

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	05/22/2020
Time of Incident:	06:14pm
Location of Incident:	943 W. Fullerton Avenue Chicago, IL 60640
Date of COPA Notification:	05/22/2020
Time of COPA Notification:	09:55pm

The Chicago Police Department (CPD) initiated this investigation alleging Officer Derek Sanderson swung his baton at [REDACTED] head in violation of CPD’s Use of Force Policy. COPA finds allegations that Officer Sanderson used excessive force and failed to de-escalate are sustained.

**II. INVOLVED PARTIES**

Involved Officer #1:	Derek Sanderson, star #5090 , employee ID # [REDACTED], Date of Appointment 06/25/2018, rank PO, Unit of Assignment 004, DOB [REDACTED]/1984, M, White
Witness Officer #2:	Marina Allen <sup>1</sup> , star #2709 , employee ID # [REDACTED], Date of Appointment 01/16/2018, rank PO, Unit of Assignment 016, DOB [REDACTED]1996, F, White
Witness Officer #3:	Mary McAleer <sup>2</sup> , star# 12948, Employee # [REDACTED], Date of Appointment 07/27/2018, rank PO, Unit of Assignment 011, DOB [REDACTED]1992, F, White
Involved Individual #1:	[REDACTED] [REDACTED], [REDACTED]/2001, Male, White

<sup>1</sup> Witness Officer Marina Allen was not interviewed by COPA during its investigation. A search of available records shows Officer Allen’s employment status as resigned. See attachment 46.

<sup>2</sup> Witness Officer Mary McAleer was interviewed by COPA during its investigation. A search of available records shows Officer Allen’s employment status as resigned. See attachment 47.

<sup>3</sup> Involved Individual [REDACTED] was not interviewed by COPA during the investigation because he is currently in Illinois Department of Corrections (IDOC) custody with a projected parole date of October 29, 2024. See attachment 48.

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Derek Sanderson	<p>It is alleged that on or about May 22, 2020 at approximately 6:12 pm at or near 945 W Fullerton Avenue, Chicago, IL 60645, that you, PO Derek Sanderson, committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. Failing to comply with G03-02-07 by swinging your baton at the head of [REDACTED]</li> <li>2. Failing to comply with S08-01-02 by stating words to the effect of "get the fuck off the train before I hit you with this baton".</li> <li>3. Failing to comply with S03-14 by not activating your body worn camera for the duration of the event.</li> <li>4. Failing to comply with G03-02 by failing to deescalate the situation with [REDACTED]</li> </ol>	<p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</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 5** Failure to perform any duty.
3. **Rule 8** Disrespect to or maltreatment of any person, while on or off duty.
4. **Rule 9** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02 Use of Force
2. G03-02-07 Baton Use Incidents

Special Orders

**V. INVESTIGATION**

### a. Interviews

#### Officer Derek Sanderson

In his statement to COPA,<sup>4</sup> Officer Derek Sanderson stated that on the day of the incident, he was assigned to the CPD Mass Transit Unit and part of his duties were to patrol the Chicago Transit Authority (CTA) train stations. Officer Sanderson stated a train stopped at the Fullerton Station, and he noticed a white male, now known as ██████ smoking a cigarette on the train.<sup>5</sup> Officer Sanderson and his partners boarded the train to speak with ██████. Officer Sanderson stated he repeatedly asked ██████ to step off the train to which he became irate, cursed at officers, and refused to comply. ██████ finally exited the train and began to walk away as officers attempted to speak to him. Officer Sanderson stated his intention was simply to write ██████ an Administrative Notice of Violation (ANOV)<sup>6</sup> for smoking on the train. However, when he exited the train, ██████ still would not cooperate with the officers. ██████ continued cursing at officers and refused to give his name or identification. Officer Sanderson stated ██████ physically threatened him and even went so far as to threaten to shoot Officer Sanderson with a gun.<sup>7</sup> Because of the threat, Officer Sanderson pulled out his baton in an effort to protect himself. As the encounter went on, ██████ became more aggravated and threatening and when ██████ took a step towards him, he swung his baton near ██████ head to create distance between the two parties.<sup>8</sup> Officer Sanderson stated once ██████ appeared to calm down he put away his baton and radioed for backup assistance.<sup>9</sup> Once assisting officers arrived, ██████ was handcuffed without incident.

### b. Digital Evidence

On June 3, 2021, COPA obtained video surveillance footage from the Chicago Transit Authority (CTA) of the Fullerton Brown Line Train Stop. CTA video shows Officer Sanderson, along with his partners, Officer Mary McAleer and Officer Marina Allen, board a train car which is stopped at the Fullerton Station.<sup>10</sup> Complainant ██████ exits the train car onto the platform and appears to speak primarily with Officer Sanderson. Both ██████ and Officer Sanderson appear to engage in a heated conversation. However, details of the conversation could not be determined because there was no audio. Officer Sanderson appears to unholster his ASP baton with his left hand.<sup>11</sup> The verbal argument appears to escalate and Officer Sanderson points his baton, twice, at ██████ head.<sup>12</sup> The verbal argument continues for approximately eleven minutes, and at that point

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<sup>4</sup> Attachment 10.

<sup>5</sup> Attachment 10 at 11:40/49:13.

<sup>6</sup> Administrative Notice of Violation. A citation/ticket issued by a Chicago police officer, inspector, or investigator from a City department for an alleged ordinance violation. When issued by a Chicago police officer, it is done in lieu of physical arrest.

<sup>7</sup> Attachment 10 at 17:15.

<sup>8</sup> Attachment 10 at 13:23.

<sup>9</sup> Attachment 16.

<sup>10</sup> Attachment 6 at 0:25.

<sup>11</sup> Attachment 1 at 10:06.

<sup>12</sup> Attachment 1 at 12:29 and 12:36.

Officer Sanderson, with his left hand, appears to swing his baton towards ██████ head.<sup>13</sup> Officer Sanderson does not make contact, but his baton swing causes ██████ to take a step back.

### c. Documentary Evidence

Officer Sanderson completed a **Tactical Response Report (TRR)** at the conclusion of his shift on May 22, 2020. After reviewing the report and BWC, Lt. Joseph Shuler, #430 indicated that Officer Sanderson's use of force was not in compliance with CPD policy and directives.<sup>14</sup>

**Original Case Incident Report #JD239720<sup>15</sup>** was completed by Officer Derek Sanderson at the conclusion of his shift of May 22, 2020. The report lists Officer Sanderson as the arresting officer and ██████ as the suspect.

**OEMC Event Query Report #2014311972<sup>16</sup>** details ██████ stop and arrest on the CTA Fullerton Train Station on May 22, 2020.

## 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 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

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<sup>13</sup> Attachment 1 at 12:47.

<sup>14</sup> Attachment 15 at p. 3.

<sup>15</sup> Attachment 14.

<sup>16</sup> Attachment 16.

“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

In his interview with COPA, Officer Sanderson did not dispute the fact he swung his baton at ██████ head.<sup>17</sup> Sanderson stated he swung his baton to create space and out of fear for his own safety. Sanderson maintained that ██████ took a step towards him, but video evidence appears to dispute the claim. CPD General Order G03-02-07 (Baton Use Incidents)<sup>18</sup> states, “members will not use batons to intentionally strike a subject in the head or the neck except when deadly force is justified.” Per CPD’s Use of Force policy, “The use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.”<sup>19</sup> Video evidence shows the incident did not rise to a level of use of deadly force for Officer Sanderson. While ██████ did not appear to comply with Officer Sanderson’s commands, the video shows that he did not appear to step towards Officer Sanderson nor make any movements that suggested he was in any imminent danger. For these above-mentioned reasons, COPA finds **Allegation 1 is Sustained.**

From the time ██████ stepped off the off the train until backup officers arrived on scene, both he and Officer Sanderson appeared to engage in a heated verbal debate. According to Officer Sanderson’s TRR,<sup>20</sup> CPD supervisory personnel interviewed ██████ while he was ██████ processed at 18<sup>th</sup> District. According to the report, ██████ alleges Officer Sanderson made the comment, “Get the fuck off the train before I hit you with this baton.” In his interview with COPA, Sanderson denied ever making that statement and said he never had his baton out while on the train. Because there is no audio of the event, as well as no available witnesses,<sup>21</sup> COPA cannot conclusively determine whether the statement was made by Officer Sanderson. For these above-mentioned reasons, COPA finds **Allegation 2 is Not Sustained.**

During his interview with COPA, Officer Sanderson was asked why there was no body worn camera (BWC) for him related to this event and he relayed no officers in his unit were assigned body worn cameras at the time of the event.<sup>22</sup> In the TRR related to this event, A Force Review was conducted by CPD management who confirmed officers in the Mass Transit Unit (#701) were not assigned body worn cameras at the time. For these above-mentioned reasons, COPA finds **Allegation 3 is Exonerated.**

Prior to swinging his baton at ██████ head, Officer Sanderson can be seen pointing his baton at ██████ on three different occasions.<sup>23</sup> While both parties appear to verbally argue during the incident, Officer Sanderson appears to be the aggressor throughout the encounter. Officer Sanderson appears taking a fighting stance on several occasions and appears to aggravate the

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<sup>17</sup> Attachment 10 at 19:48/49:13.

<sup>18</sup> G03-02-07 Baton Use Incidents (II)(D)(2)

<sup>19</sup> G03-02 Use of Force (effective 28 February 2020)

<sup>20</sup> Attachment 15 at page 4.

<sup>21</sup> The two witness officers resigned from CPD.

<sup>22</sup> Attachment 10 at 38:21.

<sup>23</sup> Attachment 1 at 12:22, 12:29 and 12:36.

encounter by his aggressive tone. G03-02-07 Baton Use Incidents states “members will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances.”<sup>24</sup> At no point during the encounter did Officer Sanderson appear to attempt to de-escalate the situation with [REDACTED]. If anything, Officer Sanderson appears to aggravate the situation by continually engaging with [REDACTED] verbally and making aggressive maneuvers with his baton. For these above-mentioned reasons, COPA finds **Allegation 4** is **Sustained**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Derek Sanderson**

**i. Complimentary and Disciplinary History<sup>25</sup>**

Officer Sanderson’s complimentary history is comprised of five achievements, including one Superintendent’s Award of Tactical Excellence, one 2019 Crime Reduction Award, and three Honorable Mentions. He has no applicable disciplinary history.

**ii. Recommended Penalty**

**1. Allegation No. 1**

COPA has found that Officer Sanderson violated Rules 2, 5, 8 and 9 by swinging his baton at [REDACTED] head and failing to de-escalate. In his interview with COPA, Officer Sanderson showed a basic lack of knowledge regarding CPD’s Use of Force Policy. In addition, video evidence shows Officer Sanderson aggressively taunting, pointing his baton, and eventually swinging it at [REDACTED] head. CPD strictly limits the use of deadly force for good reason, and Officer Sanderson’s blatant disregard for the finer points of CPD’s Use of Force Policy demonstrates a lack of consideration for the sanctity of human life. COPA has considered that there were no injuries in this incident or contact made with [REDACTED]. After considering all the factors present in this case, COPA recommends Officer Sanderson receive a 60 day suspension and training on Baton Use and De-Escalation.

Approved:

[REDACTED]

Sharday Jackson  
*Deputy Chief Investigator*

April 27, 2023

Date

<sup>24</sup> G03-02-07 Baton Use Incidents (effective 29 February 2020)

<sup>25</sup> Attachment 69.