustained as violations of Rules 2, 3, and 10. CPD does not agree that Allegation #6 and #7 should be sustained as a violation of Rule 6. Allegations #6 and #7 are that the accused sergeant approved one or more false, misleading, inaccurate, and/or incomplete statements in the preparation of: the Original Case Incident Report (Allegation 6) recorded under RD no. JD-139781 and the Investigative Stop Report (Allegation 7), which was completed in connection with the detention of ██████. In its Summary Report, COPA admitted that these reports are not fabricated; instead, they argue that the reports do not give a “complete and candid picture of ██████ CPD interactions” on the above date. COPA stated that neither document notes that ██████ wanted to make a complaint about Officer Haran’s conduct, that the accused sergeant refused to take the complaint, or that she was arrested after she insisted on making a complaint (not when she was in the crime scene). COPA also disagreed with the description of ██████ as being “irate.” Lastly, COPA stated that neither report mentioned that ██████ was detained in handcuffs.

Based on the above, COPA concluded that the accused sergeant approved reports that did not accurately depict ██████ and CPD interactions. COPA then charged the sergeant with violating Rules 2, 3, 6, and 10 (note that there is no Rule 14 violation). For the Rule 6 violation charge, COPA did not indicate what order or directive was violated. Further Sgt. Spyker was served with allegations that do not state which order he violated in approving these documents without including more accurate information. (Att. 31). As a result, the Rule 6 violation for Allegations #6 and #7 cannot be sustained.

Regarding the Rule 2, 3, and 10 violations, CPD finds most of COPA’s omission allegations insufficient, but the allegation that the accused sergeant approved reports that did not accurately depict ██████ and CPD interactions is sufficient in one respect – the reports did not indicate that ██████ was arrested. CPD agrees that an arrest should have been documented in these reports. Therefore, the findings for Allegations #6 and #7 are sustained violations of Rules 2, 3, and 10.

CPD does not concur with COPA’s findings as to Allegations 3 and 4

COPA's third allegation is that the accused sergeant, Sgt. Spyker ordered Officer Haran to handcuff ██████ without justification. The evidence does not support a sustained finding for this allegation. According to the Body-Worn Camera video, the accused sergeant did not order Officer Haran to handcuff ██████; instead, he ordered the officer to arrest her. Semantics aside the evidence presented to the Sergeant at the time of his order included justification for ██████ to be arrested and, therefore, handcuffed. Sgt. Spyker was advised that ██████ walked through a crime scene and when advised by Officer Haran that she was walking through a crime scene and needed to stop she continued to walk through the crime scene. ██████ conduct established probable cause to arrest her, and therefore handcuff her for interfering with a crime scene. For these reasons, CPD does not concur with COPA’s recommended finding for Allegation #3.

Allegation #4 is that Sgt. Spyker detained ██████ without justification. This finding is also not supported by the evidence. First, it must be pointed out that the accused sergeant did not physically detain ██████ but he did cause ██████ to be detained. Nevertheless, this allegation is not supported by the evidence based on its use of the language “without justification.” The concern with this language is that the accused sergeant stated that he did have justification for detaining ██████ for interfering with the crime scene, and COPA does not dispute that claim in its Summary Report. In fact, COPA found that ██████ was in the crime scene, that she did not respond to Officer Haran’s lawful order to exit, and that she was a resister (passive resister). COPA also found that

"[r]egardless of the existence of any probable cause," the accused sergeant was not justified in arresting [REDACTED] "per CPD policy." And the CPD policy that COPA cited to was General Order G02-01, which states the following: "The Chicago Police Department will not tolerate abuse of law enforcement authority. While the Department does recognize the concept of discretion, that discretion must be reasonable, defensible and may not be for an improper purpose." COPA concluded that [REDACTED] was arrested as an act of retaliation for asserting a complaint against the officer, not for interfering with the crime scene. This is not without justification. Sgt. Spyker was served with the allegation that he "order[ed] Officer Haran to handcuff [REDACTED] without justification" and he "detain[ed] [REDACTED] without justification." (Att. 30). Based on the language of these allegations and the factual findings of COPA, these allegations cannot be sustained.

Recommended Discipline

COPA recommends separation in this matter, but given the above determinations of the CPD including the allegations that are not supported by the evidence in this matter, a recommended penalty of separation is too severe. CPD believes that the allegations in this matter are more closely analogous to some of those in *In re Sergeant Richard Salvador*, Log #1075864. In that Log number Sergeant Richard Salvador, then officer, and Officer Eleazar Maldonado conducted an investigatory stop in the alley of 700 West Marquette Road in the 007th District on three individuals: [REDACTED] (Complainant), [REDACTED] and [REDACTED]

During the course of the stop, unbeknownst to the officers, [REDACTED] one of the individuals stopped, began recording the events of the investigatory stop on his cellphone. The video recording is approximately 2:20 minutes in length and captured the tail end of the stop. Attempts to interview [REDACTED] and [REDACTED] by COPA) were unsuccessful. After Sgt. Salvador was alerted that the video recording had been posted on Facebook, he viewed it and reported the incident to Captain Olson, his then lieutenant, who initiated a log number. Captain Olson referred Sgt. Salvador to the Non-disciplinary Intervention Program and recommended the CPD Street Negotiation Training course.

COPA sustained four of nine allegations against Sgt. Salvador:

- Sustained: Stopped [REDACTED] without justification in violation of Rule 6.
- Sustained: Directed profanities towards [REDACTED] in violation of Rules 2 and 9. Sustained: Threatened to falsely arrest [REDACTED] in violation of Rule 2.
- Sustained: Threatened [REDACTED] with additional physical force in violation of Rule 2.

COPA recommended a penalty of a 300-day suspension. After the meet and confer period set forth in MCC 2-78-130 (a)(iii), COPA and CPD agreed upon a 30-day suspension for Sgt. Salvador.

While the Department agrees that in this incident Sgt. Spyker's conduct supports sustained rule violations and warrants a significant penalty it does not agree that his misconduct rises to the level of separation. The Department recommends a 180-day suspension which is a significant period of time and is a more appropriate penalty for the sergeant's misconduct.

Conclusion

For the foregoing reasons CPD recommends that Sgt. William Spyker be suspended for 180 days. CPD looks forward to discussing this matter with you pursuant to MCC 2-78-130(a)(iii).



David O. Brown
Superintendent
Chicago Police Department