

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 11, 2016
Time of Incident:	8:48 am
Location of Incident:	7800 S. Halsted Street, Chicago, IL 60620
Date of COPA Notification:	September 10, 2019
Time of COPA Notification:	11:34 am

On June 11, 2016, at approximately 8:48 a.m., complainant [REDACTED] ([REDACTED]) walked into the 6th District Police Station, at or near 7800 S. Halsted Street, to request information about his daughter’s whereabouts.¹ After [REDACTED] was unable to speak to an officer, he started to record his encounter at the police station via Facebook Live. As [REDACTED] recorded, he walked to the end of the station desk where Lieutenant Roy A. Boffo (“Lt. Boffo”) sat. [REDACTED] then proceeded to record and spell out Lt. Boffo’s name. Lt. Boffo then threw/swiped a telephone receiver at [REDACTED] jumped over the District Station front desk, and pursued [REDACTED] as [REDACTED] ran out of the district station. Following an investigation, the Civilian Office of Police Accountability (“COPA”) has determined by preponderance of the evidence that Lt. Boffo’s actions constituted misconduct.

II. INVOLVED PARTIES

Involved Officer #1:	Lieutenant Roy A. Boffo, Star #566, Employee No. [REDACTED], Date of Appointment: March 26, 1990, Rank: Lieutenant, Unit of Assignment: 006, DOB: [REDACTED], 1966, Gender: Male, Race: White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1987, Gender: Male, Race: Black

¹ Early that morning, [REDACTED] was asleep when he was informed by his girlfriend that the police came and took his juvenile daughter from his home. [REDACTED] went to the 6th District to gain additional information about why his daughter was taken.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Lieutenant Roy Boffo	<p>On or about June 11, 2016, at approximately 8:48 am, at or near 7800 S. Halsted Street, Chicago, IL, Lieutenant Roy Boffo committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> <li data-bbox="586 569 1146 667">1. Attempted to strike ██████████ with a telephone receiver and/or chased ██████████ without justification; and/or <li data-bbox="586 716 1146 888">2. Failed to comply with S03-14(V)(L) by preventing a non-officer, ██████████ from video recording a law enforcement in the performance of his or her duties in a public space. 	<p>Sustained /90-Day Suspension</p> <p>Sustained /10-Day Suspension</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2, CPD Rules of Conduct (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 8, CPD Rules of Conduct (Prohibits officers from being disrespectful to any person, while the officer is on or off duty).
3. Rule 9, CPD Rules of Conduct (Prohibits officers from engaging in any unjustified verbal or physical altercation to any person, while the person is on or off duty).

General Orders

1. General Order G03-02-02 (effective date: January 1, 2016 through March 11, 2015)

Special Orders

1. Special Order S03-14 (IV)(L): *Body Worn Cameras* (effective date: May 10, 2016 through June 9, 2017)

State Law

1. 720 ILCS 5/12-1 (a) (effective date: July 1, 2011)

V. INVESTIGATION²

a. Interviews

██████████

In a statement with COPA on September 10, 2019, ██████ told investigators that on the morning of June 11, 2016 he was asleep at home when the police removed his daughter from his home. At the time, ██████ was dating his girlfriend, ██████ (██████████) who was also present at the home. When the police arrived, ██████ answered the door and handed the daughter to the police. Approximately 20 minutes later, ██████ woke up and ██████ told him that the police took his daughter.

Immediately, ██████ went to the 6th District Station to inquire why his daughter was removed from his home. ██████ also used his cellphone to record his interaction at the 6th District Station. During that interaction, ██████ observed an officer wearing a shirt white in color³ talking on the phone at the front desk. ██████ walked towards this officer to collect the officer's name and badge number. ██████ walked up to the officer and started to spell the officer's name. As ██████ spelled out loud the officer's the name, the officer threw a telephone receiver at ██████ jumped over the front desk, and chased ██████ ran from 6th District station. ██████ observed the officer wearing a shirt white in color chasing after him along with other officers. The officers eventually stopped chasing ██████ and ██████ took the bus home.

Lieutenant Roy Boffo

Lt. Boffo gave an audio recorded statement on January 24, 2020. In summary, Lt. Boffo told investigators that he was a District Station Supervisor at the 6th District on the morning of June 11, 2016. That morning, ██████ was at the 6th District when he became loud and disruptive while speaking to officers.⁴ According to Lt. Boffo, ██████ used profanity towards other officers. Lt. Boffo further stated that ██████ approached him two to three times at the front desk. Lt Boffo informed ██████ that he could stay in the station, however, "if he couldn't behave normally, in a rational way, that he would have to leave."⁵ Lt. Boffo described ██████ demeanor as confrontational and possibly threatening.⁶ Lt. Boffo told investigators that he did not feel personally threatened by ██████⁷ Lt. Boffo further explained that ██████ was confrontational based on him being "loud and boisterous."⁸ Lt. Boffo further stated that ██████ approached the end of the desk and reached over the desk with his cellphone in his hands.⁹ The cellphone was approximately two feet away from Lt. Boffo's face.¹⁰

² COPA investigated. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Identified by COPA as Lt. Boffo.

⁴ See Attachment #17 (pg.14: 8-11)

⁵ See Attachment #17 (pg.14: 16-20)

⁶ See Attachment #17 (pg.34:6-10)

⁷ *Id.*

⁸ See Attachment #17 (pg. 16: 8-22)

⁹ See Attachment #17 (pg.18)

¹⁰ See Attachment #17 (pg.24:23)

As ██████ approached the desk with his cellphone, Lt. Boffo stated that he only swiped or waved forcefully at ██████ with the telephone receiver to move him away from the desk area.¹¹ Lt. Boffo explained that, “I can’t have someone invade the space, break the space, and approach to that closeness. So that’s why I moved him—moved him back.”¹² Lt. Boffo then jumped on top of the desk and down to the floor.¹³ This was done to close the distance between the Lt. Boffo and ██████. Lt. Boffo further stated that he took two to three steps before he saw ██████ heading towards the door and out of the police station.^{14,15} After ██████ left the station, Lt. Boffo returned to his desk and continued his work for the day.¹⁶

b. Digital Evidence

The Facebook Live video¹⁷ provided by ██████ depicts the encounter at the police station. ██████ informs the camera that he is asking about the whereabouts of his child. ██████ states, “I talk [sic] to Ms. Moore but I ain’t going to put her on [the] camera... she [sic] been very gracious. But these motherfuckers over here---.”¹⁸ ██████ turns his cellphone camera to record officers sitting at the station’s desk who are talking on the phone. ██████ then walks down the end of the station desk to record a white male officer wearing a shirt white in color. ██████ then records the officer as the officer is talking on the phone. ██████ then states, “[w]e got to get that B-F-O-F-F-F-O.”¹⁹ The officer pulls the telephone receiver from his ear and reaches over the desk to strike ██████ with the phone still in his hand. The officer then stands up on the desk and jumps over the desk. ██████ then runs out of the 6th District station. ██████ states, “[t]hem motherfuckers [are] chasing me right now.”²⁰ The video shows ██████ running for about 12-13 seconds.

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

¹¹ See Attachment #17 (pg. 25-26)

¹² See Attachment #17 (pg.34: 10-13)

¹³ See Attachment #17 (pg. 26)

¹⁴ See Attachment #17 (pg. 27).

¹⁵ See Attachment #17 (pg.33).

¹⁶ See Attachment #17 (pg. 27).

¹⁷ See Attachment #1.

¹⁸ See Attachment #19 (Mark 0:07-0:14).

¹⁹ See Attachment #19 (Mark 0:20-0:24).

²⁰ See Attachment #19 (Mark 0:40-0:42).

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.

VII. ANALYSIS

COPA rejects Lt. Boffo's justification for his actions. Lt. Boffo told COPA investigators that the alleged conduct was justified to ensure that ██████ did not invade the lieutenant's space. The lieutenant further described ██████ conduct as irrational. Conversely, COPA finds ██████ conduct to be rational and conduct exhibited by Lt. Boffo's to be irrational and unprofessional.

a. Allegation #1 - Use of Force

i. CPD Use of Force Policy

General Order G03-02-02, *Force Options*, governs the level of force appropriate for Department members to use in a given situation. Furthermore, this policy classifies individuals who are interacting with department members as cooperative, passive resister, active resister, or an assailant, depending on the officer's direction and the individual's actions. In this case, we find that ██████ is appropriately classified as a cooperative individual.

The policy defines a Cooperative individual as "a person who is compliant without the need for physical force."²¹ The facts bear out that ██████ was legally at the 6th District front desk requesting police service, something COPA finds to be rational behavior. The facts further show that ██████ becomes dissatisfied the officers' response to ██████ request for service, so ██████ decides to record the officers, which is also something COPA also finds to be rational, legal behavior. Finally, the facts show that ██████ never physically threatens any of the officers, nor do any of the officers give ██████ any verbal commands. In sum, ██████ is legally standing at the front counter of the 6th District station recording officers who are inattentive to ██████ request for police service.

In response to cooperative subjects, CPD policy permits officers to use social and verbal control techniques that includes police presence, persuasion, advice and warning.²² Essentially, the

²¹ Special Order S03-14 *Body Worn Cameras* (effective date: May 10, 2016 through June 9, 2017), Sec. IV. A.

²² *Id.* at Sec. IV. A. 1-2.

officers, including Lt. Buffo, could have approached ██████ and talked to him, which is exactly what ██████ wanted the officers to do. However, in this instance, Lt. Buffo jumped the front desk as he swung the phone receiver at ██████. Importantly, we find that in this situation no reasonable officer would find ██████ actions of recording and complaining about the officers' lack of response to be threatening. In fact, Lt. Buffo himself admitted that he was not personally threatened by ██████ behavior.

ii. Assault

Illinois Criminal Code, section 720 ILCS 5/12-1 (a), provides that, “[a] person commits an assault when, without lawful authority, he or she knowingly engages in conduct which places another in reasonable apprehension of receiving a battery.”²³ COPA finds by a preponderance of the evidence that not only did Lt. Buffo’s conduct violate CPD policy, but that the lieutenant’s physical actions of jumping the desk and swiping the phone receiver at ██████ lacked any legal justification.

For these reasons, we find by a preponderance that Lt. Buffo assaulted ██████. And in doing so, Lt. Buffo violated CPD policy governing a member’s use of force and committed criminal assault as defined by the state of Illinois. Accordingly, allegation 1 is sustained.

b. Allegation #2 - Video Recording Interference

CPD Special Order S03-014 forbids department members from interfering with any individual’s act of recording a CPD member in the performance of his or her duties²⁴ COPA finds that Lt’ Buffo’s assault of ██████ hindered ██████ ability to record Lt. Buffo in the performance of his duties. Accordingly, Allegation 2 is sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Member: Lt. Buffo

- i. Complimentary and Disciplinary History:** 2004 Crime Reduction Ribbon, 1; 2009 Crime Reduction Ribbon, 1; 2019 Crime Reduction Award, 1; Attendance Recognition Award, 5; Complimentary Letter, 21; Democratic Nation Convention Award, 1; Department Commendation, 7; Honorable Mention, 22; Joint Operation Award, 1; NATP Summit Service Award, 1; Presidential Election Deployment Award, 2008; Problem solving Award, 1. No applicable disciplinary history.

ii. Recommended Penalty, by Allegation

²³ 720 ILCS 5/12-1 (a).

²⁴ Special Order S03-14 *Body Worn Cameras* (effective date: May 10, 2016 through June 9, 2017), Sec. IV. L.

1. **Allegation No. 1:** Attempted to strike [REDACTED] with a telephone receiver and/or chased [REDACTED] without justification. 90-Day Suspension.
2. **Allegation No. 2:** Failed to comply with S03-14(V)(L) by preventing a non-officer, [REDACTED] from video recording a law enforcement in the performance of his or her duties in a public space. Penalty: 10-Day Suspension.

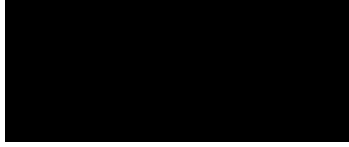
COPA finds Lt. Boffo’s conduct to be inexcusable and wholly unbefitting of a police Lieutenant, who is expected to model appropriate behavior to the officers under his supervision. In this case, [REDACTED] came to the 6th District seeking information regarding the whereabouts of his minor child. When he became dissatisfied with the inattentive police service he received at the 6th District front desk, [REDACTED] decided to record the event, which is a statutorily protected right of every citizen. During their exchange, Lt. Boffo exhibited an utter loss of control when he attempted to strike [REDACTED] with a phone receiver and then leapt over the front desk towards him. Lt. Boffo was unable to offer a reasonable explanation or justification for his actions. Furthermore, he took no responsibility for his misconduct during his interview. If Lt. Boffo had been a civilian, he very well could have been charged with the crime of assault. Accordingly, COPA finds a 90-day suspension to be appropriate.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Lieutenant Roy Boffo	<p>On or about June 11, 2016, at approximately 8:48 am, at or near 7800 S. Halsted Street, Chicago, IL, Lieutenant Roy Boffo committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Attempted to strike [REDACTED] with a telephone receiver and/or chased [REDACTED] without justification; and/or 2. Failed to comply with S03-14(V)(L) by preventing a non-officer, [REDACTED] from video recording a law enforcement in the performance of his or her duties in a public space. 	<p>Sustained/90-Day Suspension</p> <p>Sustained/10-Day Suspension</p>

Approved:



Andrea Kersten
Deputy Chief Investigator

March 26, 2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	Khristian Wills
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten