

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 2, 2021
Time of Incident:	8:30 a.m.
Location of Incident:	████████████████████
Date of COPA Notification:	February 2, 2021
Time of COPA Notification:	11:51 a.m.

██████████ (██████████) and her husband, ██████████ (██████████) had a domestic dispute on February 1, 2021, at their home, located at ██████████. Officers were called, and ██████████ left the house. The following day, ██████████ arrived at the home with a police escort to obtain some belongings with Officer Linda Gutierrez (“Officer Gutierrez”) and Officer Brendan Carney (“Officer Carney”). Sergeant Arthur Young (“Sergeant Young”) was also on the scene. Instead of allowing ██████████ in the home, ██████████ brought the items that ██████████ requested to the front door. Officer Gutierrez attempted to retrieve the items from ██████████. During this process, Officer Gutierrez directed the word “bitch” at ██████████.

II. INVOLVED PARTIES

Involved Officer #1:	Linda Gutierrez, Star No. 19884, Employee ID No. ██████████ Date of Appointment: 5/6/1996, PO, Unit of Assignment 012, DOB: ██████████1961, Female, White.
Involved Sergeant #1:	Arthur Young, Star No. 1289, Employee ID No. ██████████ Date of Appointment: 9/5/1995, Sergeant, Unit of Assignment: 012, DOB: ██████████1972, Male, White.
Involved Individual #1:	██████████ DOB: ██████████93, Female, Asian.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Linda Gutierrez	<p>It is alleged that on or around February 2, 2021, at approximately 8:30 a.m., in the vicinity of [REDACTED] Officer Linda Gutierrez, Star No. 19884, committed misconduct by:</p> <p>1. Stating words to the effect of, “bitch” at or in the direction of [REDACTED]</p>	Sustained
Sergeant Arthur Young	<p>It is alleged that on or around February 2, 2021, in the vicinity of [REDACTED] Sergeant Arthur Young, Star No. 1289, committed misconduct by:</p> <p>1. Failing to report the misconduct of Officer Gutierrez.</p> <p>2. Failing to activate your body worn camera.</p>	<p>Sustained</p> <p>Unfounded</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
 2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
 3. Rule 5: Failure to perform any duty.
 4. Rule 6: Disobedience of an order or directive, whether written or oral.
 5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
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General Orders

1. G02-01 Human Rights and Human Resources (effective October 5, 2017).
 2. G08-01-02 Specific Responsibilities Regarding Allegations of Misconduct (effective May 4, 2018, through December 30, 2021).
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Special Orders

1. S03-14 Body Worn Cameras (effective April 30, 2018).
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State Law

1. 50 ILCS 706/10-20 Law Enforcement Officer-Worn Body Camera Act
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V. INVESTIGATION¹

a. Interviews

██████████ provided a statement² to COPA on April 22, 2021. The following is a summary of her statement.

██████████ and ██████████ were involved in a domestic disturbance on the evening of February 1, 2021, and officers were called to the home ██████████ and ██████████ shared. ██████████ left the home. The following morning, ██████████ wished to pick up a key and returned to the house. ██████████ wanted to give ██████████ a key but did not want ██████████ to enter the house, so she called the police to hand the key to ██████████. ██████████ said the police came to her door as an escort for ██████████ and her protection. ██████████ stated that as everything was wrapping up, Officer Gutierrez called her a “bitch.” ██████████ asked, “Did you just call me a bitch,” and Officer Gutierrez stated, “Yes.” ██████████ said Officer Gutierrez was a very mean and rude woman and that ██████████ had never felt that disrespected. ██████████ further stated that she did not hear other officers respond or say anything to Officer Gutierrez after she called her a “bitch.”

Officer Gutierrez provided a statement³ to COPA on April 26, 2022. The following is a summary of her statement.

On the day of the incident, Officer Gutierrez was on duty and was sent to the address of the incident to assist ██████████ in obtaining his property from the home after a domestic disturbance occurred between him and ██████████ the night before. When Officer Gutierrez arrived, ██████████ was already present. Officer Brendan Carney, Star No. 7591, and Sergeant Young arrived afterward.

Officers Carney and Gutierrez went up the front stairs and knocked on the front door to allow ██████████ to retrieve personal items. Officer Gutierrez knocked on the door, and ██████████ came to the door. ██████████ did not want to open the door. ██████████ began coming up the stairs, and Officer

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. 15.

³ Att. 23.

Gutierrez asked ██████ to go back down. Officer Gutierrez stated she intended to speak with ██████ separately, away from ██████

██████ wanted to go in to get items, but ██████ would not let ██████ come in. Officer Gutierrez stated that ██████ had to let ██████ come in to retrieve his items because, generally, during a domestic situation, a person is told to come back the next day if they need anything from the residence and to contact the police for help so that there is no escalation. Officer Gutierrez also stated that Sergeant Young tried to explain to ██████ that ██████ needed to get things. Sergeant Young then told ██████ to get the items ██████ requested. ██████ went to retrieve the items. Officer Gutierrez stated that when ██████ returned, she shoved the items at Officer Gutierrez.

Officer Gutierrez stated that she let ██████ get to her and knows better. She said something that she should not have said and said something to the effect of calling ██████ a “bitch.” Officer Gutierrez described ██████ as uncooperative. She also didn’t like the way ██████ tossed the items to her because she almost dropped them, and Officer Gutierrez did not want to break anything. Officer Gutierrez called ██████ a “bitch” under her breath, and ██████ shut the door. ██████ then asked if Officer Gutierrez called her a bitch, and Officer Gutierrez stated that she did. Officer Gutierrez stated that Sergeant Young did not discuss her interaction with ██████. Officer Gutierrez also said she did not receive any admonishment regarding the incident.

Sergeant Young provided a statement⁴ to COPA on March 2, 2022. The following is a summary of his statement.

Sergeant Young received a call about a domestic and responded to the scene. When Sergeant Young arrived on the scene, he walked toward the front of the building after Officer Gutierrez motioned for him to come over. At the front of the address, Sergeant Young observed ██████ Officer Gutierrez, and Officer Carney talking through a door to ██████. Sergeant Young recalled trying to get ██████ to give him the items that ██████ wanted.

Based on his body worn camera, Sergeant Young stated that Officer Gutierrez wanted ██████ to go inside to get the belongings, but he told ██████ she could bring the items to the door. ██████ agreed to get the belongings and handed them to Officer Gutierrez. Based upon his review of the video, Sergeant Young stated that Officer Gutierrez stated, “Slow the fuck down, bitch,” to ██████. Sergeant Young stated that he did not believe he heard Officer Gutierrez’s entire statement to ██████ at that time but that he did hear Officer Gutierrez say, “bitch.”

Sergeant Young did not say anything to Officer Gutierrez after the incident regarding her remark to ██████. He stated that it was a mistake and that he should have taken Officer Gutierrez into the station and issued a Complaint Register number. Sergeant Young made no reports about

⁴ Att. 20.

the incident, and no discipline recommendations were made. Sergeant Young admitted that he failed to report the misconduct of Officer Gutierrez.

Sergeant Young stated that he activated his body worn camera in his squad car and deactivated his body worn camera as he was walking away from the scene.⁵ He denied that he failed to activate his body worn camera.

b. Digital Evidence

The **body worn camera (BWC) footage of Sergeant Young,⁶ Officer Gutierrez,⁷ and Officer Carney⁸** recorded the incident. Sergeant Young, Officer Gutierrez, Officer Carney, and ██████ can be seen on the porch at the location of the incident. ██████ comes to the front door but will not open the door. The officers tell ██████ that they have come to escort ██████ into the home so that he can collect his things. ██████ says that ██████ could not enter because she did not feel comfortable. Officer Gutierrez tells ██████ that the officers are here to make her comfortable. Sergeant Young then states that ██████ can bring ██████ items to the door, and the officers can then give the items to ██████ tells the officers which items he wants, and the officers repeat the items to ██████ leaves to retrieve the items.

██████ returns a few minutes later with the requested items and states, “I’m going to put them on the floor.”⁹ Officer Gutierrez, while taking the items from ██████ says, “No, no, I have it. Give me a minute.”¹⁰ ██████ then begins to shut the door as Officer Gutierrez attempts to secure her grip on the items. Officer Gutierrez then states, “Chill the fuck out, bitch.”¹¹ ██████ opens the door and asks Officer Gutierrez if she called her a “bitch,” and Officer Gutierrez responds, “I did.”¹²

V. 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

⁶ Att. 18.

⁷ Att. 12.

⁸ Att. 11.

⁹ Att. 12 at 08:31:53.

¹⁰ Att. 12 at 08:31:55.

¹¹ Att. 12 at 08:31:58.

¹² Att. 12 at 08:32:06.

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 reviewed complied with 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 conduct complied with Department policy than that it did not, 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.

VI. ANALYSIS

a. Officer Gutierrez directed verbally abusive language at or in the direction of [REDACTED]

Officer Gutierrez violated Rules 2 and 8 of the Department's Rules and Regulations when she directed verbally abusive language at [REDACTED]. Officer Gutierrez admitted to calling [REDACTED] a "bitch" during the incident. Officer Gutierrez stated that she did so because she did not like how [REDACTED] tossed [REDACTED] items to her, causing her to almost drop them. However, Officer Gutierrez's use of language was disrespectful and unacceptable under any circumstances. It was also detrimental to the goals of the Department. COPA finds this allegation against Officer Gutierrez to be **Sustained**.

b. Sergeant Young failed to report the misconduct of Officer Gutierrez.

General Order G08-01-02 provides that when misconduct is observed by supervisory personnel, that personnel "will initiate a complete and comprehensive investigation."¹³ The order also requires a supervisor to record or report the instance of misconduct observed to COPA.¹⁴ Sergeant Young was on the stairs and near Officer Gutierrez and [REDACTED] when Officer Gutierrez uttered abusive language at [REDACTED]. Sergeant Young admitted hearing Officer Gutierrez direct verbally abusive language towards [REDACTED]. Sergeant Young also admitted that he failed to report Officer Gutierrez's misconduct and acknowledged that it was a mistake not to do so. COPA finds that this allegation against Sergeant Young is **Sustained**.

¹³ G08-01-02 (B)(2).

¹⁴ G08-01-02 (B)(3).

c. Sergeant Young activated his body worn camera.

Illinois law and Special Order S03-14 (III)(B)(1)(a) provide that an officer's body-worn camera should be activated whenever an officer is engaged in a law-enforcement-related activity.¹⁵ Sergeant Young did activate his body worn camera, which captured the incident. Therefore, COPA finds that this allegation is **Unfounded**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Linda Gutierrez

i. Complimentary and Disciplinary History

Officer Gutierrez has received 54 various awards and one Spar in 2021 for a Preventable Accident.

ii. Recommended Penalty

COPA found that Officer Gutierrez violated Rules 2 and 8 when she directed verbally abusive language at or in the direction of [REDACTED]. For these reasons, combined with the officer's complimentary history and disciplinary history, COPA recommends a **1-2 day(s) suspension**.

b. Sergeant Arthur Young

i. Complimentary and Disciplinary History

Sergeant Young has received 113 various awards.

ii. Recommended Penalty

COPA found that Sergeant Young violated Rule 6 when he failed to report the misconduct of Officer Gutierrez. For these reasons, combined with the officer's complimentary history and no disciplinary history, COPA recommends that Sergeant Young be Reprimand and Retrained on General Order G08-01-02.

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Investigator

4-6-2023

Date

¹⁵ 50 ILCS 706/10-20(a)(3); Special Order S03-14(III) (B)(1)(a).