

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 25, 2018
Time of Incident:	7:40 PM
Location of Incident:	██
Date of COPA Notification:	November 25, 2018
Time of COPA Notification:	11:05 PM

On November 25, 2018, the complainant, ██████████ (“██████████”) called the police and reported an attempted sexual assault by her ex-boyfriend at her home. Chicago Police Department (“CPD”) members responded, and ██████████ complained to a sergeant that Officer Eric Ruiz (“Officer Ruiz”) was inappropriate and searched her home. ██████████ declined to provide COPA with an interview or a sworn affidavit. COPA determined that Officer Ruiz failed to turn on his Body Worn Camera (“BWC”) in a timely fashion.

II. INVOLVED PARTIES

Involved Officer #1:	Eric Ruiz, Star #7550, Employee ID #██████████, Date of Appointment: August 26, 2002, Police Officer, 14 th District, Date of Birth: ██████████, 1970, Male, Hispanic
Involved Individual #1:	██, Date of Birth: ██████████, 1989, Female, White

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Ruiz	It is alleged that November 25, 2018, at approximately 7:50 PM, at or near ██████████, you: 1. Failed to activate your Body Worn Camera (BWC) system to event mode at the beginning of the incident.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 2. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
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Special Orders

1. **S03-14:** Body Worn Cameras.

V. INVESTIGATION¹

a. Interviews

████████████████████²

COPA made multiple attempts to contact ██████████ and conduct an interview. ██████████ declined to participate.

*Officer Eric Ruiz*³

COPA interviewed Officer Ruiz on December 10, 2019. On November 25, 2018, Officer Ruiz did not have a partner and responded to ██████████. Officer Ruiz heard via Dispatch that a boyfriend kicked in a door and had a pistol, and he believed it was originally a robbery call. Officer Ruiz related that when he heard the robbery call, he wanted to hurry to the location as quickly as possible and, due to adrenaline, did not turn on his BWC. When asked why he began recording at about 8:00 PM, Officer Ruiz related he had realized it was off. Officer Ruiz stated it was possible that he began recording on BWC because ██████████ pointed out he was not. Officer Ruiz speculated he may have been in her apartment for about one minute before he turned on his BWC. Officer Ruiz stated that when he arrived in the apartment, he first began looking for evidence. Officer Ruiz added that when he began looking, ██████████ grew upset and asked Officer Ruiz to leave her dwelling. Officer Ruiz complied and went into the hallway.

Digital Evidence

*Body Worn Camera*⁴

Officer Christopher Elliott ("Officer Elliott")

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 31

³ Att. 26

⁴ Att. 18

Officer Elliott's BWC initiated at approximately 7:57 PM. Officer Ruiz was inside ██████'s apartment when Officer Elliot arrived. ██████ told Officer Ruiz that she was in fear and she believed her alleged assailant, ██████ ("██████"), was nearby. ██████ became frustrated with Officer Ruiz, did not think he was doing his job, and asked for a sergeant. At roughly 8:02 PM, Officer Elliott spoke to sergeant on the phone and related ██████ was unhappy with the police service. ██████ complained that Officer Ruiz entered her dwelling with no warrant. ██████ then asked Officer Ruiz to leave. ██████ and the officers proceeded downstairs to the apartment building's foyer. At roughly 8:04 PM, Officer Elliot went on the radio with a flash message of ██████'s description. Officer Elliott went outside at approximately 8:06 PM and terminated his BWC.

Officer Ruiz

Officer Ruiz's BWC began at about 8:00 PM, while inside ██████'s kitchen. ██████ voiced her displeasure with Officer Ruiz's behavior, then gave Officer Elliott a description of ██████ and details of what occurred. At about 8:02 PM, Officer Ruiz began walking towards the rear of the apartment, when ██████ stated that, "You don't have a right to search my premises. So, can you please exit until the sergeant comes here. You don't have a warrant."⁵ ██████ asked Officer Ruiz to leave until the sergeant responded. ██████ then escorted the officers down to the building's foyer and accused the officers of lacking sensitivity. ██████ continued telling the officers about the alleged attack, while Officer Elliott gave ██████'s description over the radio.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. *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

⁵ Approximately 2:48 minute mark of Officer Ruiz's BWC.

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.

VII. ANALYSIS

Allegation 1, that Officer Ruiz failed to activate his BWC system to event mode at the beginning of the incident, is Sustained. CPD Special Order S03-14 states that Department members, "will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities," including, but not limited to, "calls for service," "statements made by individuals in the course of an investigation," and "any encounter with the public that becomes adversarial after the initial contact." Officer Ruiz was already inside ██████████'s home when Officer Elliott entered at roughly 7:58 PM. Officer Ruiz then turned on his BWC at about 8:00 PM, meaning he did not have BWC recording from as little as two minutes, to as long as seven minutes. Since Officer Ruiz failed to comply with S03-14, this allegation is Sustained.

With regards to the comments ██████████ made to Sergeant Granias about Officer Ruiz's response and Officer Ruiz searching her apartment, ██████████ declined to provide COPA with a sworn affidavit or a statement of events. Without this information from ██████████, COPA lacked a sufficient bases to investigate these claims, as BWC does not independently show if they occurred.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Ruiz

i. **Complimentary and Disciplinary History:** 2004 Crime Reduction Ribbon, 1; 2009 Crime Reduction Award, 1; Attendance Recognition Award, 5; Complimentary Letter, 5; Department Commendation, 4; Honorable Mention, 49; Life Saving Award, 2; NATO Summit Service Award, 1; Presidential Election Deployment Award 2008, 1; and a Unit Meritorious Performance Award, 1. No applicable disciplinary history within the past 5 years.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1.** Failed to activate your Body Worn Camera (BWC) system to event mode at the beginning of the incident.
Penalty: Violation Noted

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Ruiz	<p>It is alleged that November 25, 2018, at approximately 7:50 PM, at or near [REDACTED], you:</p> <p>1. Failed to activate your Body Worn Camera (BWC) system to event mode at the beginning of the incident.</p>	Sustained/Violation Noted

Approved:

[REDACTED]

February 25, 2020

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	Three
Investigator:	Kelsey Fitzpatrick
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten